

# Agenda – Climate Change, Environment and Rural Affairs Committee

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Meeting Venue:	For further information contact:
Video Conference via Zoom	Marc Wyn Jones
Meeting date: 5 November 2020	Committee Clerk
Meeting time: 13.30	0300 200 6565
	<a href="mailto:SeneddCCERA@senedd.wales">SeneddCCERA@senedd.wales</a>

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## 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](http://www.senedd.tv).

## Public meeting (13.45–16.45)

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

(13.45)

### 2 Draft National Development Framework for Wales – evidence session: Planning

(13.45–14.45)

(Pages 1 – 44)

Dr Roisin Willmott OBE, Director of Wales and Northern Ireland – Royal Town Planning Institute (RTPI) Cymru

Dr Neil Harris, Senior Lecturer – School of Geography and Planning, Cardiff University



Attached Documents:

Research brief

Paper – Royal Town Planning Institute (RTPI) Cymru

### **Break (14.45–14.55)**

## **3 Draft National Development Framework for Wales – evidence**

### **session: National Grid**

(14.55–15.25)

(Pages 45 – 46)

Hêdd Roberts, Head of Customer Solutions, Electricity Transmission –  
National Grid

Attached Documents:

Paper – National Grid

### **Break (15.25–15.30)**

## **4 Draft National Development Framework for Wales – evidence**

### **session: Renewable Energy Sector**

(15.30–16.30)

(Pages 47 – 59)

Eleri Davies, Head of Consents UK, Onshore Wind – RWE Renewables

Rhys Wyn Jones, Director – Renewable UK Cymru

Attached Documents:

Paper – RWE Renewables

Paper – Renewable UK Cymru

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

**5.1 Correspondence to the Minister for Environment, Energy and Rural Affairs – follow up from 17 September scrutiny session**

(Pages 60 – 64)

Attached Documents:

Letter

**5.2 Correspondence between the Minister for Housing and Local Government and the Chair: Common Frameworks – Hazardous Substances (Planning)**

(Pages 65 – 83)

Attached Documents:

Letter from the Minister for Housing and Local Government

Letter from the Chair to the Minister for Housing and Local Government

**5.3 Correspondence to the Minister for Environment, Energy and Rural Affairs: Common Frameworks – UK Emissions Trading Scheme**

(Pages 84 – 85)

Attached Documents:

Letter

**5.4 Correspondence between the Chair and the Chairperson, Committee for Agriculture, Environment and Rural Affairs, Northern Ireland Assembly: Common Frameworks – UK Emissions Trading Scheme**

(Pages 86 – 89)

Attached Documents:

Letter from the Chairperson, Northern Ireland Assembly

Letter – reply from the Chair

**5.5 Correspondence from the Minister for Environment, Energy and Rural Affairs: Common Frameworks – reclassification**

(Pages 90 – 93)

Attached Documents:

Letter

**5.6 Correspondence from the Chair to the Minister for Environment, Energy and Rural Affairs on the Welsh Government draft budget 2021–22**

(Pages 94 – 97)

Attached Documents:

Letter

**5.7 Correspondence from the Chair, Legislation, Justice and Constitution Committee to the Llywydd and Chair of the Business Committee – Scrutiny of Covid–19 regulations**

(Pages 98 – 100)

Attached Documents:

Letter

**5.8 Correspondence to the Minister for Environment, Energy and Rural Affairs on the Agriculture (Model Clauses for Fixed Equipment) (Wales) Regulations 2019, following correspondence from the Tenant Farmers Association**

(Pages 101 – 102)

Attached Documents:

Letter

**5.9 Correspondence from the Chair, Petitions Committee – Air quality**

(Pages 103 – 107)

Attached Documents:

Letter

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

**Private meeting (16.30 – 16.45)**

**7 Consideration of evidence received under items 2, 3 and 4**

Graeme Purves, Expert Adviser to the Committee

Document is Restricted

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CCERA(5) NDF(v2) 05  
Ymateb gan Sefydliad Cynllunio Trefol Brenhinol  
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Welsh Parliament  
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Committee  
National Development Framework for Wales  
CCERA(5) NDF(v2) 05  
Evidence from Royal Town Planning Institute  
Cymru

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The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 25,000 spatial planners. RTPI Cymru represents the RTPI in Wales, with 1,100 members. The Institute seeks to advance the science and art of planning, working for the long-term common good and well-being of current and future generations. The RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

This response has been formed drawing on the expertise of the RTPI Cymru Policy and Research Forum, which includes a cross section of planning practitioners from the private and public sectors and academia from across Wales.

Thank you for the opportunity to respond to the above call for evidence from the Committee.

RTPI Cymru welcomes the progress made on the National Development Framework / Future Wales (NDF). In particular we recognise the impact COVID19 has had on Government resources and the bringing forward of projects and plans. We congratulate Welsh Government on progressing this important Plan that can help to shape the future of Wales in these difficult times.

As part of our [Plan the World We Need campaign](#), RTPI Cymru called for the NDF to come forward as a priority, to provide the framework to strategically guide development in Wales. We believe it will have an important role to play in identifying infrastructure projects and other development at a time where there is uncertainty around the future of planned projects, infrastructure finance and as the UK leaves the European Union.

