

Agenda – Climate Change, Environment and Rural Affairs Committee

Meeting Venue:	For further information contact:
Video Conference via Zoom	Marc Wyn Jones
Meeting date: 17 September 2020	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddCCERA@senedd.wales

PRIVATE Pre-meeting (13:30–13:45)

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.

PUBLIC 13:45 – 15:30

1 Introductions, apologies, substitutions and declarations of interest

2 COVID-19: Scrutiny session with the Welsh Government

(13:45 – 14:30)

(Pages 1 – 22)

Lesley Griffiths MS, Minister for Environment, Energy and Rural Affairs

Gian Marco Currado, Director, Environment and Marine

Christianne Glossop, Chief Veterinary Officer

John Howells, Director, Climate Change, Energy and Planning

Dean Medcraft, Director, Finance and Operations

Tim Render, Director, Land, Nature & Food



Attached Documents:

Research brief

Welsh Government response to the Chair's letter following the Ministerial scrutiny session on 9 July 2020

BREAK (14:30–14:45)

3 COVID–19: Continuation of scrutiny session with the Welsh Government

(14:45 – 15:30)

Lesley Griffiths MS, Minister for Environment, Energy and Rural Affairs

Gian Marco Currado, Director, Environment and Marine

Christianne Glossop, Chief Veterinary Officer

John Howells, Director, Climate Change, Energy and Planning

Dean Medcraft, Director, Finance and Operations

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4 Paper(s) to note

4.1 Correspondence from the Chair to the Minister for Environment, Energy and Rural Affairs following the scrutiny session at the Committee's meeting on 9 July 2020

(Pages 23 – 26)

Attached Documents:

Letter

4.2 Correspondence from Natural Resources Wales following evidence session at the Committee's meeting of 9 July 2020

(Pages 27 – 30)

Attached Documents:

Letter

4.3 Correspondence from the Minister for Environment, Energy and Rural Affairs – Informed purchasing and Animal Welfare (Dog Breeding) (Wales) Regulations 2014.

(Pages 31 – 33)

Attached Documents:

Letter

4.4 Welsh Government response to letter from the Chair relating to the Supplementary Legislative Consent Memorandum for the UK Fisheries Bill

(Pages 34 – 42)

Attached Documents:

Letter

4.5 Welsh Government response to the Committee's report on the Legislative Consent Memorandum for the UK Environment Bill

(Pages 43 – 52)

Attached Documents:

Response

4.6 Welsh Government response to the Committee's report on the Supplementary Legislative Consent Memorandum for the Agriculture Bill

(Pages 53 – 68)

Attached Documents:

Letter

4.7 Correspondence from the Minister for Environment, Energy and Rural Affairs on the Basic payment scheme and rural support legislative framework from 2021

(Pages 69 – 70)

Attached Documents:

Letter

4.8 Correspondence between the Chair Legislation, Justice and Constitution Committee and the Minister for Environment, Energy and Rural Affairs on the Agriculture Wages (Wales) Order 2020

(Pages 71 – 75)

Attached Documents:

Letters

4.9 Correspondence between the Chair and the Minister for Environment, Energy and Rural Affairs on the UK Emissions Trading Scheme

(Pages 76 – 82)

Attached Documents:

Letter from the Minister

Letter from the Chair

4.10 Correspondence from the Minister for Environment, Energy and Rural Affairs to the Chair Legislation, Justice and Constitution Committee on the UK Emissions Trading Scheme (UK ETS)

(Pages 83 – 88)

Attached Documents:

Letter and summary document

4.11 Correspondence from the Chair, Finance Committee on the Welsh Government's draft budget 2021 –22

(Pages 89 – 91)

Attached Documents:

Letter

4.12 Correspondence from David Hughes in relation to gene editing

(Pages 92 – 93)

Attached Documents:

Invitation

- 5 Motion under Standing Order 17.42 (vi) and (ix) to resolve to exclude the public from the remainder of the meeting and from the meeting on 24 September 2020**

PRIVATE 15:30 – 16:00

- 6 COVID-19: Consideration of evidence received under items 2 and 3**

- 7 Consideration of the Committee's draft report on the Supplementary Legislative Consent Memorandum in relation to the UK Fisheries Bill**

(Pages 94 – 111)

Attached Documents:

Draft report

Legal note

- 8 Consideration of the Committee's draft Forward Work Programme**

(Pages 112 – 116)

Attached Documents:

Paper

Document is Restricted



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

9 September 2020

Dear Mike,

Thank you for your letter of 30 July with follow-up questions from your session of 9 July.

Below I have listed your questions with the appropriate answers.

Fisheries

- 1. You told the Committee you had hoped to make a statement regarding future fisheries policy in March, but that had been delayed because of the Covid-19 pandemic. Are you able to tell the Committee when you expect to be able to make that statement?**
- 2. In relation to the Welsh Fisheries Grant, you told the Committee that 120 vessels had received over £0.5 million in grant aid. Can you confirm what the purpose of this grant is and how you will determine whether it has been effective?**

The Welsh Fisheries Grant was for economically viable fishing businesses who are Welsh licensed vessels. The grant scheme was developed to bridge the gap in the support provision for this sector whilst maintaining funding alignment to the Economic Resilience Fund. The aim of the grant scheme was to help sustain fishing businesses in Wales through any short-term economic disruption, to ensure vessels continue fishing beyond the COVID-19 public health crisis.

The Welsh Fisheries Grant may be deemed successful to date as it has successfully supported 97% of Wales pre-identified economically viable fishing businesses, in addition to this 12 further businesses who did not initially meet the schemes criteria were considered on a case by case basis and successfully received aid. The grant was developed to ensure economically viable fishing businesses could continue to fish post Covid-19 and Welsh Government officials will monitor the capacity of the Welsh fleet as the sector recovers from Covid-19 to determine the effectiveness of the intervention.

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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.

- 3. The £0.5 million funding grant constitutes an average of approximately £4,000 per fishing vessel. Can you confirm that you are satisfied that this is sufficient funding? What plans do you have for further financial assistance for this sector to aid its recovery?**

I am satisfied that the total grant value has provided the required level of support to the fishing industry during this time. The grant amounts were based on average monthly fixed costs by vessel size which were developed from an annual industry survey carried out by Seafish, a non-departmental public body, this gave an appropriate level of support to the individual businesses identified.

Further financial assistance from the Welsh Government will provide support to eligible aquaculture businesses in Wales producing stock for the table. The Aquaculture Business Support scheme opened on 10 August and closes on 21 September. It is being managed through Rural Payments Wales and is to be delivered through the European Maritime and Fisheries Fund (EMFF). This scheme will provide short term support due to losses as a result of the Covid-19 pandemic.

- 4. During the evidence session, you referred to several examples of illegal fishing activity. Can you provide the Committee with details about the levels of illegal activity during this recent period where enforcement vessels have not been patrolling Welsh waters? Can you confirm all enforcement vessels are now operational?**

The evidence and intelligence suggests that while some illegal fishing activity may have taken place, there is no suggestion of an increase in this behaviour during the lockdown period, it was not widespread or extensive. However, any illegal fishing is unacceptable and wherever possible action is and will be taken. All Welsh Government fisheries patrol vessels are now operational.

Environment

- 5. We have been told that delays relating to payments from the Sustainable Management Scheme (SMS) have resulted in problems for some NGOs. Can you provide the Committee with an update on the latest position and, if there are outstanding issues, set out a timetable for when they will be resolved?**

Rural Payments Wales (RPW) aims to process all Sustainable Management Scheme (SMS) claims within 30 days of receipt of a complete claim form, including all supporting documentary evidence. All claims and supporting documents must be carefully considered to ensure compliance with the scheme rules and European Commission Regulations. To date, 137 claims have been received from 29 of our 31 SMS projects, of which 126 of have been processed for payment worth £6.1m. The average time taken to process these claims was 37 days, with almost half processed within 30 days of receipt.

Of the 11 outstanding claims, 5 are awaiting further information from the beneficiary, and one claim is subject to an 'in-situ' administrative inspection. The remaining 5 claims are progressing through full claim verification process, and I am not aware of any significant outstanding issues.

Over recent years RPW has been subject to a number of audits, most recently from Audit Wales, whose report 'Ensuring value for money from Rural Development Grants made without competition' was recently published. Issues highlighted by the report are those already identified and strengthened by RPW officials. RPW is making every effort to progress the outstanding claims for payment as soon as possible.

6. During the session, you referred to the need to secure a “green recovery” after the Covid-19 pandemic. Can you set out your plans for a green recovery in Wales? Do you intend on publishing a plan or strategy so that others can see the direction of travel?

A Green Recovery from the Covid-19 pandemic fundamentally needs to be one which works to rebuild our economy whilst tackling the serious environmental issues we face and improving the resilience of all our communities. It is not just about the environment, but making the connections between improving social, economic and environmental outcomes to increase resilience. This means co-ordinating policies and delivery which will accelerate the transition to a low carbon economy and a healthier, more equal Wales.

The Counsel General is leading a series of roundtable discussions with experts from across many areas of society, both within Wales and further afield. The discussions to date have been informative and insightful and we will continue to publish summary reports. It is intended to build on this through a further series of virtual roundtables in the weeks ahead.

An open invitation was issued to people in Wales to send in their thoughts on how future post-Covid recovery should be supported, and my Ministerial colleagues wrote to their stakeholders to invite them to submit their views through the same channel by the end of July. We are now considering those inputs as part of work on the recovery. But that dialogue will remain open.

Once we have heard the views and proposals of all our stakeholders, we will be in a position to set out our approach to recovery including on those elements which tackle unsustainable consumption, which promote biodiversity, and which accelerate the transition to a low carbon economy.

In terms of the immediate direction of travel, Committee Members may wish to be aware that early matters for consideration will include: how we invest in our people by equipping them with the skills for the post-Covid economy and the adaptability that comes from lifelong learning; how we maximise the use of our natural resources sustainably; innovation in social housing; how we foster the creativity of our indigenous businesses; and how we reimagine our town centres to become vibrant community hubs again.

7. How will Members of the Senedd and the Welsh public be able to judge whether the Welsh Government has delivered a “green recovery”?

I welcome the Committee's interest and scrutiny in this area and the ideas for action submitted by citizens and stakeholders. What is emerging is a broad consensus around a number of priority areas from helping our communities and towns to rebuild to taking action to protect and restore our environment. We will continue to discuss our proposals for action with citizens and stakeholders as we continue to recover from this unprecedented event.

The current uncertainty means it is not possible to accurately predict a pattern for future events. There are global factors which may help or hinder our efforts here in Wales including the continuing turbulence in the global economy, Brexit and the impact of climate events.

However, this will not deter our efforts from seeking a green recovery which works to take targeted and meaningful actions to tackle the serious environmental issues we face and improves our resilience across all our communities.

Of course, we will continue to publish statements, data and reports about our progress on environmental and climate change issues, for example on our carbon emissions and progress against our carbon budget targets.

8. Can you provide details of the purpose and membership of the biodiversity taskforce? The taskforce has been allocated £0.5 million in funding, what outcomes do you expect to see as a result of your investment?

The purpose of the Biodiversity Taskforce is to mainstream the delivery for biodiversity and ecosystem resilience across the Welsh Government and our partners. Establishing the taskforce delivers against the First Minister's priority to tackle the twin challenges for nature and climate change. Achieving transformational change requires us to mainstream biodiversity across Welsh Government and its partners. This means a fundamental system-wide shift in policy development, finance allocation and the implementation of schemes to work for and not against nature.

I have outlined three objectives for the taskforce to help identify cross government collaboration opportunities, pooled budgets, shared expertise and interventions which impact across all well-being goals. These objectives will focus on:

- people - to increase knowledge and capacity to drive behaviour change;
- processes - to influence the way Welsh Government allocates its budgets and wider public sector spend: and
- piloting new approaches to support the delivery of transformational change for biodiversity, including effective evaluation models.

Actions taken to deliver these objectives will deliver the following outcomes:

- behavioural and organisational change to drive improved processes, policy development and decision making;
- more strategic use of public money to deliver biodiversity benefits; and
- improved evaluation to identify what pilot approaches deliver greatest impact and are replicable.

Delivery of the actions to support transformational change will be undertaken through an internal taskforce supported by an external expert panel where relevant. The taskforce will also work with academia to identify the latest research, best practice examples and potential gaps to address the challenge of mainstreaming biodiversity.

The taskforce will comprise senior policy officials from across Welsh Government supported by key experts. Participants will bring a range of skills and perspectives with the aim of pursuing an action learning approach. The taskforce will agree priorities, oversee delivery, provide challenge and identify how these approaches can be incorporated into their teams.

Three immediate priorities the taskforce will take forward are:

- delivering a behaviour change programme of latest behavioural science using an integrated approach for senior leaders;
- assessment of strategic capital budget bids across all MEGs to identify where bids can be enhanced to deliver biodiversity benefits; and

- development of a transformational, place based multi-year programme for biodiversity as part of Covid recovery for nature working in partnership with eNGOs, NRW and JNCC.

A cost benefit analysis will determine what other proposals are taken forward this financial year, and those that can be delivered next year. The focus will be on those actions that will deliver the biggest impact to halting and reversing the decline in biodiversity.

NRW

9. What is the latest position on NRW's projected funding gap?

In addition to core Grant in Aid (GiA) funding from the Welsh Government, NRW is in receipt of commercial income and several smaller amounts of grant funding, for various projects. Whilst the precise financial impacts are not yet clear, NRW's estimate in June, based on the market circumstances at that time and their potential impact on timber sales, was of a reduction of approximately £8m in its commercial revenue funding as a result of the pandemic. However, this estimate could change as markets develop and we know more about NRW's forecasts.

Whilst all public bodies are under financial pressure, I have given NRW a guarantee of up to £5m extra capital funding for this financial year, should that become necessary and they can demonstrate evidence of need. This will enable NRW to deliver against our priorities, especially on nature and reversing the decline in biodiversity. This is a pressure being managed within the MEG in the usual way.

As you are aware, at their session with your Committee on 9 July, NRW indicated they felt the £5m guarantee was sufficient to enable them to fill the gap. They will keep me apprised of the ongoing impact of Covid-19 during my regular meetings with them. The Welsh Government will continue to work with NRW to ensure we collectively manage their delivery and understand the financial pressures they are experiencing.

Food

10. Can you provide an update on the latest Welsh Government position on testing for Covid-19 in food processing plants?

The policy remains that people should only apply for a test if they develop symptoms of coronavirus. Further information on when to apply for a test can be found at: <https://gov.wales/apply-coronavirus-test#section-42330>

11. Can you provide the Committee with an update on the funding that has been allocated to and spent by the #LoveWalesLoveTaste initiative?

Following the 1st day of the campaign on 3 July, the reach/impressions via social media was 750,000, with a press coverage reach of 300,000. The response from industry has been extremely positive. A second day of publicity was held on 7 August, targeting the hospitality industry. The cost of the #CaruCymruCaruBlas campaign is in the region of £35-£37K, this is part of the Trade Development Programme.

12. Can you provide the Committee with your current assessment of food security in Wales, including the resilience of supply chains? Do you believe any action needs to be taken to strengthen that resilience, in the light of a potential second wave of Covid-19 infections (and related restrictions) in the Winter?

Food supply has returned to its normal, pre-covid-19, state with the exception of the service sector and wholesale, which are still greatly impacted by lockdown restrictions. Manufacturing and processing plants are operating, and supplies to retail from within the UK and sourced by export have recovered from the panic buying driven shortages of the initial lockdown. The food system has demonstrated resilience and flexibility during lockdown and businesses have been adroit at managing production and logistics, and placing purchasing limits on any scarce products, to maintain supplies for the public across all of Wales and the UK. A combination of persons being advised to shield, and a desire by many people not to visit shops, has caused huge demand for home delivery and sales through this channel have doubled and are being sustained successfully.

Wales' food supply, and so security, is wholly integrated with the UK. Supply chains operate on a UK landscape with the UK's external border being the important factor because it shapes trade flows, labour migration, and is the point at which currency and tariff effects impact prices and sourcing decisions. Consequently all devolved administrations work with Defra in assessing the situation. We play an active role in forming plans and assessments, and Welsh Government is a respected member of stakeholder networks convened by Defra relevant to this work. There is an established cycle of activity, and an infrastructure is in place to obtain the views of food producers and stakeholders. I also meet supermarket representatives monthly to discuss matters. Recent assessments have not identified immediate risks and overall the food system is secure.