It is important to recognise the spatial distinctiveness of places in developing policy. At the national level, it will be the NDF which can facilitate an integrated approach, linking decisions

on economic development with those on housing, climate change, energy generation, transport, and other infrastructure, providing a spatial framework for investment.

RTPI Cymru welcomes the working draft of the Plan and the progress that has been made. In particular, we welcome inclusion of a new paragraph (pg4) setting out the challenges of the climate emergency, the ecological emergency and the global health pandemic and the role of the NDF as a lever in delivering change in the face of these challenges.

We note the improved links with other investment areas, in particular we support the promotion of public transport and active travel within the Plan. It will be important for programmes of investment at the national level to fit within the spatial framework provided by the NDF and at the regional level to be aligned with Strategic Development Plans (SDPs) and Local Development Plans (LDPs).

We also welcome the strengthening of links with other plans, creating a more joined-up policy framework in Wales, for example we support the efforts to link the Marine Plan and NDF – timescales for the production of the Marine Plan and NDF have overlapped, enabling the production of both plans to be joined up. We are pleased this joint working includes “identifying opportunities to share evidence and expertise” and that this will continue as both plans are implemented and reviewed. We recognise the difficulties in aligning plans and timescales, but where possible the opportunity to create these links will provide a stronger framework. We recognise this is the first version of the NDF and future versions will help the Plan mature and forge further links over time. The second revision for example will allow alignment with SDPs, which will develop over the next few years. We have seen this positive evolution take place in Scotland.

For the NDF to be successful, it is essential that its role in delivering Welsh Government objectives across all policies is understood and embraced. It is a powerful tool providing a comprehensive national spatial strategy which links investment decisions across Government, public authorities and private investment.

While there are many improvements, there are also areas that we believe could go further in the final Plan.

We recognise the challenge of achieving a sustainable pattern of development for the longer term, while taking into account climate change and other agendas that require us to look beyond the 20-year horizon and develop policies to achieve a longer-term objective for an uncertain future. We feel the NDF poses an opportunity to push boundaries in the longer term planning for Wales. For example, we were pleased to see this version of the Plan recognise flood risk and climate change resilience, and feel the plan could go further to address the issue of coastal adaption in the future. While we acknowledge that this currently might be beyond the term of the Plan, the NDF could be starting to set the agenda.

The working document sets out 11 outcomes, but does not appear to follow these through the document. The outcomes do not appear to have directly linked actions or outcomes. It needs to be clear 'where we want to be in 20 years' in relation to the outcomes.

Long-term sustainability goals, including climate change must remain priorities and at the forefront of planning for the future in Wales. We urge Welsh Government to be bolder in its approach to integrating responses to climate change into its policy frameworks.

The links between the maps and the policies in some cases could be strengthened, for example:

- The map on pg 75 sets out “flood warning areas”, including for example large areas of Newport and Cardiff. Further explanation would help the interpretation of these areas to provide clarity and improve understanding.
- The diagram and proposals on pg 163 for South East Wales indicate the whole of the Vale of Glamorgan as a national growth area, despite being a major agricultural area and important open countryside close to Cardiff. Whilst we appreciate the nature of the diagram, they could be mis-interpreted given the development plan status of the NDF. In the absence of the detailed justification, the proposed area for development needs to be more narrowly defined in the text and diagram to protect the best farmland and to preserve areas of countryside.
- While we support the promotion of public transport links and active travel in the Plan, the continuing role of road transport, where there are no alternatives, should be recognised by the Plan. We note the map at pg 88 - the only North South link in the east is mainly in England. While that reflects the continuing reality of rail links the existence of North-South road links in Wales should also be recognised on the diagram. In relation to this we welcome the support for the “necessary investment in charging infrastructure” required to embrace the adoption of electric vehicles, as well as the link to “an increase in generation of renewable energy to support the increased demand for electricity”. The commitment to work with network operators and supporting innovation in hydrogen is also welcomed. (pg86)
- We appreciate the analysis set out in the regional maps, but we would suggest a separation / differentiation of baseline information (existing features) and proposed policy features.

In terms of the policies set out in the Plan, further explanation and clarification would be helpful in some areas, for example:

- Policy 25 (Regional Growth Areas) refers to “Brecon and the Border” but there is no explanation of what is considered to be “the Border”. (pg130)
- Further guidance on the relationship with the City Deal initiatives would be useful clarification. (see The Regions chapter)
- In relation to Policy 15 (National Forest) unfortunately there is insufficient detail to properly comment on this policy and it is unclear how the policy will work in practice (pg92), although we appreciate this is a new developing policy area.
- In relation to policies 17 and 18 (Renewable and Low Carbon Energy Development), the NDF should include a clear statement that it is the highest tier of development plan for Developments of National Significance proposals. We note that the supporting text to Policies 17 and 18 states “The Welsh Government will use regional energy planning to identify opportunities for all types of renewable projects”(pg99). Clarification of the relationship between the NDF and SDPs is needed, to avoid conflict and confusion in the decision making process.