Attention has already turned to the risks of further Covid-19 waves and the UK trading with the EU on World Trade Organisation terms if the UK and EU do not reach agreement after the transition period ends. It is important to be thorough and ready and not to make thoughtless assumptions. The assessment is broadly that approaches taken by the supply chain and governments in conjunction to manage Covid-19 so far would be the best methods for managing future disruption. Key to success will be communications with the public to maintain co-operation and to manage the risk of anti-social behaviour.

To assist the food and drink manufacturing and processing sector, the Food and Drink Wales Industry Board and I have published a recovery plan for the coming months and businesses have participated in a webinar about it. The Welsh Government is focussing its effort on helping businesses survive the immediate impact and to turn their attention to preparing for a no deal Brexit.

13. Can you provide the Committee with an update on the timeline for your response to the consultation in relation to the groceries code?

A consultation looking at contractual arrangements in the dairy industry was launched by UK Government and devolved administrations on 24 June and closes on 15 September 2020. The consultation will look at supply chain issues across the UK dairy sector and provide new fairer conditions for milk contracts.

So far the response rate has been positive. As of 17 August Defra have received 208 responses to the consultation and several 'virtual' stakeholder events with farmers have been already taken place. After the consultation closes on 15 September, we will then review the responses. As this is a UK wide consultation we will need to work closely with Defra and the devolved administrations to secure the best outcome for our Welsh dairy producers.

The Welsh, UK, Scottish and Northern Ireland Governments have worked together to launch the 12 week consultation which seeks to end any unfair practices within the sector.

Dairy farmers and processors are being consulted to explore whether regulations could be introduced to strengthen fairness and transparency. This includes the possible introduction of mandatory contracts within the dairy industry.

Proposals launched in the consultation include an option to introduce a mandatory pricing mechanism within all contracts between dairy farmers and processors. It would ensure the price paid for milk produced by the farmer is formally agreed within the contract, and contract negotiations are agreed in a clear, fair and transparent way.

Brexit and Common Frameworks

14. Can you provide the Committee with an update on any relevant matters that were discussed in the inter-Ministerial group (IMG) meeting on 29 July?

At the IMG on 29 July we discussed secondary legislation, border arrangements, the UK Government's internal market proposals and frameworks. During discussions on secondary legislation, I reminded Defra we expected enough time for the Senedd to consider any proposed SIs in full. The Group agreed sharing draft SIs as early as possible was essential, and I was assured we would be receiving as much detail as possible during August.

We had a brief discussion on border related matters and agreed to consider in more detail at our September meeting. I emphasised the Barnett formula was not a suitable means of funding any new border infrastructure.

We discussed the UK Government's recent white paper on the internal market and I expressed the Welsh Government's disappointment it had been published with no consultation and in spite of three years of work to agree an approach to frameworks expressly designed to manage any regulatory divergence within the UK.

We agreed an approach to finalising frameworks to ensure all areas have a provisional framework in place by the end of the year, although this will mean they would be finalised and fully implemented in 2021. Along with my counterparts from the other Devolved Governments, I stressed the importance frameworks are agreed by everyone and not imposed. I will continue to update members via written statements and agreed communiques after each meeting.

Flooding

15. We would be grateful if you would provide a copy of your new flooding strategy when it is published in September.

The new Strategy for Flood and Coast Erosion Risk Management was laid in the Senedd in July 2020 prior to its full publication this autumn. The document can be found at: <https://senedd.wales/laid%20documents/gen-ld13343/gen-ld13343-e.pdf>

and

<https://senedd.wales/laid%20documents/gen-ld13343/gen-ld13343-w.pdf>

16. You told the Committee that “significant funding” has been given to local authorities “to enable them to not just investigate but publish their findings and then provide infrastructure, if that’s needed, to stop it from happening again”. How much has been allocated for this purpose?

In the immediate aftermath of the February storms, the Welsh Government contacted all Local Authorities and NRW to invite applications for funding to undertake emergency repairs to flood alleviation assets.

Since then we have provided £4m of emergency funding to Local Authorities (in support of their statutory functions as Flood Risk Management Authorities) in 2019-20 and 2020-21. This funding has been made available to support authorities work in repairing the damage caused by flooding earlier this year. Our emergency funding to repair flood risk infrastructure, including defences and culverts has been covers all the associated capital costs. Other wider financial support was also provided to local authorities by other Welsh Government Departments.

In April I announced the Flood and Coastal Erosion Risk Management investment programme for 2020/21. In 2020-1 the Welsh Government is investing £35m capital funding to support enhanced flood and coastal erosion protection for communities while also providing £27m in revenue support.

In addition, we are continuing to explore ways to improve our support for Flood Risk Management Authorities to accelerate the pipeline of new schemes and maintenance works. This year this includes providing 100% funding for all preparatory work prior to construction of flood and coastal schemes. This new support means that Flood Risk Management Authorities can draw down funding to cover the costs of modelling and design work.

<https://gov.wales/flood-and-coastal-erosion-risk-management-programme-2020-2021>

17. Do you think the current level of funding provided to local authorities to deal with flooding is sufficient, given the increasing frequency of extreme rainfall events? Do you believe that more funding will be necessary to assist local authorities to deal with flooding this Winter?

Tackling climate change requires collective action and the Welsh Government has a central role in making collective action possible. This is why I declared a climate emergency and why the Welsh Government is now investing more than ever before in flood and coastal risk management. The science demonstrates clearly that weather events similar to the recent storms are becoming increasingly common. I recognise that the impacts of flooding are wide-ranging: it affects individual well-being and health, it impacts our natural environment, and it can devastate homes and businesses. The new Flood and Coastal Erosion Risk Management Strategy is now guiding interventions and driving investment programmes, both of which are supported by Wales' independent Flood Committee.

Clearly, significant levels of investment will need to be sustained to help protect and support the most at risk communities from the effects of flooding and coastal erosion particularly as the effects of climate change will compound the risks facing our communities. Multi-year capital and revenue settlements for managing flood risk, as seen in England and Scotland, would help future strategic planning and provide Risk Management Authorities with the confidence to do likewise, providing longer-term pipelines for delivery.

18. When do you expect local authorities to publish their findings from the work that has been funded?

Under Section 19(1) of the Flood and Water Management Act 2010 it is the responsibility of the lead Local Flood Authorities to produce a 'Section 19' investigation report following a flooding incident.

These reports can be undertaken quickly, with any recommendations to reduce flood enabling Local Authorities or NRW to bring forward additional applications for Welsh Government funding to reduce flood risk to communities.

Several Local Authorities have already begun to publish their findings, but review timescales will vary according to the number of flooding cases within each local authority area, their scale and nature as well as the capacity of Local Authorities. Once completed, the reports must be published and can be subject to appropriate scrutiny by the public, elected members and all other interested parties.

19. How satisfied are you that the necessary steps have been taken to “stop it from happening again”?

It is not possible to prevent all flooding and coastal erosion. However when people, communities and businesses are threatened we can manage the risk by reducing the likelihood of an event and its associated impacts and consequences.

Proactive management of flood and coastal erosion risk remains a high priority for me.

The focus of Flood and Coastal Erosion Risk Management (FCERM) is justifiably on reducing risk to communities located in at-risk areas. Historically, development along rivers, estuaries and the coast has been required for trade, economic or agricultural purposes but has, over time, put people at increasing risk from flooding. Advances in engineering and construction mean some of those dangers can be managed, but some risk always remains and as this grows it may require expensive alleviation schemes and constant maintenance to keep people safe.

Better, more open, flood risk data, leads to more informed and better decisions on where to develop and how to adapt communities to actively remove elements of risk. My officials can also provide the public with the information they need to understand how flooding may affect them so they can make their own choices on avoiding or managing their own personal risk.

The new TAN 15 will provide clearer and more robust policy advice on managing areas at high and medium flood risk. Planning and FCERM policies should complement each other, reducing risk by preventing inappropriate development in the flood plain and helping Planning Authorities make clear decisions based upon the best available information.

Climate Change

20. What assessment have you made of the impact on emissions levels of behavioural changes or business decisions arising from the Covid-19 pandemic?

Formal reporting of Wales' greenhouse gas emissions is subject to a time lag. The most recent data we have relate to 2018 and were published in June <https://gov.wales/greenhouse-gas-emissions-infographic>.

However, a number of studies across the UK and internationally have attempted to forecast the impact of Covid-19 on emissions. For example, the latest progress report from the UK Committee on Climate Change (which can be found at <https://www.theccc.org.uk/wp-content/uploads/2020/06/Reducing-UK-emissions-Progress-Report-to-Parliament-Committee-on-Cli..-002-1.pdf>) suggests the lockdown restrictions on mobility and economic activity have had an impact.

The UK CCC refer to a published scenario from the International Energy Agency, which forecast an 8% drop in global CO₂ emissions in 2020. They also reference the Global Carbon Project's estimate of a global emissions drop of 2-7% if lockdowns are short-lived and 3-13% if restrictions remain globally to the end of the year. The UKCCC highlight in the medium term emissions will likely be driven by the recovery and in the longer term by investment actions and attitudes to global collaboration.

The pandemic has affected everyone in the UK but may increase wealth and health inequality. This means we will need to ensure our emissions reduction is managed in a way which is socially and economically just.

21. Will you publish a formal Welsh Government response to the report produced by the group led by Chris Joffeh, which was tasked at considering the cost of retrofitting homes in Wales, among other things?

The Minister for Housing and Local Government gave an Oral Statement responding to the Jofeh Report on 24 September 2019. This can be found at the following link. <https://record.assembly.wales/Plenary/5844#A53270>.

Animal Welfare

22. You told the Committee that you will be bringing forward a Bill in relation to third party puppy sales. The Welsh Government has previously suggested that this matter will be dealt with through secondary legislation under the Animal Welfare Act 2006. Can you confirm whether you will be legislating on this matter using primary or secondary legislation?

I can confirm the proposed ban on commercial third party sales of puppies and kittens is being taken forward as secondary legislation. The working title for the new legislation is Animal Welfare (Licensing of Activities Involving Animals) (Wales) Regulations 2021.

23. You confirmed that a second public consultation was being undertaken on this matter. Can you confirm that you intend to consult on the text of the draft legislation?

No plans have been made to put the draft text of the legislation out to consultation. The timetable for introducing this legislation is incredibly tight. Officials are in discussions with lawyers on this issue. Officials will advise me on this matter over coming weeks and I will make a decision at that time.

24. Can you update the Committee on the Welsh Government's latest position on a support scheme for veterinary costs for vulnerable pet owners?

A number of charities already offer subsidised veterinary treatment for pet owners who are unable to afford veterinary care for their animals. The Welsh Government continues to remind prospective pet owners to be aware of the full cost of owning a pet, including veterinary fees and insurance. The #PawsPreventProtect social media campaign ahead of Christmas was launched to promote responsible purchasing and served as a reminder of the lifetime costs associated with owning a pet, particularly puppies. There are currently no plans to introduce a support scheme.

Agriculture

25. What is the timeline for responding to the Wales Audit Office's report on rural development programme funds?

Andrew Slade, Director General, Economy, Skills and Natural Resources responded to the Audit Wales report 'Ensuring Value for Money from Rural Development Grants Made without Competition' on 13 August.

26. Your official told the Committee that the Welsh Government's budget includes provision to pay disallowance fines. How much is allocated for this purpose?

The current budget allocated to pay potential disallowance penalties is £13,954,692.99. Wales' record on disallowance of EU funding is the lowest in the UK and one of the lowest across Europe.

27. What consideration have you given to the ongoing support for events and organisations that are focused on rural communities in the light of the restrictions arising from the Covid-19 pandemic?

Rural Economy and Legislation Division has worked closely with the central Welsh Government Covid response team to ensure that Covid-19 guidelines have been constantly monitored and updated as the Covid-19 situation evolves to ensure that events and organisations in our rural communities have a clear understanding of the frameworks they can currently operate within.

The Wales Rural Network is in regular communication with rural stakeholders via the various available channels to support our rural communities in the Rural Recovery Process. The relevant links to Welsh Government support for businesses and communities as well as links to wider support available from other public sector sources and charitable organisations have all been published via the refreshed Wales Rural Network webpages, alongside social media channels. A series of workshops are being developed through the Wales Rural Network, starting in the autumn, to share best practise and provide policy advice.

The LEADER Scheme under the *Welsh Government Rural Communities - Rural Development Programme for Wales 2014-2020* (the RDP 2014-2020) provides support to rural communities in 21 of the 22 Local Authorities in Wales. This support is delivered via 18 Local Action Groups (LAGs). The Welsh LAGs identified immediate priorities on the ground in response to Covid-19; these included securing and distributing food and medical supplies to all, including the most rurally/socially isolated. They identified local resources and assisted by co-ordinating volunteers, supporting short supply chains, networking and collaborating to ensure an informed and appropriate approach to meet local needs.

I recently gave approval for the re-purposing of the LEADER Scheme to support the COVID-19 emergency response. The Welsh Government issued a “Supplementary Guidance note for LEADER Local Action Groups and their Administrative Bodies - COVID-19 and the LEADER Scheme” on the 29th June 2020. This launched an associated re-profiling exercise, permitting each LAG the opportunity to amend their approach or refocus their support to respond to the current situation. The Wales Rural Network have offered their support and held meetings with the LEADER Administrative Bodies to ensure they take full advantage of the available flexibilities to benefit their rural communities during the recovery process.

With regard to events specifically, the Welsh Government has commissioned a review of the effects that the Covid-19 pandemic has had on Agricultural shows. Colleagues in Agricultural Sustainability and Development Division are working with representatives from the Royal Welsh Agricultural Show, Pembrokeshire and Anglesey Shows on their financial resilience.

All face-to-face Farming Connect events and support mechanisms were stopped with immediate effect as of 24 March 2020. However, delivery options were quickly reviewed and contractors provided a ‘traffic light system’ indicating which services could be implemented easily while adhering to the social distancing guidance and Coronavirus Regulations 2020. Digital/virtual delivery was implemented as the default position, where appropriate. Those interventions that fell into the “green” category resumed on 15 May 2020 – in line with the Welsh Government Coronavirus Regulations 2020. The traffic light system has been regularly reviewed, in line with the 3 weekly reviews by Welsh Government and any additional Welsh Government guidance on the easing of restrictions. ALL one-to-one face-to-face delivery was resumed on 23 June 2020. One-to-many events that could exclusively be held outside with less than 30 people were resumed on 15 August 2020 and the recommencement of classroom-based accredited training resumed on 1st September 2020 as confirmed in writing on the 19 August 2020.

Regards,

A handwritten signature in cursive script that reads "Lesley Griffiths". The signature is written in a light grey or blue ink on a white background.

Lesley Griffiths AS/MS

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

Lesley Griffiths MS

Minister for Environment, Energy and Rural Affairs

30 July 2020

Dear Lesley,

Thank you for attending the Committee's meeting on 9 July. The Committee has agreed that I should write to you to follow up on several matters. I would be grateful if you could respond to the questions that follow in writing by 10 September, to inform discussions in the Committee's meeting on 17 September, which you have agreed to attend.

Fisheries

1. You told the Committee you had hoped to make a statement regarding future fisheries policy in March, but that had been delayed because of the Covid-19 pandemic. Are you able to tell the Committee when you expect to be able to make that statement?
2. In relation to the Welsh Fisheries Grant, you told the Committee that 120 vessels had received over £0.5 million in grant aid. Can you confirm what the purpose of this grant is and how you will determine whether it has been effective?
3. The £0.5 million funding grant constitutes an average of approximately £4,000 per fishing vessel. Can you confirm that you are satisfied that this is sufficient funding? What plans do you have for further financial assistance for this sector to aid its recovery?
4. During the evidence session, you referred to several examples of illegal fishing activity. Can you provide the Committee with details about the levels of illegal activity during this recent period where enforcement vessels have not been patrolling Welsh waters? Can you confirm all enforcement vessels are now operational?



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Environment

5. We have been told that delays relating to payments from the Sustainable Management Scheme (SMS) have resulted in problems for some NGOs. Can you provide the Committee with an update on the latest position and, if there are outstanding issues, set out a timetable for when they will be resolved?
6. During the session, you referred to the need to secure a “green recovery” after the Covid-19 pandemic. Can you set out your plans for a green recovery in Wales? Do you intend on publishing a plan or strategy so that others can see the direction of travel?
7. How will Members of the Senedd and the Welsh public be able to judge whether the Welsh Government has delivered a “green recovery”?
8. Can you provide details of the purpose and membership of the biodiversity taskforce? The taskforce has been allocated £0.5 million in funding, what outcomes do you expect to see as a result of your investment?