- We note that Policy 19 (Strategic Policies for Regional Planning) (pg102) of the Plan sets out that SDPs should “provide a framework for minerals extraction, the circular economy, including waste treatment and disposal”. We would argue that longer term planning and guidance is required in relation to minerals and waste and should be more prominent in the NDF.

We note the addition of a number of maps in Chapter 2 which are set out to provide an overview of the current situation of various spatial indicators. They are useful as an overview but it would be useful if a link could be provided to a source for them to be viewed in more detail. The overview chapter is useful in highlighting the strengths and weaknesses which the NDF can address.

We note the proposals for the preparation of SDPs, required in all four regions of Wales. We are also aware of the current Welsh Government consultation on the draft regulations which will create four regional Corporate Joint Committees to exercise functions relating to strategic development planning, regional transport planning and economic well-being of their areas. Bringing forward SDPs at a regional level will enable us to address the more complex regional spatial issues that cross boundaries and may require different responses across Wales. While some SDPs might need to focus on housing, employment, and transport, others might require a focus on the natural environment etc.

Adequate resourcing of the planning function to support each level is vital. Resources for planning are important in achieving effective integration and ensuring alignment with spatial plans. This needs to include the emerging SDPs at the regional level, the well-established Local Development Plans (LDPs) within local authorities, and Place Plans for those communities which have them. Local planning authorities have lost significant capacity in recent years. A well resourced, plan-led, positive planning service can deliver corporate objectives, which, if properly encouraged and effectively organised can bring together objectives across services and help achieve local and national sustainable development and climate action goals. Corporate management teams provide leadership, vision and priority setting for areas, by shaping the strategic operational direction and investment decisions of local authorities. The implications of these corporate decisions on new investment, infrastructure, development activity, local services and policy delivery are significant, particularly at this time. The RTPi believes that making the role of the Chief Planning Officers a more prominent and strategic position within local authorities would positively influence outcomes and support good growth and a balanced recovery.

If you require further assistance, please contact RTPi Cymru on 020 7929 8197 or e-mail Roisin Willmott at [walespolicy@rtpi.org.uk](mailto:walespolicy@rtpi.org.uk)

# Agenda Item 3

**Senedd Cymru**  
**Y Pwyllgor Newid Hinsawdd, Amgylchedd a**  
**Materion Gwledig**  
**Craffu ar Fframwaith Datblygu Cenedlaethol**  
**Cymru**  
**CCERA(5) NDF(v2) 27**  
**Ymateb gan Y Grid Cenedlaethol**

**Welsh Parliament**  
**Climate Change, Environment and Rural**  
**Affairs Committee**  
**National Development Framework for Wales**  
**CCERA(5) NDF(v2) 27**

**Evidence from National Grid**

## National Grid briefing - Climate Change, Environment and Rural Affairs Committee

National Grid sits at the heart of Britain's energy system, connecting millions of people and businesses to the energy they use every day. We understand our responsibilities to the environment and future generations, and are working to develop solutions to make the transition to a clean economy, in which nobody is left behind. Furthermore, as we look ahead toward recovering from the COVID-19 pandemic, it is important that we seize the opportunity to be world leading in decarbonising our economy as a driver of economic growth.

We are committed to enabling the transition to net zero in the most efficient way and for the benefit of consumers in Wales and the rest of the UK.

### Understanding National Grid

This briefing note represents the views of National Grid Electricity Transmission (NGET). NGET owns the high voltage electricity transmission network in England and Wales. The network covers some 7,212km of overhead line and 2,820km of underground cable. We connect sources of electricity generation to the network and transport it onwards to the distribution system, so electricity can reach homes and businesses. NGET is committed to running a safe and reliable network at the best cost to consumers whilst enabling the Britain to meet its net zero carbon emissions target by 2050.

Following the legal separation of the Electricity System Operator (ESO) from NGET, its views are not represented in this submission and representatives from NGET cannot answer questions on the ESO's behalf. The lower voltage distribution networks in Wales are owned and operated by Western Power Distribution (WPD) and Scottish Power Energy Networks (SPEN). We would advise inviting the ESO, WPD and SPEN to the evidence session as no single entity can answer questions on the entirety of the network and for the for expertise across all electricity infrastructure businesses operating in Wales to be represented.

### Enabling net zero

As the backbone of the UK's energy system, we are uniquely placed to help deliver Welsh Government's ambitions to achieve net zero and safeguard the wellbeing of future generations. However, we need a fundamental shift in the way we think, plan and deliver for the future in order to deliver net zero, grow the economy and ensure no one is left behind.

The electricity transmission 'super grid' was developed in the 1960s to carry the electricity generated at fossil fuel power stations, to the cities and towns that needed it. The power stations were usually located close to large populations or coal mining areas with the transmission grid carrying the energy around the country providing safe and reliable electricity to all. The recent increase of renewable energy generation, such as on-shore wind which is often sited in rural areas, means that electricity networks are adapting to connect this new generation and transmitting it to where it is needed. The energy is flowing from different parts of the country and the electricity network needs to adapt to accommodate this change

How we use electricity is also changing and becoming more important to our everyday lives and the future prosperity of our communities. We are increasingly using electricity to heat our homes and power our vehicles. Energy intensive industries, such as data centres, are growing and are wanting to be powered by green energy. Having a robust electricity network, that carries renewable energy, will become more important to the way we want to live our lives. For example,

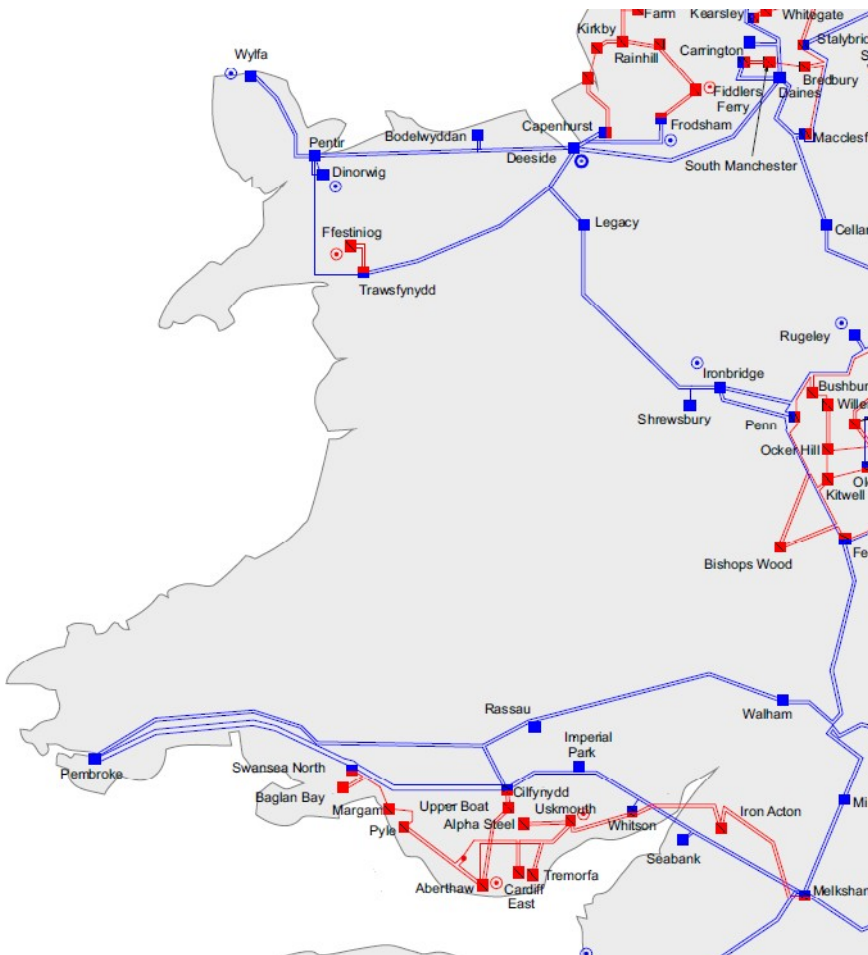
distribution and transmission electricity networks will play an essential role in supporting the charging infrastructure required to enable the rollout of electric vehicles (EVs) at scale. EVs will be charged in many different locations: at home, at work or at ultra-rapid EV charge points along the strategic road network, all of which rely on a fit-for-purpose electricity infrastructure.

### Addressing local concerns

Our recent experience in Wales of connecting renewable energy to the transmission network, showed that grid infrastructure is often viewed by the public as highly contentious in planning and environmental terms. The visual impact of wind turbines and pylons have been opposed by communities and their representatives. Therefore, in our response to the draft NDF, we encouraged Welsh Government to plan positively for grid infrastructure in the same way as they have for wind turbines and include policies that help to co-ordinate strategic action. It should also identify the decisions that need to be made, providing a platform for a shared understanding across industry, Government and the public of why significant investment in energy infrastructure is required, and the benefits and balance needed to gain a safe, secure, affordable and sustainable energy future.

Now is the right time for a strategic approach to be developed including relevant stakeholders. NGET is keen to support this but feel it is best lead by Welsh Government. These conversations should seek to agree in on the best strategic solutions moving forwards to deliver on Welsh Government's ambitions for renewable generation development, including new grid infrastructure where appropriate, whilst ensuring solutions are coordinate, fair, disruption is minimised and that local communities see benefits for housing the infrastructure.

Figure 1 – NGET network map for Wales



As you can see from Figure 1 There is not currently any National Grid transmission infrastructure within Mid Wales. Any new generation in this area would need to be used locally, stored or transmitted. Best solutions for this would depend on the scale of new generation developed.

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Cymru  
CCERA(5) NDF(v2) 17  
Ymateb gan RWE Renewables UK Ltd

Welsh Parliament  
Climate Change, Environment and Rural Affairs  
Committee  
National Development Framework for Wales  
CCERA(5) NDF(v2) 17  
Evidence from RWE Renewables UK Ltd



## **Response to the Climate Change, Environment and Rural Affairs (CCERA) Committee on the Welsh Government's latest iteration of the National Development Framework / Future Wales: The National Plan 2040**

On 1 July 2020, RWE concluded its major asset swap with E.ON, which involved the integration of innogy Renewables in the UK. This established RWE as one of the UK's, and the world's, leading producers of renewable energy. We now stand as the world's second largest offshore wind developer and third largest provider of renewable electricity across Europe.