NRW

9. What is the latest position on NRW’s projected funding gap?

Food

10. Can you provide an update on the latest Welsh Government position on testing for Covid-19 in food processing plants?
11. Can you provide the Committee with an update on the funding that has been allocated to and spent by the #LoveWalesLoveTaste initiative?
12. Can you provide the Committee with your current assessment of food security in Wales, including the resilience of supply chains? Do you believe any action needs to be taken to strengthen that resilience, in the light of a potential second wave of Covid-19 infections (and related restrictions) in the Winter?
13. Can you provide the Committee with an update on the timeline for your response to the consultation in relation to the groceries code?



Brexit and Common Frameworks

14. Can you provide the Committee with an update on any relevant matters that were discussed in the inter-Ministerial group meeting on 29 July?

Flooding

15. We would be grateful if you would provide a copy of your new flooding strategy when it is published in September.

16. You told the Committee that “significant funding” has been given to local authorities “to enable them to not just investigate but publish their findings and then provide infrastructure, if that’s needed, to stop it from happening again”. How much has been allocated for this purpose?

17. Do you think the current level of funding provided to local authorities to deal with flooding is sufficient, given the increasing frequency of extreme rainfall events? Do you believe that more funding will be necessary to assist local authorities to deal with flooding this Winter?

18. When do you expect local authorities to publish their findings from the work that has been funded?

19. How satisfied are you that the necessary steps have been taken to “stop it from happening again”?

Climate Change

20. What assessment have you made of the impact on emissions levels of behavioural changes or business decisions arising from the Covid-19 pandemic?

21. Will you publish a formal Welsh Government response to the report produced by the group led by Chris Joffeh, which was tasked at considering the cost of retrofitting homes in Wales, among other things?

Animal Welfare

22. You told the Committee that you will be bringing forward a Bill in relation to third-party puppy sales. The Welsh Government has previously suggested that this matter will be dealt with through secondary legislation under the Animal Welfare Act 2006. Can you confirm whether you will be legislating on this matter using primary or secondary legislation?



23. You confirmed that a second public consultation was being undertaken on this matter. Can you confirm that you intend to consult on the text of the draft legislation?

24. Can you update the Committee on the Welsh Government's latest position on a support scheme for veterinary costs for vulnerable pet owners?

Agriculture

25. What is the timeline for responding to the Wales Audit Office's report on rural development programme funds?

26. Your official told the Committee that the Welsh Government's budget includes provision to pay disallowance fines. How much is allocated for this purpose?

27. What consideration have you given to the ongoing support for events and organisations that are focused on rural communities in the light of the restrictions arising from the Covid-19 pandemic?

Yours sincerely,



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.



Agenda Item 4.2



**Cyfoeth
Naturiol
Cymru
Natural
Resources
Wales**

Ein cyf/Our ref: CX20-148

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Via email - Mike.Hedges@senedd.wales

23 July 2020

Dear Mike,

Re: NRW Staff Health and Wellbeing during Covid19

At our recent meeting with the Committee, Joyce requested a note on our response to Covid in terms of staff wellbeing.

As we discussed in our session, as the Covid-19 crisis started to impact more significantly, our immediate concern was to consider our staff and the effects on their health and wellbeing, as well as ensuring effective business continuity of our prioritised business activities. From the outset we ran our response to Covid-19 along established incident management lines. We set up a Strategic Incident Response and Recovery Group (S-IRRG) reporting into Executive Team, and a Tactical IRRG (T-IRRG) to oversee the different phases. We are now largely through the Response phase, and well into Recovery, with the initial part looking at our medium-term Recovery and also the longer-term Renewal work.

The wellbeing of our staff is at the heart of what we do and will continue to be so. I am immensely proud of the way that NRW staff have responded to the crisis, and how hard they have worked during the lockdown period. We held a staff engagement survey in May, asking how they were coping with the impact of the pandemic, and if the organisation was providing the support that they needed to help us inform our future planning. The report is attached as an Annex for your information.

I pleased to say that around 1350 colleagues responded, and we really appreciated their engagement and honesty in saying how they felt and what we could learn for the future.

This survey will be regularly repeated, and alongside our Staff Engagement Group, provides the opportunity to listen, engage and act on staff views. There were many positives raised within the survey, with people considering that the organisation as a whole, and their colleagues and managers, had been very supportive. Flexible working, lack of commuting, increased time with family and impact on wellbeing were also mentioned as positives.

Exceptions that are still important to consider were childcare, caring roles, and health impacts where they exist, and as you would expect, there was some uncertainty about the continued Covid-19 situation and its impact on working arrangements. In this regard, workload, work-life balance, ergonomics and site working were highlighted. Most staff reported that they would like to continue to work from home or at least more flexibly going forward, so we will consider building that into future ways of working. This continuing feedback will help inform our medium-term stability and renewal work, ensuring that we take these comments on board when planning how we emerge from the pandemic.

From a health and safety perspective, we have been very active in our response to ensure the continued wellbeing of our staff and used both our S-IRRG and T-IRRG, with key leads in place to ensure appropriate procedures and arrangements were developed and followed.

A functional risk assessment for operational works was rapidly prepared, and we published a specific Covid page on our intranet site which includes links to a series of specifically prepared webinars and guidance for management and staff, including advice on hygiene, social distancing, remote working and mental health. An all-staff Covid update is issued weekly with the latest updates on government guidance and any changes to service provisions for the coronavirus period.

We have a free employee assistance programme where staff have access to NRW's employee assistance programme which can provide professional, confidential voluntary counselling and other assistance, and we have trained Mental Health First Aiders to provide support when needed. We also introduced a [#WellbeingHour – one hour of protected work time a week](#) for staff to use to do something which supported their health and wellbeing. I was delighted to see staff using this opportunity to explore their local environment, and we have had many lovely photographs published by staff on our intranet pages.

During the very early stages of the pandemic, our field and operations work was assessed to ensure that necessary activities could do so within government guidelines on social distancing, with health and safety our top priority. Some limited fieldwork has continued throughout Lockdown, mainly on our own Estate or in response to incidents. We are now

working with Welsh Government and others to establish clear principles for extending this to enable us to carry out a wider range of duties. The health and safety of our staff, and those whose land we are working on, is clearly of paramount importance and we have issued guidance on [Safe Working Procedures for operational sites](#), a pre-site checklist, toolbox talk and our fleet contains toolkits to ensure that contact points are kept clean.

As the pandemic has advanced, we have been looking at our estate, especially carparks, trails and visitor centres, and reviewing the WG guidance on access to the outdoors. Working closely with partners with similar sites, local authorities and communities we have now re-opened most of our carparks, walking and bike trails, but will continue to keep our Visitor Centres closed until we have a safe and workable model for their re-opening.

We remain clear that, in line with Welsh Government guidelines, those who can work from home should continue to do so for the foreseeable future, and only those who *must* work from an office or depot will be enabled to do so. Work continues to make our offices and depots safe and accessible to those staff that can't work from home, on a phased basis. Each of our sites has a Senior Responsible Officer to oversee this work, which includes reconfiguring desks and common areas, hand sanitiser station points, and demarcation of floors to ensure social distancing. We have also made physical alterations to our buildings such as installing screens at our reception areas, and installing fire door guards to minimise unnecessary contact whilst still complying with fire regulations, and ensuring adequate signage throughout all areas, covering social distancing guidelines, handwashing and reminding staff of Covid 19 symptoms. Cleaners are on site during the day to make sure that high contact areas are kept clean, each office has a nightly deep clean, and going forward, those essential workers allowed into offices will use a booking system to ensure numbers are kept to an appropriate level to maintain social distancing requirements.

A functional office safety risk assessment has been produced along with safe working guidance for returning to offices. All documentation produced is updated according to any changes in Welsh Government or Public Health Wales guidance. If anyone does show any Covid symptoms, the SRO will shut the office or site down and it will be deep cleaned before any staff can resume working there.

I hope that this provides some assurance that we are doing all that we can to protect the wellbeing of our staff during this difficult time. As we are now largely through Response phase, we have started to undertake the Review of the Response stage. This incident has been like no other, and it is important we reflect and review what went well, and where improvements can be made. This will help inform not only the Recovery stages of our work, but also any future incidents. We may of course have to go back to a Response phase, depending on the continued spread of the virus and WG advice, so we remain focused on the emerging situation, with our Response teams ready and able to respond as necessary.

As I discussed, part of our Recovery work is to develop our longer-term approach to what we are calling 'Renewal' – in other words, how we want the organisation to work in the future. This is looking at what we want to retain from our current ways of working, how these can be embedded, and how we, as an organisation, can lead the Green Recovery with more efficient and low impact operations so that there is a positive legacy from this time of great adversity. I understand that David has written to you about the work he is leading on the Green Recovery, and we will continue to keep you informed as this progresses.

Best wishes,

Clare

A handwritten signature in black ink, appearing to read 'Clare Pillman', with a horizontal line underneath.

Clare Pillman
Prif Weithredwr, Cyfoeth Naturiol Cymru
Chief Executive, Natural Resources Wales

[NRW : Pulse Survey Wellbeing, Work and Covid-19 final report](#)

Agenda Item 4.3

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



Llywodraeth Cymru
Welsh Government

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

13 August 2020

Dear Mike

As part of my response to the Committee's supplementary questions following the scrutiny session in November 2019, I agreed to provide an update in six months' time on the progress in developing a mandatory scheme for Informed Purchasing and information on the necessary legislative requirements. I also committed to provide an update to you once I had considered the recommendations contained within the review of the Animal Welfare (Dog Breeding) (Wales) Regulations 2014.

Informed Purchasing

As we are all aware, the world is a very different place to what it was six months ago, and we as a Government have had to adapt rapidly to the pandemic and the emerging priorities for Wales. To ensure there have been adequate resources available in priority areas in our response to fighting COVID-19, some of our TB policies and pilots have been temporarily paused. This includes the development of a mandatory system for Informed Purchasing. Business as usual is starting to resume and officials are adapting to a new way of working and communicating with our stakeholders to continue delivering the TB Eradication Programme for Wales.

Earlier this year, we opened up the Grant scheme for markets again, which provided cattle markets in Wales the opportunity to upgrade their facilities to allow TB information to be displayed at point of sale on a voluntary basis. As a result of this new round of funding, disappointingly only one market applied out of 25 eligible markets. Making a total of 11 markets with upgraded facilities.

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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.

Our aim with re-opening the grant scheme was to give markets another opportunity to apply. Markets are informing us there is a lack of information provided by the sellers or being request by buyers, therefore consequently, vital information on where farmers source cattle from and their TB history is not being shared. I am of the opinion, in the longer-term, only a mandatory system will make sure cattle sellers disclose the disease history of the herd at the point of sale. My intention in the medium term, when resource allows, will be to mandate the provision to provide TB information at point of sale.

To allow Informed Purchasing to be made mandatory, changes would be required to the Tuberculosis (Wales) Order 2010 which will also require consultation with the industry. However during this time, there is no indication of when legal resource will become available for this subject area, due to pressures as a result of COVID-19 and EU Exit. The Welsh Government have had to consider the immediate priorities of wider policy which require legislative change and consider what can be delivered during the remainder of this Senedd term. Unfortunately any changes to the TB Order will not be possible in this Senedd term.

With the current COVID-19 restrictions in place, farmers who need to source replacement cattle will need to think carefully about the TB history of the animals and herds they have come from, when purchasing.

I would encourage farmers to use the ibTB website (www.ibtb.com) as a means of finding more information about TB in their area and the TB status of herds they purchase from. ibTB has recently been enhanced to show:

- ongoing and resolved TB breakdowns in England and Wales over the past 10 years
- useful links to other relevant sites
- an improved 'help' function
- a clearer representation of the extent of a cluster of breakdowns on the map.

My officials will continue to promote the benefits of informed purchasing to farmers and market operators in Wales. This will include provision of appropriate advice and guidance to farmers and market operators. Work is currently underway on ensuring the TB Hub is made more relevant to users in Wales. We have received positive feedback from the industry on the clear guidance provided for farmers on the TB Hub during COVID-19 and our aim is to continue with that momentum.

Animal Welfare (Dog Breeding) (Wales) Regulations 2014

As mentioned in my Written Statement published on 4th March, some of the recommendations can only be dealt with by legislative change. However, for new regulations to be effective we must also tackle the barriers to enforcement Local Authorities are facing before proposing amendments to the current Breeding Regulations. The need for consistency of inspection and enforcement and effective use of resources by Local Authorities is paramount in ensuring the welfare of breeding dogs and their offspring. Dog breeding premises are not evenly distributed across Wales and this means some Local Authorities are struggling to cope with demands.

With this in mind, following a successful funding bid, work is now underway on a three year pilot project to enable expertise to be built through specialist training, improved guidance and upskilling of dedicated Local Authority staff.

The report recommendations support a ban of third party sales of puppies and kittens, as you know we are currently consulting on this issue.

The combination of new regulations on pet sales, dedicated funding support for improvements to the enforcement and delivery of the existing Breeding Regulations will result in lasting improvements to the welfare standards of puppies bred in Wales.

Regards

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping 'L' and 'G'.

Lesley Griffiths AS/MS

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

Agenda Item 4.4

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



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/LG/2661/20

Mike Hedges AS/MS
Chair of Climate Change, Environment and Rural Affairs Committee
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3 September 2020

Dear Mike,

Thank you for your letter of 23 July relating to the Supplementary Legislative Consent Memorandum for the UK Fisheries Bill.

Update to the Committee on the policy and devolution implications of the amendments to Clauses 1, 18, 27 and 48 by House of Lords

You have asked me to write to provide an update on the policy and devolution implications of these amendments. As you will see, the UK Government has tabled amendments for Commons Committee stage to reverse the amendments made during the Lords Report stage to clauses 1, 18, 27 and 48. Under Secretary of State Victoria Prentis MP sought my views on this approach and advised their position is they support the spirit of the amendments but the amendments themselves are legally and constitutionally unsound. My position is as follows:

Clause 1 – sustainability objective

This amendment results in legal uncertainty. In my response to Minister Prentis I recognised the concerns raised and noted there would need to be further refinement of this provision so that environmental sustainability is appropriately prioritised. The Welsh Government is committed to delivering sustainable fisheries. It is at the core of our fisheries management approach, which aligns with our duties under our flagship Welsh legislation, the Well-being of Future Generations (Wales) Act 2015 and our Environment (Wales) Act 2016, to carry out sustainable development in delivering our well-being goals, and delivering sustainable management of our natural resources. Our policies within the Joint Fisheries Statement will reflect these duties and our strong commitment to delivering sustainable development in Wales.

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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.

As such, I have emphasised our support for the spirit of the amendment to Minister Prentis and asked her to make this clear during Committee stage in the House of Commons.

Clause 18 – national landing requirement

As drafted this amendment does not reflect the devolution settlement and licence conditions requiring all UK vessels to establish an economic link with the UK are already in place. It is our intention to further develop Welsh policy in relation to economic link requirements as part of the holistic development of our future fisheries policy, subject to scrutiny by the Senedd. Therefore this provision for Welsh Ministers is not required in the UK Bill

Clause 48 – remote electronic monitoring

This amendment cuts across our devolution settlement and as a matter of devolved policy it is for the Welsh Ministers to determine the appropriate approach in relation to Wales. It is our intention to further develop Welsh policy in relation to electronic monitoring in a way that reflects the needs and context of the Welsh fleet, therefore this provision for Welsh Ministers is not required in the UK Bill.

Clause 27 - new quota from the English allocation for new entrants and under 10m boats

We had immediate concerns on how this provision could be interpreted, due to it having the potential to impact on the UK quota “pot”, which although we note is not the intention, could impact on our devolved competence. As such, any ring-fencing should take place only after fishing opportunities have been allocated to each administration.

I hope this explanation and the tabled amendments for Commons Committee stage, provide the clarity you are seeking.

Schedule 10 amendments

You have asked two questions on the amendments within Schedule 10 to retained direct EU legislation and changes of references to Secretary of State from fisheries administrations, you ask:

Can you explain the rationale for this, in particular, why the relevant functions are being conferred on the Secretary of State rather than the fisheries administrations within provisions relating to the observation or implementation of international obligations, which is devolved?

My officials worked closely with UK Government officials, following legal analysis of each reference in retained EU law, to establish where the roles lie, in line with the devolution settlement. Officials were very clear about the nuances of the devolution settlement in relation to international obligations and our role in implementing them. It is my view, these have been applied correctly in respect of the devolution settlement. I have provided a table at Annex 1 to explain the rationale for the amendments made via Schedule 10 of the Bill.

You refer in your letter to fishing opportunities and spawning stock biomass limits, and have asked:

Can you clarify whether this would enable fishing opportunities to be granted where the stock is below the relevant limit?