In the UK, this reinforces our existing position as a major energy player. We now employ over 2,600 people and generate over 10% of the UK's electricity needs - enough power for over 10 million homes, with a diverse portfolio of onshore and offshore wind, hydro, biomass and gas across the UK, including over 2.6GW across 11 sites in Wales (see attached RWE UK Infographic). RWE has made ambitious commitments to increase the generation of clean, reliable and affordable electricity. Alongside the ambition to be carbon neutral by 2040, we continue to invest heavily in wind power and other emerging technologies, such as hydrogen and floating offshore wind. RWE's planned gross growth capex spend 2020-2022 will be €8-9bn globally, of which around 30-35% will be in the UK, mostly on offshore wind.

We have set our sights high, envisaging RWE will play a key role in developing the energy world of tomorrow and driving progress towards the UK's net-zero ambitions.

### **Context**

**RWE Renewables UK Limited:** Registered in England and Wales no. 03758404  
Greenwood House, Westwood Way, Westwood Business Park, Coventry, United Kingdom CV4 8PB. **RWE Renewables Management UK Limited:** Registered in England and Wales no. 12087808 Registered Office: Windmill Hill Business Park · Whitehill Way · Swindon · Wiltshire · SN5 6PB.  
**RWE Renewables UK Swindon Limited :** Registered in England and Wales no. 02550622 Registered Office: Windmill Hill Business Park · Whitehill Way · Swindon · Wiltshire · SN5 6PB.

I previously submitted evidence on the draft NDF (August 2019 version) to the CCERA Committee as a representative of innogy Renewables UK Ltd (as noted above, now integrated into RWE).

RWE welcomes the Welsh Government's continued positive approach to renewable energy and the efforts made to reflect this in the narrative and policies of the National Development Framework (September 2020), also referred to as Future Wales: The National Plan 2040 (hereinafter referred to as 'Future Wales'). RWE also supports the Welsh Government's recognition that renewable energy is a key part of the commitment to decarbonisation and tackling the causes of climate change. However, it is critical that Wales continues to have secure and reliable supplies of electricity throughout the transition to a low carbon economy, whilst also replacing existing power plants due for closure. To manage the risks to achieving security of supply, sufficient electricity capacity (including a greater proportion of low carbon generation) is required to meet demand, and this requires a diverse mix of technologies and fuels.

The UK Committee on Climate Change (UKCCC) states that *“Renewable generation could be four times today's levels, requiring a sustained and increased build out between now and 2050, complemented by firm low-carbon power options such as nuclear power and carbon capture and storage (applied to biomass or gas-fired plants)”*<sup>1</sup>. Encouraging renewable and low carbon energy is only a small part of the wider decarbonisation agenda and it is therefore disappointing that other forms of energy generation (for example, gas and biomass) are not mentioned in Future Wales. Although many such schemes will not be devolved to Wales (i.e. those >350MW), it may have been appropriate to deal with them in the same way as nuclear and offshore wind (i.e. in principle support) which are also not, on the whole, within the remit of Future Wales.

## **Response**

The views below are expressed against the chapters and headings as set out in the latest iteration of Future Wales. For ease of reference, it would be useful if the final adopted version could include paragraph numbers.

## **Chapter 1: Introduction**

RWE welcomes the inclusion of a new paragraph setting out the challenges, including the climate emergency, and the role of Future Wales as a lever in delivering change in the face of these challenges.

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<sup>1</sup> UK Committee on Climate Change (May 2019) Net Zero: The UK's contribution to stopping global warming

Although there is recognition of Future Wales as “*the highest tier of development plan*”, it is disappointing that its status as the primary development plan against which developments of national significance (DNS) (especially renewable energy projects) will be determined is not explicitly stated. Whilst it may be appropriate for Future Wales to be “*built on*” by Strategic Development Plans (SDPs) at a regional level and Local Development Plans (LDPs) at local authority level for some types of developments, this approach is not appropriate for onshore wind proposals for which Future Wales sets out clear and detailed policies (17 and 18). Despite a requirement to be “*in conformity*” with Future Wales, ‘passing the buck’ to regional and local levels to “*identify the location of new infrastructure and development*” runs the risk that the ambitions in Future Wales for renewable energy, and onshore wind in particular, will be significantly diluted, and potentially undermined, by lower tier plans.

**The introduction should include a clear and unequivocal statement that Future Wales is the highest tier of development plan for DNS proposals, and where there is a conflict with SDPs and/ or LDPs, Future Wales takes precedence and is afforded greater weight in the decision-making process.**

## **Chapter 1: Integrated Sustainability Plan**

The discussion on Habitats Regulations Assessment is not in accordance with legislation or the more detailed advice on Natura 2000 sites set in Technical Advice Note 5: Nature Conservation and Planning (September 2009) (TAN5). European designated sites (Special Protection Areas (SPA), Special Areas of Conservation (SAC), and proposed or candidate SPAs / SACs) and Ramsar sites are collectively known as ‘Natura 2000 sites’. Future Wales states that “*development at the lower-tier plan or project stage will need to demonstrate there are no adverse effects on the features for which a Natura 2000 site has been designated, and Future Wales does not support lower-tier plans or projects where this is not concluded*” [emphasis added].