These amendments build in some flexibility to the existing Multi-annual Plans, including by making the application of the key provisions within them subject to variation where a “relevant change of circumstances” is identified (this is consistent with the approach in the Bill for the Joint Fisheries Statement and Fisheries Management Plans). For example, where a stock was below the relevant limit but was part of a mixed species fishery it would be inappropriate to deny fishing opportunity where this would effectively close the whole fishery or if allowed to continue would involve fishing mortality on the relevant stock in any

event. In such circumstances the setting of a minimal bycatch opportunity would be appropriate to avoid 'choking' the associated stock fisheries.

I hope this information provides the additional clarity you need for your response on the SLCM report, which I note is due on 24 September.

Bill timings and next stages

I wanted to end by providing an update on the Bill timings. Second Reading was held in the House of Commons on 1 September and Committee Stage is due to be held between 8 – 17 September. A number of government amendments have been tabled for Committee stage and I would draw your attention to those. My officials have been working with UK Government to agree the amendments relating to Wales, and I would like to provide early confirmation of my support for them.

The Legislative Consent Motion (LCM) debate has been scheduled for 29 September, prior to Commons Report stage, in line with our usual approach of aiming to ensure the UK Parliament has time to take account of the Senedd's consent decision before a Bill is passed. A Supplementary Legislative Consent Memorandum will be laid as soon as possible.

In addition, I want to take this opportunity to follow up to some of the recommendations in your Legislative Consent Memorandum report.

Legislative Consent Memorandum (LCM) report

Recommendation 6

In my response to your LCM report, I offered to write to you to outline the solutions considered and the role of Article 33, further to your recommendation on this matter.

We have given further consideration as to whether the wording of Article 33 of the CFP regulations, as amended by the EU Exit SIs and Fisheries Bill, could alleviate concerns around including a duty on MSY.

Article 33 provides 1) "Where stocks of common interest are also exploited by third countries, [...] the Secretary of State must make every effort to reach common arrangements for fishing of such stocks with a view to making the sustainable management possible" & 2) "endeavour to establish bilateral or multilateral agreements with third countries for the joint management of stocks"

This of course provides comfort the UK Government's negotiating position will be driven by these principles, it is bound to act responsibly whilst undertaking Coastal State negotiations on fish stocks, however, the wording does not guarantee any outcomes and indeed probably could not undertake to do so (when taking into account the multiple parties at those negotiations).

In acknowledgment of the concerns raised on MSY and to provide increased certainty on the collective UK approach to sustainably managing our domestic fisheries, whilst acknowledging the uncertainties of international fisheries negotiations, the UK Government has introduced the fisheries management plan (FMP) approach which includes elevated levels of engagement with stakeholders. This is in addition to the MSY commitment made within the fisheries objectives themselves. I expect the JFS and FMPs to set out our commitment to MSY and to set targets where appropriate.

The Welsh Government continues to work closely with the fishing industry and scientific researchers, as well as all other interested parties, including Defra and the other fisheries

administrations, to ensure our fisheries management is based on the best available evidence and supports the sustainable use of Welsh seas. This evidence-based approach is captured within the scientific evidence objective of the UK Fisheries Bill, which we fully support.

Memorandum of Understanding and clause 24 (determination of fishing opportunities)

I also said I would provide regular updates to the Committee regarding progress being made to finalise the Fisheries Framework Memorandum of Understanding (MoU) and in particular progress relating to clause 24 (formally clause 23). My officials are engaging in a regular working group which is progressing the drafting of the MoU (including the Dispute Resolution Mechanism and consideration of the Concordat).

In lieu of the MoU, which is still in development and will therefore not be ready ahead of the completion of the Bill's passage, I have written to the UK Government to seek agreement on the key issues on which I need assurance in order to recommend the Senedd gives consent to the Bill. I will share the outcome of this request with the Committee at the earliest opportunity.

I have written in similar terms to Mick Antoniw MS, Chair of Legislation, Constitution and Justice Committee.

Regards

A handwritten signature in cursive script that reads "Lesley Griffiths". The signature is written in black ink and is positioned centrally on the page.

Lesley Griffiths AS/MS

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

Annex 1 Rationale for the amendments made via Schedule 10 of the Bill

EU retained law (in Schedule 10)	Rationale for change from “fisheries administration” to “Secretary of State”
Common Fisheries Policy Regulation (Regulation (EU) No 1380/2013)	
<p>Article 28, 29 and 33</p>	<p>Article 28 sets out that the objective of the external fishing policy of the United Kingdom is to ensure sustainable exploitation, management and conservation of marine biological resources and the marine environment by conducting the external relations of the United Kingdom in accordance with its international obligations and policy objectives.</p> <p>Article 29 provides that the Secretary of State should actively support and contribute to the activities of international organisations dealing with fisheries including regional fisheries management organisations.</p> <p>Article 33 provides that the Secretary of State must engage with third countries with a view to ensuring that stocks of common interest to the UK and third countries are managed sustainably.</p> <p>Under paragraph 10 (1) & (2) of Part 1 of Schedule 7A of the Government of Wales Act 2006 international relations are a reserved matter, International relations includes relations with territories outside of the UK, with the EU and its institutions and with other international organisations.</p> <p>Whilst paragraph 10(3) confirms that observing and implementing international obligations are outside of the reservation and are therefore devolved, we do not consider the subject matter of the above Articles could be described as observation of or implementation of international obligations.</p> <p>The Common Fisheries Regulation will, by operation of the European Union Withdrawal Act 2018, form part of the UK statute book as retained EU law. It was previously amended by the Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739). Regulation 3 of those 2019 Regulations established the UK fisheries administrations and their remit for the purpose of any relevant retained direct EU legislation relating to the common fisheries policy. Regulation 3 also made amendments to articles 28, 29 and 33 to transfer functions under those articles from EU institutions to a fisheries administration.</p> <p>In relation to Wales, the Welsh Ministers are the fisheries administration in so far as the obligation or power under consideration would be within the legislative competence of the Senedd, if included in an Act of the Senedd, or if it could have been imposed or conferred by a function of the Welsh Ministers exercisable immediately before exit day. If a power or obligation does not fall into either of those categories the Secretary of State is the fisheries administration for that matter in relation to Wales.</p> <p>The impact of the amendments already made to these Articles by the 2019 Regulations was such that the functions under those articles were in effect already transferred to the Secretary of State in relation to Wales, in line with the devolution settlement. Officials therefore take the view that the amendments made by Schedule 10 do not change this position, but rather clarify it.</p>
Regulation (EU) 2018/973 – North Sea Multi-Annual Plan	

<p>Article 4, 6 & 13</p>	<p>Article 4 relates to targets in respect of fishing mortality and as amended requires the Secretary of State to request data from ICES, or a similar independent scientific body recognised at international level.</p> <p>Article 6 relates to requesting conservation reference points from the ICES, or a similar independent scientific body recognised at international level.</p> <p>Article 13 provides that the Secretary of State should engage with third countries with a view to ensuring that those stocks of common interest to the UK and a third country are arranged in a sustainable manner consistent with the Basic Regulation.</p> <p>Under paragraph 10 (1) & (2) of Part 1 of Schedule 7A of the Government of Wales Act 2006 international relations are a reserved matter, International relations includes relations with territories outside of the UK, with the EU and its institutions and with other international organisations.</p> <p>Whilst paragraph 10(3) confirms that observing and implementing international obligations are outside of the reservation and are therefore devolved, we do not consider the subject matter of the above Articles could be described as observation of or implementation of international obligations.</p> <p>Articles 4, 6, and 13 of this Regulation were previously amended by regulation 25 of the Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/753) to transfer functions under those articles from EU institutions to a fisheries administration.</p> <p>In relation to Wales, the Welsh Ministers are the fisheries administration in so far as the obligation or power under consideration would be within the legislative competence of the Senedd, if included in an Act of the Senedd, or if it could have been imposed or conferred by a function of the Welsh Ministers exercisable immediately before exit day. If a power or obligation does not fall into either of those categories the Secretary of State is the fisheries administration for that matter in relation to Wales.</p> <p>The impact of the amendments already made to these Articles by the 2019 Regulations was such that the functions under those articles were in effect already transferred to the Secretary of State in relation to Wales, in line with the devolution settlement. Officials therefore take the view that the amendments made by Schedule 10 do not change this position, but rather clarify it.</p>
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Regulation (EU) 2019/472 Western Waters Multi Annual Plan

<p>Article 4, 7 & 15</p>	<p>Article 4 relates to target in respect of fishing mortality and as amended requires the Secretary of State to request data from ICES, or a similar independent scientific body recognised at international level.</p> <p>Article 7 relates to requesting conservation reference points from the ICES, or a similar independent scientific body recognised at international level.</p> <p>Article 15 relates to the exploitation of stocks of common interest by third countries. It provides that the Secretary of State should engage with those third countries with a view to ensuring that those stocks are arranged in a sustainable manner consistent with the Basic Regulation.</p>
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Under paragraph 10 (1) & (2) of Part 1 of Schedule 7A of the Government of Wales Act 2006 international relations are a reserved matter, International relations includes relations with territories outside of the UK, with the EU and its institutions and with other international organisations.

Whilst paragraph 10(3) confirms that observing and implementing international obligations are outside of the reservation and are therefore devolved, we do not consider the subject matter of the above Articles could be described as observation of or implementation of international obligations.

Regulation (EU) 2019/472 will by operation of the European Union Withdrawal Act 2018, form part of the UK statute book as retained EU law. It was previously amended by the Common Fisheries Policy and Animals (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/1312). Regulation 6 amended to articles 4, 7 and 15 to transfer functions under those articles from EU institutions to a fisheries administration.

In relation to Wales, the Welsh Ministers are the fisheries administration in so far as the obligation or power under consideration would be within the legislative competence of the Senedd, if included in an Act of the Senedd, or if it could have been imposed or conferred by a function of the Welsh Ministers exercisable immediately before exit day. If a power or obligation does not fall into either of those categories the Secretary of State is the fisheries administration for that matter in relation to Wales.

The impact of the amendments already made to these Articles by the 2019 Regulations was such that the functions under those articles were in effect already transferred to the Secretary of State in relation to Wales, in line with the devolution settlement. Officials therefore take the view the amendments made by Schedule 10 do not change this position, but rather clarify it.

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



Llywodraeth Cymru
Welsh Government

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

mike.hedges@senedd.wales

16 July 2020

Dear Mike

Climate Change, Environment and Rural Affairs Committee Report on the Legislative Consent Memorandum for the UK Environment Bill

Thank you for your letter of 2 July, and for the Climate Change, Environment and Rural Affairs Committee's consideration and recommendations on the Legislative Consent Memorandum for the UK Environment Bill.

Please find the Welsh Government's response to the report's recommendations at Annex A.

I would like to take this opportunity to update the Committee on the current situation with the UK Parliament and Senedd Cymru's consideration of the Bill. The Bill was being considered by a public bill committee in the House of Commons but sittings of the Committee were suspended on 18 March until further notice. The Committee is now scheduled to report by Tuesday 29 September. There has been no update on when the parliamentary scrutiny of the Bill will likely recommence..

Given the uncertainty in the UK Bill timetable, no legislative consent motion debate has been scheduled for the Senedd at present. I now expect this to take place after summer recess.

Yours sincerely

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

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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.

Annex A

Welsh Government Responses to Recommendations from the Climate Change, Environment and Rural Affairs Committee on the Legislative Consent Memorandum for the UK Environment Bill

Recommendation	Welsh Government Response
Recommendation 1. We recommend to the Senedd that it gives consent to the provisions in the UK Environment Bill, subject to it being satisfied by the Minister's response to each of the recommendations in this report	Accept Your recommendation the Senedd Cymru provide its consent is welcomed. Of your 15 recommendations, I have been able to accept 14. One has been accepted in principle and I have set out my reasons for this as clearly as possible. Financial Implications – None.
Recommendation 2. The Welsh Government must commit to consulting on proposals and/or draft regulations before making regulations using the powers provided in the Bill.	Accept In line with the Regulatory Impact Assessment Code (Section 76 of GOWA 2006) the Welsh Government will carry out proper and appropriate consultation with those who are likely to be affected by the legislation, and those who have an interest in its overall impact, before making regulations using the powers provided in the Bill. Financial Implications – There are no additional financial implications as a result of accepting this recommendation.
Recommendation 3. The Welsh Government should give an undertaking that third party organisations, including Natural Resources Wales, will be properly resourced to deliver additional duties or responsibilities arising from the provisions in this Bill.	Accept The waste tracking powers include provision for Natural Resources Wales (NRW) to create a charging scheme as a means of recovering costs incurred when performing their new functions in relation to this area. NRW are currently working with Welsh Government, UK Government and the other devolved administrations' officials to take forward the waste tracking project and the Welsh Government has provided NRW with funding to support their contribution. Both Extended Producer Responsibility (EPR) and the Deposit Return Schemes (DRS) are being designed based on the polluter pays principle. As such obligated producers covered by the schemes will be required to pay a fee. This will need to cover a range of elements including the costs of any compliance and monitoring required. NRW officials are fully engaged in the development of both schemes and are developing costing

	<p>models to ensure the costs recovered by producers reflects the costs they will incur in any regulatory activity.</p> <p>In relation to EPR for packaging materials the policy is for producers to cover the full net cost for the collection, handling and processing of used packaging materials. Where the responsibility for this falls to Local Authorities, the scheme is being designed to ensure it will cover the cost of relevant waste collection services.</p> <p>The Drainage and Wastewater Management Plan provisions affect both the water companies and NRW. Any additional responsibilities placed upon NRW and their resource implications will be carefully assessed against its remit and statutory obligations, and NRW will be consulted throughout. The Minister has committed previously to consult on any proposed requirements on NRW and the water companies.</p> <p>The powers in relation to land drainage would provide a regulation making power for the Welsh Ministers to make provision for the value of other land (non-agricultural) in a Welsh internal drainage district to be determined. As the current legislation stands, Internal Drainage Boards (IDBs) calculate the value of drainage rates for non-agricultural land using a methodology based on valuation lists which are outdated and incomplete.</p> <p>Consenting to provision being made within the Bill in relation to Wales will allow NRW to calculate the value of non-agricultural land in Wales though an alternative methodology as they will be able to make use of alternative data for these calculations. NRW would also be able to use an alternative methodology for calculating the value of agricultural land and buildings to avoid the potential distortion of the apportionment calculation.</p> <p>IDB work is self-financing, as the precepts help to pay for the management and associated resources. The proposed changes in the Bill will make this simpler and fairer by correcting the earlier measures/calculation which didn't cover non-agricultural land.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 4. The Minister must update the Senedd in advance of the debate on the LCM, on progress in securing an amendment to Clause 24 to make</p>	<p>Accept</p> <p>Discussions are continuing with Defra and I will update the Senedd on progress after the summer recess.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>

<p>provision for cooperative working between the OEP and any equivalent Welsh governance body. If an amendment to Clause 24 cannot be achieved, the Minister must set out what measures will be introduced to ensure cooperative working between Welsh and English/UK bodies.</p>	
<p>Recommendation 5. The Minister should set out a timetable for the establishment of interim environmental governance measures following the end of the transition period and the UK's exit from the EU.</p>	<p>Accept</p> <p>The intention is for the interim measures to be in place for the end of the Implementation Period ("IP"). My priority is to ensure a complaints mechanism is in place, which will provide a dedicated webpage for environmental governance and a complaints form. Any complaints submitted will be acknowledged, logged and included in an annual report.</p> <p>It is also my intention to put in place the means for all complaints to be independently assessed and, where they are considered urgent or serious, for them to be escalated. Again, our aim is to have this in place for the end of the IP but this will be subject to the lifting of the current restrictions on public appointments as a result of COVID-19.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 6. The Minister should publish the report of the stakeholder group she tasked with considering future environmental governance arrangements in Wales. The Minister should publish the Welsh Government's response to the group's recommendations.</p>	<p>Accept</p> <p>The Stakeholder report will be published along with further costed options analysis when this work is complete in the Autumn.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 7. The Minister should give a commitment</p>	<p>Accept</p>

<p>that the Welsh Government's Deposit Return Scheme should apply to the broadest variety of containers so that no restrictions are placed on the size or type of containers eligible for the scheme.</p>	<p>We are working in partnership with the UK Government and Northern Ireland Executive to develop the proposals for the basis of a further consultation to inform the final design of the scheme. This is scheduled to be published early 2021. It is our intention the consultation will set out the container sizes and material types to be covered by the DRS. I agree with the Committee's recommendation this should cover a wide range of materials and bottle sizes.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 8. The Minister should provide the Committee with further information on the work that is being undertaken to assess the evidence base for a tax or a charge on single-use plastics.</p>	<p>Accept</p> <p>Prior to COVID-19 there was growing support from the public for governments to take action against single-use plastic (SUP) items, reduce packaging and promote reusable products. Whilst this is still likely to be the case, there is some anecdotal evidence emerging to suggest the COVID-19 pandemic has generated concerns about the safety of using reusable products, in particular reusable cups, with some high street retailers temporarily banning the use of reusable cups.</p> <p>We recognise it will not just be businesses challenged - we may see changes in buyer behaviour with falling employment rates and reduced household income as a consequence of the significant impact COVID-19 has had on the economy. It may be some time before consumers are in a position to make more sustainable or premium buying decisions.</p> <p>The point between public hygiene concerns in the short term versus the longer term goal of tackling the pollution created by unnecessary SUP will need a balanced response. Ultimately, our goal will focus on advancing our long term aspirations to protect our environment, in line with our Well-being and Future Generations objectives.</p> <p>Work to assess the available evidence base surrounding a potential tax or charge on SUP cups is ongoing, and will take into account our tax policy principles, as well as the potential longer term impacts of COVID-19 on both consumer behaviours and the industries involved.</p> <p>Any potential tax or charge measure on single-use cups would need to be carefully co-ordinated with the wider initiatives to ensure the intended behaviour change is encouraged without being overly burdensome on business. This includes EPR, DRS, forthcoming bans on specific SUP items (which will include expanded and extruded polystyrene cups), as well as the UK Government's proposals for a plastic packaging tax.. Further consultations on each of these areas are due soon. It will be important to consider the evidence gathered as part of these exercises.</p>

	<p>The Welsh Government <i>Beyond Recycling</i> consultation closed in April and sought views on proposals for a tax or charge on disposable plastic cups and food containers in Wales. There was lots of interest on how best to make use of our fiscal powers. The responses to this consultation are currently being reviewed and the consultation summary will be published later this summer.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 9. The Minister should clarify a timetable for the introduction of extended producer responsibility and deposit return schemes and measures in relation to single-use plastics.</p>	<p>Accept</p> <p>In relation to the DRS and EPR for packaging, implementation of both schemes is dependent upon the relevant clauses within the UK Environment Bill being passed by the UK Parliament. Royal Assent for the Bill is currently expected by November 2020, subject to the current delays as a result of COVID-19.</p> <p>In the meantime, we are working to develop the detailed proposals to be included in a further consultation to set out the preferred options for both schemes. This is scheduled to be published in early 2021.</p> <p>In preparation for consultation, we are currently reviewing the proposed timeline for the implementation of both schemes, this is dependent on factors such as the passage of secondary legislation setting up of the required scheme administrators, collection infrastructure and development of supporting ICT systems. It is our intention to include within the consultation an outline proposed implementation timetable.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 10. The Minister should clarify how the provisions in the Bill will be used to give effect to the proposals in the Welsh Government’s “Beyond Recycling” consultation.</p>	<p>Accept</p> <p>The Beyond Recycling consultation closed on 24 April. The consultation and 40 engagement events across the country engaged around 1,000 citizens and stakeholders. The consultation had a very simple and clear aim to shift Wales towards a more circular economy where we use only our fair share of resources, keep resources in use for as long as possible and avoid waste. The Bill provides powers which will enable the implementation of key actions encompassed by ‘<i>Beyond Recycling</i>’, particularly those relating to a DRS and EPR. This will support the future strategy’s objectives of avoiding waste and keeping resources in use for as long as possible, and our aim as a Government to become the world’s best in terms of recycling. Other powers in the Bill will also be</p>

	<p>used for several other key actions in Beyond Recycling, including applying EPR to other products and wastes, mandating waste tracking, food waste redistribution, environmental product labelling and applying charges for problematic single use packaging.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 11. The Welsh Government should introduce an approach for plastic waste and pollution reduction based on the model set out in the Environment (Wales) Act 2016. The approach should include an overall target, interim targets and reporting requirements.</p>	<p>Accept</p> <p>Amongst other materials both EPR and DRS for drinks containers target a large proportion of plastic. Within both schemes the intention is to set statutory recycling targets for those obliged under the schemes to meet. Although the intention is for the schemes to operate across the UK, reporting on material capture and recycling rates will be reported on an individual nation basis – therefore it will be possible to track the success of both schemes on an all Wales basis.</p> <p>With regard to a deposit scheme for drinks containers our current preferred option is to set a series of targets increasing over time as the scheme beds in and becomes widely accepted. In addition, the variable or modulated fee payment packaging will incentivise producers to design easier to recycle and less wasteful packaging. Further details on how statutory targets will work will be covered in the second consultation on both schemes, scheduled for publication early in 2021.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 12. The Minister should clarify the Welsh Government's intended timetables for the white paper on the Clean Air Bill and the introduction of the list system arising from Part of Schedule 12 of the UK Bill.</p>	<p>Accept</p> <p>The Welsh Government intends to launch and complete a White Paper consultation on proposals for the Clean Air Bill for Wales within the current Assembly term.</p> <p>Regarding the published lists for recording approved fuels and exempted classes of fireplace, Welsh Ministers have discretion to decide when the provision comes into force. However, given the need to ensure manufacturers can sell their products on the market without hindrance, including the need to increase consumer choice by ensuring more products enter the market sooner, it is expected the published lists will be developed and implemented within six months following the enactment of the Bill.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 13. The Minister should reaffirm her</p>	<p>Accept</p>

<p>commitment that the Welsh Government will consult stakeholders on all proposed regulations and before making directions arising from the provisions in Part 5 of the UK Bill.</p>	<p>I remain committed to consulting stakeholders on regulations arising from Part 5 of the Bill.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 14. The Minister should pursue an amendment to Clause 82 to seek scientific advice before exercising the powers set out in that clause. If an amendment is not achievable, the Minister should commit to ensuring that the Welsh Government should seek scientific advice before exercising the powers.</p>	<p>Accept in principle</p> <p>Section 82 mirrors the powers of the Secretary of State (S81).</p> <p>In line with the Regulatory Impact Assessment Code (Section 76 of GOWA 2006) the Welsh Government will carry out proper and appropriate consultation with those who are likely to be affected by the legislation, and those who have an interest in its overall impact, before making regulations using the powers provided in the Bill. This includes a requirement to consult those influential in the area, specific communities and/ or organisations.</p> <p>The Gunning Principles on consultation also require all interested parties to be consulted and the final decision to be taken on the basis of rationale and evidence. This is sufficient to ensure the requirement to obtain scientific advice.</p> <p>I can therefore assure the Committee scientific advice will be thoroughly considered as part of the Welsh Government’s operational practices and there is no need to specify this requirement in law.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 15. The Minister should set out what mechanisms are in place or will be necessary to ensure that REACH can continue in a consistent manner across all four constituent nations of the UK in future.</p>	<p>Accept.</p> <p>A common rulebook enables the smooth trade in chemicals and products arising from chemicals, both within the UK and with our European neighbours. It also reduces the associated costs for businesses and regulatory agencies. For these reasons, in our negotiating priorities for a future relationship with the European Union (EU) we have called on the UK Government to negotiate continued membership of the European Chemicals Agency as part of a comprehensive trade agreement.</p> <p>In the absence of such an agreement, it will remain important to keep pace with the progress being made in the EU to address the risks posed by hazardous chemicals to human health and the environment, even if we don’t align with the EU on every regulatory decision. It should also be noted, at least to begin</p>

with, Northern Ireland will continue to be subject to EU rules on chemicals under the Northern Ireland Protocol.

We consider it essential to continue to monitor regulatory decision-making in the EU as we take decisions together with the UK and Scottish Governments in relation to chemicals on the market in Great Britain from next year. We have worked with the other administrations to bring REACH across into UK law in a way which favours collective rather than divergent decision-making. This maximises consistency across Great Britain, whilst retaining the right to take action on our own, where we consider it absolutely necessary, to protect human health and the environment in Wales.

The legislation supporting this approach is largely in place in the form of retained EU law. My officials are working with the other administrations to put in place the non-legislative elements of a common regulatory framework on chemicals. The powers in this Bill relating to REACH will give the new framework the flexibility to fine-tune domestic legislation to suit whatever circumstances we find ourselves in following the end of the current implementation period.

Financial Implications – There are no additional financial implications as a result of accepting this recommendation

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



Llywodraeth Cymru
Welsh Government

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

11 September 2020

Dear Mike

Report on the Supplementary LCM for the Agriculture Bill

Thank you and members of the Climate Change, Environment and Rural Affairs Committee for your report on the Supplementary LCM for the amendments made to provisions relating to Wales in the Agriculture Bill during the House of Commons' amending stages. I have considered the recommendations raised, and my detailed response is provided in Annex 1.

As agreed in my response to Recommendation 2 of the Legislation, Justice and Constitution Committee's report on the Bill's first LCM, a full summary of the Welsh Ministers' regulation-making powers can be found in Annex 2.

Introduced in the House of Commons, the Agriculture Bill completed Committee Stage in the House of Lords on 28 July. Report Stage is yet to be scheduled, however my officials have been working closely with the UK Government to monitor the progress of the Bill and latest indications suggest the Bill is expected to receive Royal Assent by the end of October.

In response to the Committee Report's overall recommendation, I am pleased to confirm that following many weeks of close working between officials from all four administrations, government amendments to clauses 32 (identification and traceability of animals) and 37 (regulation of organic products) were tabled and agreed at Committee Stage (Lords). These amendments add appropriate requirements for the Secretary of State to obtain the consent of the Devolved Administrations before exercising powers under these provisions. I consider this a satisfactory resolution to the Welsh Government's outstanding concerns as identified in my response to the Committee's Report on the Bill's first LCM.

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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.

During Lords Committee Stage, amendments were also made to clauses 42 and 53. Clause 42(4) and (5) would have specifically conferred powers on the Secretary of State to require the Welsh Ministers to provide information to the Secretary of State. That provision has been removed. Clause 53 was amended to allow for the early commencement of subordinate legislation making powers in the Bill. This is necessary to ensure the powers are in place by the end of the implementation period (31 December 2020) to enable us, for example, to continue providing financial support to farmers in Wales in 2021. An additional Supplementary LCM with detail of the amendments to clauses 32, 37, 42 and 53 will be laid shortly for your consideration.

Once again, I would like to reiterate the importance of this Bill as a vehicle to deliver stability and continuity to Welsh agriculture while we continue to develop the groundwork for our own Agriculture (Wales) Bill, to be introduced in the next Senedd term as set out in my oral statement on 8 July.

Regards

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

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

ANNEX 1

Response to the Climate Change, Environment and Rural Affairs Committee’s Report on the Supplementary LCM for the Agriculture Bill (published 8 July 2020)

Committee’s Recommendation	Welsh Government’s Response
<p>Recommendation 1</p> <p>The Minister must explain the Welsh Government’s rationale for the changes to clause 32 (identification and traceability of animals) and to Schedule 5, Part 1 (financial support after exiting the EU). In particular, she should explain whether the amendments are as a result of changes in the Welsh Government’s position, or some other reason</p>	<p>Accept</p> <p><u>Clause 32 (identification and traceability of animals)</u></p> <p>Clause 32(2) amends section 8(1)(a) of the Animal Health Act 1981 to substitute ‘the marking of animals’ with ‘the means of identifying animals’. Previously the substantive amendment had been restricted to England. The amendment removes any potential for ambiguity when secondary legislation relating to the identification of animals is made under section 8(1)(a), as it ensures that new developments in technology and methodology of identifying animals are captured by the provision, such as the use of electronic identification. The Welsh Government is working closely with Defra and the other Devolved Administrations to develop our respective policies on identification and traceability of animals. The amendment of this clause, extending its application to Wales, is necessary to ensure we are aligned and using consistent legal powers to make changes which will support seamless cross border trading.</p> <p>Clause 32(3)-(4) was amended so as to dis-apply certain provisions of EU Regulations in relation to Wales. The dis-application had previously been restricted to England. These provisions come into force on such day as the Welsh Ministers may be regulations made by statutory instrument appoint and relate to systems for the identification and regulation of bovine, ovine and caprine animals. The amendment is considered necessary to protect Welsh interests, as EU legislation in this policy area stipulates that – by April 2024 - the provisions of EU law in question will cease to apply to member States.</p> <p>If the amendment to clause 32(3) and (4) had not been secured, England would be able to dis-apply that legislation and make secondary legislation under the 1981 Act in its place. If the EU provisions were dis-applied in England alone, either unilaterally or to mirror the EU</p>

	<p>position, problems could arise in relation to cross border trade as England and Wales would be operating under different rules, which could cause confusion for the industry and could jeopardise exporting regulations.</p> <p>The implementation of pre movement notification and electronic movement reporting of livestock which is central to the impending new multispecies system in Wales, and its ability to share information and data with other administrations could also be jeopardised.</p> <p><u>Schedule 5, Paragraphs 2 (power to modify legislation governing the basic payment scheme) & 4 (Other financial support: modification in relation to Wales of general provision connected with payments to farmers and other beneficiaries)</u></p> <p>Having reflected on the concern raised by Senedd Committees regarding the lack of clarity with the wording 'simplifying and improving' in the equivalent provision of the previous Bill, these paragraphs have been amended to ensure the powers conferred on the Welsh Ministers under these provisions can be used for specified purposes.</p> <p><u>Schedule 5, Paragraph 5 (Support for rural development: modification of legislation in relation to Wales)</u></p> <p>This provision has been amended to allow the Welsh Ministers to extend the current Rural Development Programme or operate a domestic equivalent in Wales. The amendment brings the powers of the Welsh Ministers into alignment with those provided by the equivalent provision in the Northern Ireland Schedule (Schedule 6, paragraph 6).</p> <p>Schedule 5 remains subject to the sunset clause (clause 44) and will therefore expire at the end of 2024, in accordance with that provision and subject to the savings and other provisions set out.</p>
<p>Recommendation 2</p> <p>The Minister must commit to ensuring that any proposal to modify retained EU legislation governing payments for farmers or relating to support for rural development will be developed in consultation with the agricultural sector and those representing the interest of rural Wales, as appropriate.</p>	<p>Accept</p> <p>I can confirm the Welsh Government launched a public consultation on 31 July 2020. The consultation puts forward proposals to continue agricultural support by extending the Basic Payment Scheme, and developing a new domestic Rural Development Support scheme, until new powers are provided through an Agriculture (Wales) Bill in the next Senedd term. The consultation proposes that the</p>

	<p>Schemes be amended to improve their operation, and such proposals include the removal of spent provisions, the removal or reduction of burdens and ensuring the sanctions applied are appropriate and proportionate.</p>
<p>Recommendation 3</p> <p>The Minister should provide an update on progress made by the Welsh Government in resolving the outstanding concerns in relation to clauses 32, 36 and 37 of the Bill.</p>	<p>Accept</p> <p>Following many weeks of close working between officials from all four administrations, government amendments to clauses 32 (identification and traceability of animals) and 37 (regulation of organic products) were tabled and agreed at Lords Committee Stage. These amendments add appropriate requirements for the Secretary of State to obtain the consent of the Devolved Administrations before exercising powers under these provisions. Additional detail describing the amendments will be set out in the Supplementary LCM to be laid shortly. I consider this a satisfactory resolution to the Welsh Government's outstanding concerns as identified in my response to the Committee's report on the Bill's first LCM.</p>

ANNEX 2: Powers of the Welsh Ministers to make subordinate legislation in the Agriculture Bill

Introduction

The Agriculture Bill (the Bill) was introduced in the House of Commons on 16 January 2020. At the request of the Minister for Environment, Energy and Rural Affairs, the Bill makes provision in relation to Wales in respect of devolved matters. The Welsh Government laid a Legislative Consent Memorandum (LCM) before the Senedd on 12 February. A supplementary LCM was laid on 11 June, setting out the amendments made to provisions relating to Wales during the House of Commons' amending stages.

Table 1 details the powers of the Welsh Ministers to make subordinate legislation in the Bill provisions. It provides justification as to why it is appropriate to seek these powers and outlines the Senedd procedure attached to each power. This document is to be provided to the Senedd's Legislation, Justice and Constitution (LJC) and Climate Change, Environment and Rural Affairs (CCERA) Committees in response to Recommendation 2 of the LJC Committee's report on the LCM in relation to the Agriculture Bill.

Overview

Powers being taken for the Welsh Ministers through the Bill

The Agriculture Bill is an important legislative vehicle to give farmers and land managers in Wales much needed stability and continuity during this period of exceptional uncertainty. Powers being taken for the Welsh Ministers are necessary to enable the continued provision of existing agricultural support in Wales after 2020 and to ensure the effective operation of agricultural sectors following the UK's departure from the EU.