Contrary to the commentary in Future Wales, there are provisions in legislation to allow the adoption of lower-tier plans and/ or grant of permission for projects which have an adverse effect on the integrity of Natura 2000 sites, where there are “*imperative reasons of overriding public interest*” (IROPI). ‘Assessment of IROPI’ is the final of four stages in a rigorous Habitats Regulations Assessment (HRA) process following Stage 1 ‘Screening’, Stage 2 ‘Appropriate Assessment’, and Stage 3 ‘Assessment of Alternatives’. It is extremely rare for a plan or project which has an adverse effect on the integrity of a Natura 2000 site to be adopted or granted permission, however legislation does make provision for this “*in exceptional circumstances*” and this should be reflected in the wording Future Wales.

**For the avoidance of doubt, the commentary on Habitats Regulations Assessment (HRA) should be amended to align with current legislation and TAN5. I make this**



point to highlight the lack of consistency between Future Wales and the legislation currently in force, and to ask that the Welsh Government seek legal advice on this position prior to finalising the wording in Future Wales.

## **Chapter 1: Future Wales and...National Natural Resources Policy**

In the context of addressing the climate emergency, RWE welcomes the inclusion of a specific reference to policy that will *“facilitate the decarbonisation of the economy, including energy...”*.

## **Chapter 1: Future Wales and...Welsh National Marine Plan**

RWE welcomes the inclusion of a paragraph on co-ordination between marine and terrestrial planning and a specific reference to *“energy generation”* in that context. Also welcomed is the confirmation, in the Renewable Energy section, of the Welsh Government’s support for the onshore development aspects of offshore schemes .

## **Chapter 1: The structure of the Welsh planning system**

RWE welcomes recognition that the three tiers of the development plan (Future Wales, SDPs, LDPs) *“should be aligned and complement each other”* and that SDPs and LDPs are required to be *“in conformity”* with Future Wales. There is however concern around the statement that planning decisions *“at every level of the planning system in Wales must be taken in accordance with the development plan as a whole”* . As Future Wales is heavily tilted towards influencing lower-tier strategic and local level plans, the point on Future Wales being the primary development plan against which DNS applications are assessed is largely overlooked.

Although it is appropriate that Future Wales *“does not seek to take decisions that are most appropriately taken at the regional or local level”* , there should be an explicit reference to the national level being the ‘appropriate’ level for taking decisions on DNS proposals where Future Wales **does** set the strategic direction, as well as the detailed policies, for certain DNS proposals (notably, renewable energy).

## **Chapter 2 Wales: An Overview: Climate Change**

RWE welcomes the increased emphasis on climate change and the challenges facing the nation, particularly delivering a decarbonised and resilient Wales.

## **Chapter 2 Wales: An Overview: Low Carbon Economy and Renewable Energy**

RWE welcomes recognition of the contribution that the low carbon economy makes to Wales’ economic prosperity as well as the continued *“support for both large and*

*community scaled projects” and the commitment to “ensuring the planning system provides a strong lead for renewable energy development” .*

### **Chapter 3 Setting and Achieving Our Ambitions: The Future Wales Outcomes**

RWE welcomes the retention of “A Wales where people live in places which are decarbonised and climate-resilient” as a Future Wales Outcome and the opportunities that brings for the economy, transport, public health and jobs.

### **Chapter 3 Setting and Achieving Our Ambitions: The First Review: How will we know if Future Wales has been successful?**

RWE agrees that Future Wales needs to have a review process whereby its performance is determined against a range of indicators however the ‘questions’ which will determine performance are vague. What indicators will be used to answer the questions and what targets are the Welsh Government working towards and measuring progress against? Theoretically, it would be possible to answer ‘Yes’ to all seven questions even if, in reality, very little actual progress has been made at the end of the 5 year review period.

On decarbonisation and Wales’ aspiration to be ‘net zero’ by 2050, there should be interim targets against which progress against a plan adopted in 2021 can actually be measured in 2026, 2031, etc. Rather than simply ‘supporting the delivery of renewable energy’, a more meaningful goal would be to assess progress against the Welsh Government’s current targets for renewable energy, i.e. 70% of electricity consumption to be generated from renewable energy by 2030, 1GW of renewable energy capacity to be locally owned by 2030, and for renewable energy projects to have at least an element of local ownership from 2020; or the more challenging future targets required to achieve ‘net zero’ aspirations.

### **Chapter 4 Strategic and Spatial Choices: Future Wales’ spatial strategy: Policy 4: Supporting Rural Communities & Policy 5: Supporting the Rural Economy (supporting text)**

RWE welcomes the recognition that rural areas play a crucial role in helping decarbonise Wales by providing suitable environments for different forms of renewable energy.