Powers for the Welsh Ministers to operate or transition towards new financial assistance, as previously provided for under paragraphs 1 to 3 of Schedule 3 to the Agriculture Bill introduced to the UK Parliament in September 2018, are not being taken in this Bill. It is the Welsh Government's intention that appropriate provision will be made by an Agriculture (Wales) Bill to be introduced in the next Senedd term. Schedule 5 ("provision relating to Wales"), and a small number of related provisions, are subject to a sunset clause (clause 44) and are due to expire at the end of 2024 in accordance with that provision.

Senedd procedure for delegated powers in the Bill

The Welsh Government has worked closely with the UK Government to ensure powers for the Welsh Ministers in this Bill with significant policy implication are subject to the affirmative resolution procedure. This will allow the Senedd the opportunity to duly scrutinise the subordinate legislation made under those provisions. For those regulation-making powers where the subject-matter is considered to be more technical in nature, where it may be appropriate to legislate swiftly and where the discretion of the Welsh Ministers over the subordinate legislation is more limited, the negative resolution procedure has been chosen in accordance with the Welsh Government's guidelines on subordinate legislation.

Table 1: Justification for the Welsh Ministers’ powers to make subordinate legislation under provisions in the UK Agriculture Bill

Provision: Power Conferred	Justification	Legislative Procedure
<p><u>Clause 31 (fertilisers):</u> Amendments to an existing delegated power in section 74A of the Agriculture Act 1970 to regulate fertilisers on the basis of their function and to specify additional matters for which provision may be made relating to the regulation of fertilisers.</p>	<p>A delegated power already exists in the Agriculture Act 1970 to regulate fertilisers based on their content and composition (section 74A). Clause 31(2) amends the definition of a “fertiliser”, provided for in section 66 of the Agriculture Act to enable a broader range of materials to be regulated as fertilisers. Clause 31(3) amends the existing delegated power (section 74A(1)) to enable regulations to be made setting out safety and quality requirements for fertilisers by reference to function, as well as content or composition. The functions to be regulated will be consulted on and may be subject to a staged roll out. The functions regulated will need to change to keep pace with scientific developments.</p> <p>Amendments are also required to enable regulations made pursuant to this clause to set out the conformity assessment procedures to be carried out on fertilisers according to their content, composition or function to assess their compliance with statutory requirements or otherwise mitigating risks to the health and safety of humans, plants, animals or the environment presented by fertilisers. Regulations may provide for functions to be conferred on a public authority to monitor or enforce compliance and may require the retention of information relating to the compliance of fertilisers with statutory requirements. The clause will also enable the amendment or repeal of retained EU law relating to fertilisers.</p>	<p>The first regulations made by the Welsh Ministers under section 74A(1) which contain provision under section 74A(1A) to (1E) of the Agriculture Act 1970 will be 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)(b), Agriculture Act 1970).</p>
<p><u>Clauses 36 and 37:</u> Powers for the Welsh Ministers in respect of the certification of</p>	<p>This power gives the Welsh Ministers the ability to make new organics regulations, including to modify retained EU legislation (if and to the extent that provision made by the regulations would be within the legislative competence of the</p>	<p>Affirmative resolution procedure where—</p>

<p>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)).</p>	<p>Senedd). This allows the Welsh Ministers to achieve domestic policy objectives and make changes negotiated with major trading partners to facilitate the requirements of trade agreements. This will ensure that the UK organics sector can continue to operate to world leading standards of organic production, to remain competitive, to adapt with the latest science, and to access global markets.</p> <p>Regulations made under clause 36 can make provision for and in relation to the certification of organic products (clause 36(1)), the import and export of organic products (clause 36(5) and (7)) and the enforcement of organic regulation (clause 36(8)). These powers are available to each of the devolved administrations in certain circumstances (see clause 37(1)(b) to (d)). The Welsh Ministers may make regulations 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)). Regulations may also be made under clause 36 by the Secretary of State (clause 37(1)(a)). The consent of the Welsh Ministers is required before the Secretary of State makes regulations under clause 36 that could be made by the Welsh Ministers under that provision (clause 37(2)).</p>	<p>(a) the regulations are made under section 36(1) and contain provision referred to in section 36(3), or</p> <p>(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.</p> <p>Otherwise, regulations under clause 36 are subject to negative resolution procedure (unless section 47(5) applies, in which case affirmative resolution procedure).</p>
<p><u>Clause 44(7) (duration of provision in relation to Wales):</u></p> <p>Power for the Welsh Ministers to make transitional, transitory or saving provision in connection with this section.</p>	<p>In response to recommendations made by the Senedd committees during their scrutiny of the previous Agriculture Bill, introduced in 2018, Schedule 5 (provision relating to Wales) and a number of related provisions are subject to a sunset provision (clause 44) and will expire at the end 2024 in accordance with that provision.</p> <p>The delegated power in clause 44(7) is required to ensure any necessary transitional, transitory and saving provision in connection with the sunset provision can be made by the Welsh Ministers.</p>	<p>Regulations under this clause which contain provision modifying primary legislation (with or without other provision) are subject to affirmative resolution procedure.</p> <p>Other regulations under this clause are subject to negative resolution procedure.</p>

<p><u>Clause 50(1):</u> Power for the Welsh Ministers to make by regulations supplementary, incidental or consequential provision in connection with—</p> <p>(i) section 32(3) and (4), so far as relating to Wales, (ii) section 43 and Schedule 5, (iii) section 44, and (iv) section 49 and Schedule 7 so far as they apply in relation to Wales.</p>	<p>It is not possible to establish in advance all consequential, supplemental, transitional, transitory and savings provisions that may be required, particularly given that we do not yet know the outcome of EU exit negotiations; a power is needed to avoid any legal uncertainty or legal gaps after the Bill comes into force. Regulations made using this power may modify primary legislation, retained direct EU legislation or subordinate legislation (clause 50(2)).</p>	<p>Regulations under section 50(1) which contain provision modifying primary legislation (with or without other provision) are subject to affirmative resolution procedure.</p> <p>Other regulations under subsection (1) are subject to negative resolution procedure.</p>
<p><u>Clause 50(5):</u> Power for the Welsh Ministers to make by regulations transitional, transitory or saving provision in connection with—</p> <p>(i) section 32(3) and (4), so far as relating to Wales, (ii) section 43 and Schedule 5, (iii) section 44, and (iv) section 49 and Schedule 7 so far as they apply in relation to Wales.</p>	<p>When a new provision comes into force, it is often necessary to make transitional, transitory or savings provision to ensure a smooth transition. It is not possible to establish in advance all transitional, transitory or saving provisions that may be required. As with clause 50(1), this power is needed to avoid any legal uncertainty or legal gaps after the Bill comes into force.</p>	<p>No procedure</p>
<p><u>Clause 53(3):</u> Powers, so far as not brought into force by subsection (1)(a)</p>	<p>This clause contains powers to bring certain provisions of the Bill into force by commencement regulations at the</p>	<p>No procedure</p>

<p>or (b), for the Welsh Ministers by regulations made by statutory instrument to appoint—</p> <p>(a) so far as relating to Wales—</p> <p>(i) section 32(3) and (4),</p> <p>(ii) paragraphs 10 to 16 and 18 of Schedule 3, and</p> <p>(iii) section 34 so far as relating to those paragraphs,</p> <p>(b) Part 2 of Schedule 5, and section 43 so far as relating to that Part, and</p> <p>(c) Parts 2 and 4 of Schedule 7, and section 49 so far as relating to those Parts.</p>	<p>appropriate time. By virtue of subsection (5), different days may be appointed for different purposes.</p>	
<p><u>Schedule 3, para 6(7):</u></p> <p>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-</p> <p>a) include a person in, or remove a person from, the definition of “professional authority”;</p> <p>b) reflect changes in the name or internal organisation of any</p>	<p>Under the Agricultural Holdings Act 1986 an arbitrator may be appointed by agreement between the parties to resolve a dispute, or if the parties cannot agree they can apply to the President of the Royal Institution of Chartered Surveyors (“RICS”) to appoint an arbitrator. Industry feedback has highlighted a lack of arbitrators in the sector to resolve tenancy disputes.</p> <p>This regulation-making power allows the Welsh Ministers in relation to Wales to amend the list of persons who may appoint arbitrators under the 1986 Act. This is necessary to widen the pool of arbitrators, therefore providing more choice and making the service more accessible for tenants and landlords. This will enable the list to be updated from time to time to keep it up to date with any changes or additions that</p>	<p>Negative resolution procedure</p>

body mentioned in that definition.	may be needed (e.g. if the listed organisations change their name or new organisations need to be added).	
<p><u>Schedule 3, para 7:</u></p> <p>Powers for the Welsh Ministers by regulations to make provision for the tenant of an agricultural holding to refer for arbitration or third party determination requests for landlord's consent to activities that are restricted under the terms of their tenancy agreement or requests for variation of terms where those requests relate to the tenant accessing financial assistance in exceptional market conditions or the tenant meeting a statutory obligation.</p>	<p>Most AHA leases were written over twenty years ago in a very different commercial and policy landscape. Many include standard landlord restrictive clauses to prevent the tenant from undertaking activities without the tenant first gaining the landlord's consent. Such restrictive clauses present a constraint on some tenants' ability to develop a productive and viable business and meet statutory requirements. The regulation-making powers, conferred on the Welsh Ministers in relation to Wales are needed to ensure that tenants under the Agricultural Holdings Act 1986 are not unfairly restricted in this way.</p> <p>Details of a dispute resolution process will be designed and implemented in consultation with industry, including representatives of both tenants and landlords, to ensure a balanced approach between the interests of both parties is taken.</p>	Negative resolution procedure
<p><u>Schedule 3, para 17:</u></p> <p>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.</p>	<p>The current legislation is incompatible with current policy objectives of improving farming productivity by encouraging the transfer of land into the hands of skilled commercial farmers. This power to make regulations to update the criteria governing the suitability of a tenant to succeed to an Agricultural Holdings Act 1986 agreement is necessary to enable productive commercial farmers to succeed to AHA holdings in the future. Recent consultations in England and Wales on this issue show widespread support for the provisions to be updated.</p> <p>Details of the new 'Business Competence Test' will be developed in further consultation with industry ensuring representatives of both tenants and landlords are able to</p>	Negative resolution procedure

	<p>contribute their views on the most appropriate criteria to include. In addition, it is important that the regulations can be reviewed and updated regularly to ensure they remain up to date with continued professional development in farming and business skills.</p>	
<p><u>Schedule 5, para 2(1):</u> Powers for the Welsh Ministers by regulations to modify legislation governing the basic payment scheme (“BPS”)</p>	<p>This power will allow the Welsh Ministers to adapt the legislation governing the BPS for one or more specified purposes in light of the experience of operating the scheme and feedback from stakeholders.</p> <p>A public consultation launched on 31 July 2020 is seeking views on proposals to amend the retained (EU) legislation governing BPS during any interim transition period, until powers are provided through an Agriculture (Wales) Bill, in the next Senedd term.</p> <p>Proposals include modifications to make the scheme operation more efficient and effective; remove spent provisions; remove or reduce burdens and ensure the sanctions applied are appropriate and proportionate.</p>	<p>Negative resolution procedure (unless clause 47(5) applies, in which case affirmative resolution procedure)</p>
<p><u>Schedule 5, para 3(1):</u> Powers for the Welsh Ministers by regulations to provide for the continuation of the BPS beyond 2020, including power to provide for the direct payments ceiling for Wales to be determined by Welsh Ministers</p>	<p>This power is necessary to enable the Welsh Ministers to continue operating the BPS beyond 2020. The Minister for Environment, Energy and Rural Affairs has committed to extending BPS in 2021.</p> <p>Under the terms of the Withdrawal Agreement, BPS 2020 is being delivered as an equivalent domestic scheme, pursuant to the Direct Payment to Farmers (Legislative Continuity) Act 2020.</p> <p>The public consultation launched on 31 July seeks views on proposals including continuing to provide agricultural support through an extended BPS scheme until new powers are provided through an Agriculture (Wales) Bill in the next Senedd term.</p>	<p>Affirmative resolution procedure</p>

<p><u>Schedule 5, para 4(1):</u> 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.</p>	<p>This power is needed to allow the Welsh Ministers to make amendments to the horizontal EU legislation to remove complexities. The power may be exercised to make changes for one or more purposes specified at paragraph 4(2). The power allows modifications to be made to align the scheme rules with domestic circumstances, in light of continued experience of operating the schemes and in response to feedback from stakeholders.</p> <p>A public consultation launched on 31 July 2020 seeks views on proposals to make amendments to the monitoring and financing of domestic CAP schemes to align with Welsh Government procedures and Senedd scrutiny, until new powers are provided through an Agriculture (Wales) Bill, in the next Senedd term.</p>	<p>Negative resolution procedure (unless clause 47(5) applies, in which case affirmative resolution procedure)</p>
<p><u>Schedule 5, para 5(1):</u> 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.</p>	<p>This power is needed to allow the Welsh Ministers to operate a domestic equivalent to EU RDP in Wales.</p> <p>A public consultation launched on 31 July 2020 seeks views on proposals to align rural development with Welsh Government procedures, Senedd scrutiny and distinct Welsh legislation including the Environment (Wales) Act 2016 and the Well-Being of Future Generations (Wales) Act 2015, until new powers are provided through an Agriculture (Wales) Bill, in the next Senedd term.</p> <p>The proposals apply to any new domestic rural development support arrangements. The existing Welsh Rural Development Programme 2014-2020 will continue to be governed by EU Law pursuant to the terms of the Withdrawal Agreement.</p>	<p>Affirmative resolution procedure</p>
<p><u>Schedule 5, para 8(1):</u> Powers for the Welsh Ministers by regulations to modify</p>	<p>This regulation-making power will allow the Welsh Ministers to use public intervention and private storage aid powers more effectively in exceptional circumstances. The nature of</p>	<p>Negative resolution procedure (unless clause 47(5) applies, in</p>

<p>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).</p>	<p>exceptional market conditions is that they cannot be forecast, so we cannot know, for example, what products might require intervention and when. This clause allows the Welsh Ministers to tailor these types of aid to specific exceptional conditions.</p>	<p>which case affirmative resolution procedure)</p>
<p><u>Schedule 5, para 8(2):</u> 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.</p>	<p>The Common Agricultural Policy currently provides powers to remove surplus products from the market and stabilise market prices by purchasing, storing and reselling certain goods once prices have risen (Public Intervention) or by paying producers to store products for an agreed period to remove them from the market (Private Storage Aid). These domestic powers will enable the Welsh Ministers to alter the operation of these provisions -in ways not currently provided for in the existing legislation, to ensure these schemes are tailored to the domestic market. This could include, for example, changing the products which are eligible for specific aid schemes, to tailor them to domestic market conditions. There is also a specific power to phase out these schemes as the sector becomes self-reliant.</p>	<p>Negative resolution procedure (unless clause 47(5) applies, in which case affirmative resolution procedure)</p>
<p><u>Schedule 5, para 9(2):</u> Powers for the Welsh Ministers to make regulations requiring persons in or closely connected with an agri-food</p>	<p>This power is intended to improve transparency of data collection throughout the agri-food supply chain and to improve dissemination of this information. The power will enable the Welsh Ministers to make regulations to collect and</p>	<p>Affirmative resolution procedure</p>

<p>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.</p>	<p>share data relevant to the agri-food supply chain. A requirement to provide information must serve certain purposes. Each purpose must be in, or covered by, the list in paragraph 11(4), including productivity, supply-chain fairness and transparency, animal health and welfare, and risk management.</p>	
<p><u>Schedule 5, para 14(1):</u> Powers for the Welsh Ministers to make provision for enforcement of a requirement imposed under paragraph 9(1) or (2) of Schedule 5 (agri-food supply chains: requirement to provide information)</p>	<p>A power to enforce requirements to provide data is needed to ensure powers to collect data are effective and to tailor penalties for failing to provide information so they are proportionate, and to allow for evolving technology and policy objectives.</p>	<p>Affirmative resolution procedure</p>
<p><u>Schedule 5, para 15(1):</u> 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</p>	<p>This power will enable the tailoring and modernisation of the existing marketing standards in retained EU law for agricultural products marketed in Wales. Marketing standards are technical in nature, and this power will enable their modification to keep in line with modernisation and to reflect the domestic agricultural market. In relation to products for which EU marketing standards do not exist (including new products which may be added to paragraph 16 using the power under paragraph 16(3)), the power in paragraph 15(1) gives the Welsh Ministers the flexibility to introduce new standards that will be tailored to suit the domestic agricultural sectors.</p> <p>Regulations made under paragraph 15(1) may also provide for the enforcement of marketing standards. In accordance with paragraph 15(3) provision may be made in respect of a range of enforcement matters including (amongst other</p>	<p>Affirmative resolution procedure</p>

	things) conferring powers of entry, imposing monetary penalties, creating offences punishable by a fine and appeals.	
<p><u>Schedule 5, para 16(3):</u> Powers for the Welsh Ministers to amend paragraphs 15 and 16 for or in connection with the purpose of—</p> <p>(a) adding or removing an agricultural product from paragraph 16(1);</p> <p>(b) altering the description of an agricultural product in paragraph 16(1).</p>	<p>The products listed in paragraph 16(1) largely reflect the products covered by current marketing standards law. This is subject to change as new sectors develop and become increasingly important. Therefore, a regulation-making power is needed to enable amendments to paragraphs 15 and 16 of Schedule 5 so that the list of products and their description may be updated over time, and any necessary amendments may be made to paragraph 15 consequential on those amendments to paragraph 16(1).</p>	Affirmative resolution procedure
<p><u>Schedule 5, para 17(1):</u> Powers for the Welsh Ministers to make provision about the classification, identification and presentation of bovine, pig and sheep carcasses by slaughterhouses in Wales</p>	<p>This power is needed to enable the updating of carcass classification provisions for slaughterhouses in Wales. It will allow carcass classification rules to be tailored to suit the domestic sector, to ensure that these rules do not place an excessive burden on farmers and others in the food supply chain and to continue to match modifications made to the rules at international level to ensure domestic farmers and slaughterhouses are not disadvantaged.</p> <p>Paragraph 17(2) sets out the enforcement matters that regulations under paragraph 17(1) may cover including, for example, the provision of information, conferring powers of entry, imposing penalties, creating offences and providing for appeals. This provides powers for an effective enforcement regime and will help to ensure a consistent and fair approach with existing penalties as and when new rules are introduced.</p>	Affirmative resolution procedure

Agenda Item 4.7

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



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA LG 2505 20

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

6 August 2020

Dear Mike

BASIC PAYMENT SCHEME AND RURAL SUPPORT LEGISLATIVE FRAMEWORK FROM 2021 – Consultation 31 July 2020 to 23 October 2020

On 31st July, I published a consultation which sets out proposals to establish an interim regulatory framework to provide agricultural support from the end of the EU withdrawal agreement implementation period (31 December 2020) until new powers are introduced through the proposed Agriculture (Wales) Bill. These proposals would give effect to the powers we are proposing to take through schedule 5 of the UK Agriculture Bill.

Please find a link to the consultation document here: <https://gov.wales/sustainable-farming-and-our-land-simplifying-agricultural-support>

The consultation proposes a number of minor but impactful amendments to the retained (EU) regulatory framework governing the Basic Payment Scheme and Rural Development Programme in Wales. Responses will inform the scope for the Welsh legislation required to deliver those replacement domestic schemes after 2020, subject to UK Government confirming the available budgets.

Following EU Exit in January, I was planning to consult in late spring. However, timings slipped due to the Covid-19 pandemic. Legislation is required by 31 December 2020 to ensure all aspects of the schemes are in place, in particular, enforcement of environmental and animal health and welfare standards through Cross Compliance from 1 January 2021. I am mindful the proposals may generate significant interest so am proposing a full 12 week consultation, which requires the consultation to open now.

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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.

As outlined in the Legislative Consent Motion concerning the UK Agriculture Bill, powers are being taken for Welsh Ministers as a temporary measure to allow us to continue supporting farmers in Wales and to ensure agricultural sectors across the UK can operate effectively once we leave the EU and the consultation, which runs till 23 October 2020, is consistent with this.

I look forward to receiving the Committee's views on the proposals, which are an important element of the preparations for departing the EU and provide much needed continuity and stability for Welsh agriculture, during this period of unprecedented uncertainty and before a formal transition to the proposed future Sustainable Farming scheme.

Regards

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

Lesley Griffiths AS/MS

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

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

"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.”

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.”

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.



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



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

Llywodraeth Cymru
Welsh Government

15 July 2020

Dear Mick

Thank you for your letter of 11 June 2020, regarding the Agricultural Wages (Wales) Order 2020. You have requested clarification of the Welsh Government's response to technical reporting point 2, on the accommodation offset allowance.

Article 2 of the Order refers to a dwelling house or self-contained accommodation that an agricultural worker is required to live in for the proper or better performance of their duties. It is not a requirement that a house for this purpose is provided on site, however, location of accommodation and proximity to the agricultural worker's place of work will be a significant factor in facilitating the 'proper or better performance of duties'.

Using stockpersons as an example, who may be required to work long or anti-social hours and respond to emergencies, living on or near their place of work would clearly be of considerable benefit. This would have been the case historically, and is still the case today.

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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 have noted the Committee's comments and will share the comments with the Agricultural Advisory Panel for Wales. The Panel's functions include reviewing the agricultural minimum wage regime and preparing draft agricultural wages orders for approval by the Welsh Ministers. The Panel has acknowledged the structure and provisions of the agricultural wages orders should be reviewed to ensure they continue to reflect the needs of today's agricultural industry. The Panel Chair has indicated this work, including a review of the accommodation offset allowance, will take place in September.

Regards

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

Lesley Griffiths AS/MS

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

Agenda Item 4.9

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



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA-LG-2248-20

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

15 July 2020

Dear Mike

In my Written Statement of 1 June, I committed to update Senedd committees on the progress made on the future of carbon pricing in the UK after EU Exit and the joint policy position negotiated between the Governments of the four UK nations. I will explain the process of policy development, provide an overview of the policy design including the underpinning legislation and governance structures and finally suggest how my officials and I might assist Senedd committees in their scrutiny of this policy.

Environmental protection, including emissions reduction and climate change, are devolved matters. As a result of the UK's withdrawal from the European Union, it was necessary to ensure we continue to incentivise industrial decarbonisation. I have been working with my counterparts across the UK to develop a Common Framework to replace the EU Emissions Trading System (EU ETS). The European Union (Withdrawal) Act 2018 and the European Union (Withdrawal Agreement) Act 2020 do not provide sufficient powers to establish a new legislative regime. Therefore, the four Governments decided to jointly establish a UK Emissions Trading Scheme (UK ETS) using existing powers under Part 3 of the Climate Change Act 2008.

A joint public consultation exercise in 2019 sought views on proposals for a UK ETS to apply after the transition period, with the first ten year phase commencing on 1 January 2021. It would closely mirror the design of the EU ETS, to provide a smooth transition for businesses and facilitate a link to the EU ETS as soon as agreement was reached in the UK-EU negotiations. The stakeholder response to the consultation was supportive of a UK ETS, in particular one linked to the EU ETS. The UK Committee on Climate Change was also supportive of establishing a linked trading scheme.

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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.

Since the consultation, the four Governments have continued to develop the technical aspects of the UK ETS policy design, which is described in the joint Government Response issued on 1 June. The policy design balances the challenges of ensuring environmental integrity while managing business competitiveness issues. This is critically important in Wales, as the traded sector accounts for around 46% of our emissions and includes some of our largest employers. The document can be accessed here: <https://gov.wales/future-uk-carbon-pricing>.

The UK ETS will be closely aligned to the EU ETS in the first instance. It applies to the same traded sectors and has the same obligations on participants to monitor and report emissions and surrender an equivalent number of allowances. The scheme provides for free allocation which follows EU method and eligibility criteria, and a continuation of a regulatory compliance and enforcement role for Natural Resources Wales.

There are, however, some differences between the UK ETS and the EU system. The initial UK ETS cap will be set at 5% less than the UK's notional share of the EU ETS cap, and will be reviewed following receipt of further advice on the pathway to 2050, to ensure alignment with our shared goal of net zero emissions across the UK by 2050. There will also be mechanisms to manage extremely high and low prices, including an auction reserve price (ARP) set at £15 per allowance.

The Greenhouse Gas Emissions Trading Scheme Order 2020, which establishes the UK ETS and contains provisions for key elements of the policy, is being laid before the Senedd today and will be scrutinised by each of the four legislatures within the same timescale. The Order must be approved by the Senedd, and a debate will be scheduled for the first week of November. A further Order using the negative procedure, which addresses some of the technical detail of the scheme, will be brought forward towards the end of 2020.

The Senedd recently gave its consent to powers enabling the auctioning of emissions allowances contained in the UK Government's Finance Bill¹. The UK Government will be bringing secondary legislation forward in due course, to establish the detailed arrangements for auctioning.

The UK ETS is part of the Common Framework Programme overseen by the Joint Ministerial Committee on EU Negotiations (JMC(EN)) and has been developed using principles it set out in October 2017. A Framework Outline Agreement will set out the rationale for establishing the framework, the decision-making and governance arrangements. This will be accompanied by a concordat between the Ministers from all four governments. I will share these documents with the Committee for scrutiny as they are finalised and before they are presented to the JMC(EN).

I am keen to support the scrutiny of the legislation and wider framework, and I will be happy to give evidence. My officials are also available to provide a technical overview of the framework and details of the legislation if that would be helpful.

I am aware a number of other committees will have an interest in this framework. Consequently, I suggest my officials liaise with you to make arrangements for an efficient scrutiny process.

¹ When the Bill was introduced into the House of Commons on 18 March 2020, the relevant provision was clause 93 (Charge for allocating allowances under emissions reduction trading scheme). The Bill was amended by the Public Bill Committee, and clause 93 became clause 94. The Bill was introduced into the House of Lords on 2 July 2020, and clause 94 became clause 96. Although the numbering of the clause has changed, no amendments have been made to its substance since introduction. A record of the Bill can be found here: <https://services.parliament.uk/Bills/2019-21/finance/documents.html>.

The UK ETS is a technically complex policy, but it has important ramifications to our climate policy and our industrial base. I look forward to engaging with you during the scrutiny of the UK ETS.

I am copying this letter to the Chairs of the Economy, Infrastructure and Skills Committee, External Affairs and Additional Legislation Committee, Legislation, Justice and Constitution Committee and Business Committee.

Regards

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

Lesley Griffiths AS/MS

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

Lesley Griffiths MS

Minister for Environment, Energy and Rural Affairs

27 July 2020

Dear Lesley,

Common Framework – UK Emissions Trading Scheme

Thank you for your letter of 15 June in relation to the development of a Common Framework to replace the EU Emissions Trading System (EU ETS). The Committee shares your view that this is a technically complex area, but is potentially an important measure to assist the Welsh Government in meeting its carbon emission reduction targets.

The Committee is grateful to you for your offer of assistance during the scrutiny process of this framework, through your and your officials' attendance at meetings of the Committee. We are also grateful for the offer of a technical briefing from Welsh Government officials. I have asked Committee officials to make the appropriate arrangements to facilitate your attendance.

The Greenhouse Gas Emissions Trading Scheme Order 2020 ('the Order'), which establishes the UK ETS, was laid on 15 June. In your letter, you said that a framework Outline Agreement and a concordat between the Ministers from all four governments would be shared with the Committee as soon as they are finalised. You will understand that the Senedd's ability to scrutinise the framework will be severely limited without these documents and I would be grateful if you could inform the Committee when it can expect to receive them.



To assist the Committee in preparing for its scrutiny work, I would be grateful if you could respond to the following questions:

1. Are you content that the Welsh Government has played a full role in the development of the proposed framework? Do you have any concerns about any aspect of the proposals?
2. How are Welsh interests reflected in the proposals? In particular, how do they reflect the emissions profile in Wales?
3. What is your response to the suggestion by the UK Committee on Climate Change, set out in Lord Deben's letter of 20 March, that the proposals are "inconsistent with the UK's Net Zero ambitions in some respects, primarily relating to the relatively high level of allowed emissions under the proposed cap"?
4. The Committee is aware that the UK governments have responded to Lord Deben's letter, saying that "it is important to put in place a policy which provides a pragmatic and feasible approach to meeting net zero through the ETS." Do you believe that the proposed cap is set at an appropriate level?
5. In the Explanatory Memorandum (EM) accompanying the Order, you accept that "It may be necessary to adjust the cap further to ensure it is in line with our net zero ambitions. The UK Committee on Climate Change (CCC) will be providing advice on a pathway to net zero in December (2020) and we have committed to consult on any changes to the cap within 9 months and implement required changes by 1 January 2023 if possible and at the latest by 1 January 2024." Does this delay pose a risk to the likelihood the Welsh Government will meet its 2030 interim target for emissions reduction?
6. How will the Senedd be involved in scrutinising the effectiveness of the scheme in future? What provisions are contained within the proposals in relation to this matter?
7. Clause 17 of the Order sets out a review mechanism for the ETS. This consists of the ETS Authority (one or more of the UK governments) reviewing its own scheme and making recommendations to itself. Why do you believe this is an appropriate review mechanism? How will the UK governments ensure a degree of independence in the review process?
8. The Order sets out that reviews must be concluded by 31 December 2023 and 31 December 2028. Can you explain why this timeline has been chosen? Can you explain how this will complement the timelines for carbon budgeting and interim targets set out in Welsh legislation?
9. Do you have any concerns about the governance arrangements arising from the framework, including arbitration arrangements in the case of disputes?



10. The response of the four governments to the consultation on the proposed UK ETS said that "55 respondents indicated that they had a UK-wide interest in the operation of the system, whereas 19 indicated England, 8 indicated Scotland, 6 indicated Wales and 2 indicated Northern Ireland. Note that respondents were able to select multiple locations." In the EM accompanying the Order, you also referred to two stakeholder events "held in Wales to gather views of interested parties including potential scheme participants." Are you satisfied that Welsh businesses and stakeholders have been consulted sufficiently?
11. The EM says that the ETS scheme will incur staffing costs for Natural Resources Wales. However, "it is not anticipated the scheme will result in any additional staff costs compared to" remaining in the EU ETS. Can you confirm that you are satisfied that NRW has sufficient resources to undertake its work as a regulator of the UK ETS in Wales?
12. In the EM, you explain that, currently, funds generated by the EU ETS scheme are "not hypothecated but contribute to general Treasury coffers". You go on to say that "an alternative approach the Welsh Government supports for is the establishment of an industrial decarbonisation fund to recycle auction receipts into funding packages for deep decarbonisation of our industries." Can you confirm whether funds generated by the proposed UK ETS scheme will continue to be returned to the treasury? Can you explain the status of your proposed "alternative approach" for an industrial decarbonisation fund?
13. The UK Government has undertaken an impact assessment for the Order. The assessment does not consider certain issues that are specific to Wales, such as the impact of the proposals on the Welsh language or an assessment of the measure against the wellbeing goals. Are you content with the impact assessment that has been undertaken?
14. Will the proposed framework have any impact on existing or planned Welsh legislation and/or policies?
15. In your letter, you refer to a second, more technical Order that is due later this year. Can you clarify when the Committee can expect to see this Order, what it will cover, and the extent to which the Senedd will have an opportunity to scrutinise it?

I look forward to receiving your response by Friday 11 September.

Yours sincerely,



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.



Agenda Item 4.10

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



Llywodraeth Cymru
Welsh Government

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

10 September 2020

Dear Mick

Ahead of my attendance at your committee meeting on Monday 14 September to assist in your scrutiny of The Greenhouse Gas Emissions Trading Scheme Order 2020, I attach the UK Emissions Trading Scheme (UK ETS) Common Framework Summary document. This document was developed by the four Governments collectively and has been made available to scrutiny committees in each of the legislatures.

The Summary document should answer your questions on the content of the negative Order in Council, as well as the other pieces of legislation associated with the operation of the scheme. It also addressed the development and timescales for the full Framework Outline Agreement and Concordat. The JMC(EN) is likely to endorse the documents via correspondence, therefore, we intend to make the documents available for provisional endorsement as soon as possible so we can then receive input from our legislatures before returning for final endorsement from the JMC(EN).

I look forward to discussing the UK ETS with you on Monday.

Regards



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

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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.

UK ETS Common Framework

Summary document

Policy Background

The UK currently participates in the EU Emissions Trading System (EU ETS), which is the world's largest trading system for greenhouse gas (GHG) emissions. Emissions trading schemes work on the 'cap and trade' principle, where a cap is set on the total amount of certain GHGs that can be emitted by participating installations and aircraft. Within the limits of this cap, participants receive or buy allowances equivalent to their own emissions, which they can trade with one another as needed. The overall cap is reduced over time, so that total emissions fall.

At the end of the Transition Period (on 31st December 2020), the UK will cease to participate in the EU ETS.¹ A replacement carbon pricing policy is required to stimulate emissions reduction from large UK emitters within the industrial, power and aviation sectors currently participating in the EU ETS.