### **Chapter 4 Strategic and Spatial Choices: Future Wales’ spatial strategy: Policy 9: Resilient Ecological Networks and Green Infrastructure**

RWE welcomes recognition that safeguarding does not prohibit development. Developments, including renewable energy schemes, already deliver net benefits for



biodiversity on operational schemes, including RWE's existing portfolio of operations sites as well as very significant potential future benefits associated with its pipeline of development projects (especially in the context of the Welsh Government's biodiversity 'net benefits' requirements).

#### **Chapter 4 Strategic and Spatial Choices: Future Wales' spatial strategy: Travelling in Wales: Transition to low emission vehicles**

RWE welcomes additional text on the Welsh Government's support for the *"necessary investment in charging infrastructure"* required to embrace the adoption of electric vehicles, as well as the link to *"an increase in generation of renewable energy to support the increased demand for electricity"*. The commitment to work with network operators and supporting innovation in hydrogen is also welcomed.

#### **Chapter 4 Strategic and Spatial Choices: Future Wales' spatial strategy: Policy 15: National Forest**

There is insufficient detail to properly comment on policy 15 and it is not clear how the safeguarding of locations for the national forest will work in practice and interact with development proposals. Experience shows that renewable energy developments, including onshore wind, are perfectly compatible with forestry, as is demonstrated by RWE's wind farms at Brechfa Forest West and Clocaenog Forest, as well as those operated by other companies across Wales. Where developments can assist in delivering the Welsh Government's ambitions for a national forest, these projects should be supported with commitments to afforestation secured via conditions and/or legal agreements.

#### **Chapter 4 Strategic and Spatial Choices: Future Wales' spatial strategy: Policies 17 and 18 Renewable and Low Carbon Energy and Associated Infrastructure / Developments of National Significance**

For the most part, re-drafted policies 17 & 18 offer greater clarity and confidence in relation to large scale onshore wind projects. RWE welcomes the abandonment of the 'traffic light' approach to large scale renewable energy projects as promoted in the consultation draft of the NDF. The approach of setting out 'in principle' support for renewable and low carbon energy and associated infrastructure in Policy 17 followed by a more detailed criteria-based approach outlined in the new Policy 18 is welcomed.

Whilst a spatial approach for solar has been abandoned, it is disappointing that the spatial approach for onshore wind has been retained, especially considering the weight of evidence presented to the Welsh Government by industry on this matter in response to the consultation draft of the NDF. To reiterate this point, RenewableUK Cymru's analysis concluded that only ~5% of the total area is suitable for onshore wind

and theoretically deliverable once suitable constraints are applied and operational wind farms have been excluded – and the actual potential is far lower than this. Furthermore, in some cases, the areas are only likely to be suitable for <10MW (i.e. non-DNS) projects and won't therefore be assessed against the NDF.

RWE remains of the view that spatial limits are inappropriate constraints on the ability of industry to bring forward projects, especially in the context of the established need for renewable energy projects and the need to accelerate decarbonisation in the context of the climate emergency. Despite changing energy priority areas to 'pre-assessed areas' as well as excluding some areas and modifying boundaries on others, it is still highly likely that most large scale (>10MW) onshore wind projects will come forward outside the 'pre-assessed areas'.

RWE would also like to raise the following detailed points on the wording of Policy 18 in Future Wales:

- Policy 18 (criterion 2) refers to “*minimising*” the visual impact on nearby communities and individual dwellings and introduces “*acceptability*” only in the context of *cumulative* impact. All residential dwellings are undoubtedly sensitive receptors which need to be considered carefully through environmental impact assessment and design evolution, and then rigorously tested by the decision-maker. **RWE is seeking clarification regarding the Welsh Government's interpretation of the concept of a “minimal” impact as opposed to a “no unacceptable adverse” impact. A criterion which stipulates “no unacceptable adverse landscape and visual impacts” would be consistent with established planning practice to allow a balancing exercise between the benefits of a proposal and any adverse impacts on identified receptors.**
- Policy 18 (criterion 2) is the only criterion that addresses 'cumulative' considerations and this only in the context of 'visual' impact, but 'cumulative' is equally a consideration for all other topics (landscape, nature conservation, cultural heritage, transport etc). **For the avoidance of doubt, RWE are of the view that this issue should be addressed in the final wording of Future Wales, preferably via a separate criterion, to ensure cumulative impacts are considered for all relevant topics.**
- Policy 18 (criterion 3) – whilst other criteria in Policy 18 are addressed in terms of “*no unacceptable adverse impacts*”, criterion 3 (nature conservation) sets a higher threshold (i.e. “*no adverse impacts*”). The absence of the word “*unacceptable*” in criterion 3 means that the decision-maker is potentially limited in its ability to exercise judgement in the assessment of impact on nature conservation interests. Noting the point made above under 'Chapter 1: Integrated Sustainability Plan' that a higher bar is set than that which currently

exists in legislation and existing Welsh policy for 'Natura 2000 sites', RWE is seeking clarification on whether the approach in Policy 18 (criterion 3) which includes national (as well as European) nature conservation interests, is intentional. If so, this is a wholly inappropriate approach which fails to recognise that impacts may be 'adverse' but it does not necessarily follow that these would be 'unacceptable' when taken in the round and balanced against other considerations. **RWE requests that “no unacceptable adverse impact”**