In 2019, the UK Government and devolved administrations (DAs) undertook a public consultation seeking views on the UK's future carbon pricing policy. This consultation set out policy positions for a UK-wide Emissions Trading System (UK ETS), whilst noting that fall-back options included a carbon emissions tax, or remaining in Phase IV of the EU ETS.

The four Governments are open to considering a link between a future UK ETS and the EU ETS, if such a linking agreement is in both sides' interests and recognises both parties as sovereign equals with our own domestic laws. A link between the UK and EU trading schemes could help to establish a much larger carbon market, which could increase opportunities for emissions reduction and cost-efficiency of emissions trading.

Rationale for seeking Common Framework

The UK Government and the DAs are committed to carbon pricing as an effective emissions reduction tool. Placing a price on carbon creates the incentive for emissions to be reduced in a cost effective and technology-neutral way, while mobilising the private sector to invest in emissions reduction technologies and measures.

Climate policy, including the establishment of emissions trading systems, falls within devolved competence. However, the UK Government and DAs have agreed to jointly introduce secondary legislation to establish a single, UK-wide ETS with a common set of rules for participants. There are several benefits of such an approach (as opposed to separate systems in the four UK nations):

- A UK-wide system will create a larger carbon market, with greater liquidity, and a consistent carbon price across the UK.

¹ By virtue of Article 9, Annex 4 of the Ireland / Northern Ireland Protocol, NI electricity generators will continue to participate in Phase IV of the EU ETS to ensure a common carbon price on the island of Ireland to maintain the SEM (Single Electricity Market)

- Access to a larger carbon market increases opportunity for emissions reduction and the cost effectiveness of emissions trading.
- A common, UK-wide approach to carbon pricing avoids ‘carbon leakage’², which could have a negative effect on the contribution of the policy to reduce emissions in line with international obligations, and the UK’s pathway towards our net zero target.

The UK ETS is designed to operate on a UK-wide basis, and therefore the rules for operators need to apply consistently across the UK to ensure the integrity of the system.

Nonetheless, any proposals for policy divergence between administrations will be considered by the four administrations jointly, using the agreed governance process that will be established in the UK ETS concordat. Any areas in which divergence is proposed will be considered by all parties to the concordat considering any potential impact on the functioning of the UK Internal Market, in line with the Common frameworks principles agreed at JMC(EN).³

Stakeholder engagement

Between May and July 2019, the UK Government and DAs jointly consulted on the future of carbon pricing in the UK after EU Exit, setting out policy proposals for a UK-wide ETS which would be operational from 1st January 2021. The consultation received over 130 responses, from a range of stakeholders across the UK including current EU ETS participants and NGOs, with the majority of respondents to each question supporting the proposal being put forward.

As part of this consultation, UKG and the DAs ran stakeholder events across England, Wales, Scotland and Northern Ireland. Views from all stakeholders on proposals for a UK-wide ETS were taken into account when considering the final policy design.

The joint Government Response to the consultation was published on 1st June 2020 and can be accessed here: <https://www.gov.uk/government/consultations/the-future-of-uk-carbon-pricing>

Approach to framework

The UK ETS will be established using secondary legislation made using existing primary powers under the Climate Change Act 2008 (the CCA), and through the Finance Act 2020. A non-legislative agreement (concordat) will set out the principles underpinning the ongoing oversight and governance of the system by Officials and Ministers from the four administrations, including decision-making and dispute resolution processes. These elements are explained in more detail below.

² Carbon leakage occurs when businesses transfer production to other countries with less stringent emissions constraints

³ The JMC(EN) principles can be found here: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf

Legislation

UK ETS legislation comprises:

- *The Greenhouse Gas Emissions Trading Scheme Order 2020*: an affirmative procedure Order in Council under the **CCA** to set up a UK-wide ETS which will be operational from 2021. Key provisions included in this instrument cover the scope of the system, monitoring and reporting requirements, the cap and trajectory and the roles of the regulators in monitoring and enforcing the rules of the system. This Order was laid in the UK and Devolved Parliaments in July and is expected to be in force by the end of the Transition Period in all four nations.
- *The Greenhouse Gas Emissions Trading Scheme Order (Amendment) 2020*: a negative procedure Order in Council under the Climate Change Act which will amend the affirmative procedure instrument once made to include provisions for free allocation and the UK ETS registry. This Order is due to be laid in the UK and devolved Parliaments in November.
- A charging clause to be taken in the *Finance Act 2020*, to provide for the UK Government to charge participants for emissions allowances at auction.
- An affirmative procedure statutory instrument to be introduced under the Finance Act 2020 to establish rules for the auctioning of emissions allowances and mechanisms to support market stability. This instrument is expected to be laid in the UK Parliament in November.
- Additionally, the *Recognised Auction Platforms (Amendment) Regulations 2020* will be laid in draft before both the Commons and the Lords. This SI will set out the regulations for the trading of emissions allowances in the UK Emissions Trading System (ETS), including establishing the rules for access to the auction platform and rules for the relevant disclosures. It will enshrine an oversight role for the Financial Conduct Authority (FCA) such that the FCA can monitor the auctioning process and secondary market trading to prevent market abuse and ensure the effectiveness of the system. This SI will ensure that UK emissions allowances are subject to the relevant regulatory oversight and treatment as Financial Instruments.

UKG/DA governance concordat

The UK Government and DAs have together developed UK ETS governance principles and arrangements over the past two years, including processes for decision-making and dispute resolution. A non-legislative agreement in the form of a concordat will set out governance arrangements for the UK ETS, including processes for making decisions and resolving disputes under the system.

Governance processes shall be set out in more detail in the UK ETS Framework Outline Agreement (FOA), and in the resulting concordat. Key governance principles, which UK Government (BEIS, HMT and DfT) and the DAs have agreed to adhere to, are set out below:

- Proposals relating to all areas of UK ETS policy should be considered using the joint governance process.
- The four administrations are committed to, wherever possible, taking decisions jointly. Where the four administrations agree that an individual administration holds exclusive competence over a particular matter, that administration will not exercise that competence to take a decision unilaterally without first having discussed it with all other administrations.
- All four administrations will endeavour to ensure market and legislative stability throughout the agreed ETS phases. The UKG and DAs should adhere to planned review points and ensure that significant legislative and policy changes are aligned with these planned review points.
- The four administrations are committed to seeking advice from their statutory advisors, the Committee on Climate Change prior to laying legislation.
- Working groups for discussion of policy decisions and system interventions under the UK ETS should include representation from BEIS, the DAs, HMT, DfT (where appropriate) and the environmental regulators (where appropriate).
- At ministerial level, BEIS and DA Ministers (and DfT Ministers, where appropriate) will be sighted and engaged in discussions where a policy decision relating to elements of the policy set out under the Finance Act is being considered. A ministerial level discussion should constitute a two-way exchange, with BEIS and DA Ministers allowed sufficient time to consider the decision and raise challenges. Responsibility for final sign-off of decisions relating to the elements of a UK-wide emissions trading system set out in Finance Act provisions will lie with the Chancellor (HMT). Before final sign-off, HMT Ministers should respond to challenges raised and provide justification for decisions reached. Should a UKG or DA Minister dispute a decision in a reserved policy area, this can be escalated to the JMC Secretariat.
- As the UK Government department responsible for aviation policy, DfT should have the option to attend all Official and Senior level groups given the potential impact of decisions made under a UK ETS on aviation. Agreement from DfT ministers must be gained before agreeing a UK Government policy position focused on aviation under a UK ETS.
- For the most effective use of the governance structure, and ultimately the operation of the system, proposals should be discussed and, where possible, a recommendation agreed at Official Level working groups.
- For all proposals, the UK Government and DAs should seek to obtain appropriate and relevant evidence to support recommendations reached. Any relevant evidence obtained must be taken into account in reaching a recommendation.
- In all decision-making, the parties to the framework will adhere to the common framework principles agreed at JMC (EN) in October 2017.

Process for completion

Legislation

UK ETS Legislation		
Instrument	Laying date	In force date
The Greenhouse Gas Emissions Trading Scheme Order 2020	13 th July (UK Parliament, Scottish Parliament), w/c 15 th July, (Welsh Parliament) 15 th July (NI Assembly)	Mid-November
The Greenhouse Gas Emissions Trading Scheme Order (Amendment) 2020	Mid-November	Mid-November
Finance Act 2020 (charging clause)	17 th March 2020	22 nd July 2020 (Royal Assent)
Auctioning and market stability mechanisms SI	October/November 2020 (TBC)	December 2020 – January 2021
Recognised Auction Platforms (Amendment) Regulations 2020	TBC	TBC

Framework Outline Agreement (FOA)

The UK ETS FOA will set out, in more detail, our approach to the common framework and proposed decision-making and dispute resolution processes. It has been used as a policy development tool.

The UK ETS FOA shall be cleared by UK Government and DA Ministers and will be presented to the UK and Devolved Parliaments alongside the concordat.

Governance concordat

Following JMC(EN) clearance of the provisional framework, the FOA and concordat will become available for parliamentary scrutiny. We expect that the FOA and concordat will be available for scrutiny in late October/early November.

Chair, Children, Young People and Education Committee
Chair, Climate Change, Environment and Rural Affairs Committee
Chair, Culture, Welsh Language and Communications Committee
Chair, Economy, Infrastructure and Skills Committee
Chair, Equality, Local Government and Communities Committee
Chair, External Affairs and Additional Legislation Committee
Chair, Health, Social Care and Sport Committee

22 July 2020

Welsh Government's Draft Budget 2021-22

Dear Committee Chairs

Further to the Finance Committee debate on the Welsh Government's spending priorities for 2021-22 on 15 July 2020, I am my writing to all Chairs of subject committees to share our thinking, and to encourage your committees to consider how you can contribute to delivering the most coherent and effective scrutiny of the Welsh Government's spending plans.

Budget focus

The Finance Committee has agreed to continue the approach followed in previous years, whereby budget scrutiny is centred on the four principles of financial scrutiny: affordability, prioritisation, value for money and process. The principles are:

- **Affordability** - to look at the big picture of total revenue and expenditure, and whether these are appropriately balanced;
- **Prioritisation** - whether the division of allocations between different sectors/programmes is justifiable and coherent;
- **Value for money** - essentially, are public bodies spending their allocations well – economy, efficiency and effectiveness (i.e.) outcomes; and
- **Budget processes** - are they effective and accessible and whether there is integration between corporate and service planning and performance and financial management.



I wrote to you on 1 June 2020, to notify you that given the current social restrictions we would not be holding our annual stakeholder event. Instead we undertook online engagement using Twitter polls and questions asking the public to suggest areas that should be prioritised. A summary of responses is available. Whilst the engagement exercise was limited in scope this year, as the sample was self-selecting and not based on a representative sample of the population, it did provide an interesting snap shot of views and these were highlighted during the Priorities Spending debate on 15 July 2020. I am pleased to confirm that the Business Committee and Minister for Finance and Trefydd have agreed that this type of debate should be held annually and I am grateful to the Members that contributed to the debate.

The 2021-22 Draft Budget will undoubtedly be impacted by the recovery from the Covid-19 pandemic and the end of the Brexit transition period. In addition, from our engagement work and the contributions made during the priorities debate, we have identified a number of areas which we would like to see the focus of the scrutiny, these are:

- *How resources should be targeted to support economic recovery and what sectors in particular need to be prioritised;*
- *To what extent alleviating climate change should be prioritised in supporting economic recovery;*
- *Welsh Government policies to reduce poverty and gender inequality;*
- *Approach to preventative spending and how is this represented in resource allocations (Preventative spending = spending which focuses on preventing problems and eases future demand on services by intervening early);*
- *Sustainability of public services, innovation and service transformation;*
- *How evidence is driving Welsh Government priority setting and budget allocations;*
- *How the Welsh Government should use taxation powers and borrowing;*
- *Support for businesses. economic growth and agriculture after EU transition ends;*
- *What are the key opportunities for Government investment to support 'building back better' (i.e. supporting an economy and public services that better deliver against the well-being goals in the Well-being of Future Generations Act).*

We would encourage you to use some of these areas as the focus for your budget scrutiny.

Timetable

The Welsh Government's draft budget is usually published in October. However, this year it will be delayed as the Welsh Government does not have an indication of the total funding available until the UK Government publish a Budget or Comprehensive Spending Review. The Minister for Finance and Trefnydd has written to the Business Committee and in order to comply with Standing Order 20, has indicated that the Welsh Government will publish the outline and detailed draft Budgets together on 8 December 2020, and the final Budget on 2 March 2021. However, the Minister has said she will provide a firm timetable as soon as possible after the UK Government has made an announcement regarding its Budget



Draft budget consultation

Based on the timetable proposed by the Minister, the Finance Committee intends to consult slightly later this year in September/October. As has been the previous practice, we will be consulting on behalf of all Committees and the responses will be shared with you in the autumn in order to assist your scrutiny of the draft budget. As always, we would appreciate your assistance in promoting our consultation via your own communication tools to encourage and engage with a wider audience.

As you will be aware the provisions in relation to the reporting by policy committees changed in 2017, and you are now able to report in your own right (if you so wish), and your reports can be used as a supporting document to the draft budget debate.

If you have any questions about any aspect of the draft budget process, please feel free to contact me or the Clerk to the Finance Committee, Bethan Davies, 0300 200 6372, seneddfinance@senedd.wales.

Yours sincerely



Llyr Gruffydd MS
Chair of the Finance Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Agenda Item 4.12

Correspondence / Invitation from David Hughes – gene editing

We would be interested in arranging, if committee members would find it useful, an online zoom call or similar with the molecular geneticist and his colleague mentioned at the bottom of the letter (*below*). They wrote the attached leaflet, and are regularly asked by a number of organisations and groups to explain the scientific basis for objections to gene editing in agriculture. They would be very happy to discuss this with your committee, either as part of a scheduled meeting or, as that time is probably already committed, at another time of your choosing.

the original letter:

June 22nd 2020

Dear Members of the Senedd,

Gene editing - a danger to health and the economy in Wales

We hope you are all keeping safe in this unusual time.

Some of you may remember the undersigned from around 20 years ago, when we were amongst those opposing the introduction of genetically modified (GM) foods in Wales, and met with members of the Welsh Government, most of whom were also against genetically modified organisms (GMOs) on safety grounds.

The reason we're writing to you now is that there is an amendment proposed to the forthcoming Agriculture Bill which would pave the way for the latest generation of genetically modification procedures used in food crops and livestock development - known as gene editing - to be deregulated. Their products would no longer be classified as GMOs. This would mean little or no safety testing and no GMO labelling of foods, crops and livestock in Wales.

If the amendment is adopted, the Welsh government will be called upon to pass similar legislation for Wales, and will, as twenty years ago, be under considerable pressure from Westminster to do so.

The reasons we are bringing this to your attention are firstly the risks to health; and secondly because of the economic disaster that could result for Welsh farmers.

Health

Leading scientists warn that the **gene editing of our food crops could lead to the production of novel toxins and allergens**, because the outcome of the process is not precise. 61 European and American scientists have recently signed a statement drawing attention to the risks posed by gene-edited foods and crops. If introduced, these changes are irreversible.

Economic impact

Based on a 2018 ruling by the European Court of Justice, the EU regards gene editing as a form of genetic modification, giving rise to GMOs and thus requires all gene edited products to be safety tested and labelled. If gene editing is deregulated in Wales, this will mean all **Welsh farm produce - crops or livestock - will have to be GMO tested and labelled to comply with EU regulations if it is being exported to EU countries**. This would present an economic hurdle far more challenging than tariffs.

In addition, the UK as a whole will then be open to a flood of untested and unlabelled US GM (including gene edited) products, further undermining Welsh agriculture.

Obviously food safety & agriculture is the particular responsibility of Lesley Griffiths, and the Climate Change, Environment and Rural Affairs Committee, but we would like to inform you all as this would have an impact on all your constituencies.

Invitation

Molecular geneticist Dr Michael Antoniou and Claire Robinson MPhil outline concerns about gene editing in the linked leaflet, below. They would be happy to answer any questions you may have with regards to this issue, and we would be happy to arrange a zoom video conference call with them in the next week or ten days - prior to you being asked to vote on the issue - for any members of the Welsh Government.

Please contact David Hughes on this email address to indicate interest in attending a conference call.

Thank you for your attention.

With best regards

David Hughes
Helen Evans
Gwyndaf & Ide Evans
Tom Griffith-Jones
Morgan Francis

Dangers of gene editing:

<http://arrow.org.uk/wp-content/uploads/2020/06/Much-worse-than-chlorinated-chicken-V2.pdf>

Agenda Item 7

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

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Agenda Item 8

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

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