**be adopted for criterion 3 for it to be consistent with established planning practice to allow a balancing exercise between the benefits of a proposal and any adverse impacts on identified receptors.**

- The statement that “ *The Welsh Government will use regional energy planning to identify opportunities for all types of renewable projects* ” (included in large font on page 99) requires clarification as it suggests that areas will be allocated for renewable energy development within Strategic Development Plans and/ or Local Development Plans. This approach is not appropriate for onshore wind proposals for which Future Wales sets out clear and detailed policies (17 and 18), including a spatial approach. Despite a requirement to be “*in conformity*” with Future Wales, ‘passing the buck’ to regional and local authority levels to “*identify the location of new infrastructure and development*” runs the risk that the ambitions in Future Wales for renewable energy, and onshore wind in particular, will be significantly diluted and potentially undermined by lower tier plans. **This sentence should be modified so that regional planning excludes >10MW onshore wind proposals which are already covered by Policies 17 and 18.**

I thank the CCERA Committee for the opportunity to comment on the latest iteration of Future Wales and trust the above points will be taken into consideration. Please do not hesitate to contact me should you require any clarification on the points raised in this response.

Senedd Cymru  
Y Pwyllgor Newid Hinsawdd, Amgylchedd a  
Materion Gwledig  
Craffu ar Fframwaith Datblygu Cenedlaethol  
Cymru  
CCERA(5) NDF(v2) 11  
Ymateb gan Renewable UK Cymru (RUKC)

Welsh Parliament  
Climate Change, Environment and Rural Affairs  
Committee  
National Development Framework for Wales  
CCERA(5) NDF(v2) 11  
Evidence from Renewable UK Cymru (RUKC)

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Renewable UK Cymru (RUKC) is part of Renewable UK and is responsible for facilitating a renewable energy policy environment in which our members can operate, helping them grow their businesses and providing influencing and networking opportunities.

RUKC's members are building and operating our future energy system, powered by clean electricity. We bring them together to deliver that future faster, a future which is better for industry, billpayers, and the environment. Our members are business leaders, technology innovators, and expert thinkers from across Wales.

RUKC thanks the Senedd CCERA committee for providing this opportunity for organisations to feedback on the current NDF draft – 'Future Wales, The National Plan – 2040'. RUKC has prepared the following evidence submission in response to the 'Future Wales – The National Plan' working draft which was laid before The Senedd on September 21<sup>st</sup>.

### **Context**

The Covid-19 public health emergency has had huge impact on the way people lead their lives; specifically, how they work, how they socialise and how they move within their communities and beyond.

These impacts are the subject of continuing analysis. RUKC welcomes the convening of a Welsh Government taskforce, overseen by the Counsel General, to consider Wales' green economic recovery from the pandemic.

The Energy system itself experienced significant impacts during lockdown which highlighted the future challenge of managing energy systems in a 'renewables dominated' environment.

As noted by Fatih Birol, Executive Director at the International Energy Agency, "Electricity networks are the backbone of today's power systems and they become even more important in clean energy transitions."<sup>1</sup>

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<sup>1</sup> Article: The coronavirus crisis reminds us that electricity is more indispensable than ever – Fatih Birol – director, IEA

## Overview

Although there is recognition of Future Wales as “*the highest tier of development plan*”, its status as the primary development plan against which developments of national significance (DNS) (especially renewable energy projects) would benefit from being explicitly stated.

### Key points to note in relation to Policies 17 – 18 relating to renewable energy

RUKC’s comments refer specifically to Policies 17-18 which deal with renewable energy project development.

Broadly speaking, the re-drafted policies 17 & 18 offer greater clarity and confidence to developers in relation to potential large-scale onshore wind projects.

RUKC welcomes the abandonment of the ‘traffic light’ approach which informed the planning approach to large scale renewable energy projects in the NDF’s first draft. Our members’ view was that this approach could tend towards a presumption against development (although RUKC recognises that this was perhaps not the intent).

A criteria-based approach as outlined in the new Policy 18 presents a more sympathetic interpretation of the opportunity, and feels more aligned to the stated Welsh Government policy ambition:

*“In determining planning applications for renewable and low carbon energy development, decision-makers must give significant weight to the need to meet Wales’ international commitments and our target to generate 70% of consumed electricity by renewable means by 2030 in order to combat the climate emergency.”*

RUKC also agrees with the separation of wind and solar technologies in the presentation of the pre-assessed areas. Broadly speaking, project footprints for these technologies along with consenting processes and challenges for grid connectivity are significantly different.

RUKC did not agree with the retention of the pre-assessed areas for large scale renewable energy projects.

Our members remain of the view that the principle of landscape change should have been acknowledged and/or accepted anywhere outside areas with national designations, subject to the satisfaction of criteria detailed in the new Policy 18.

This view is supported by the analysis that RUKC submitted in its response to the initial NDF draft.

#### **This indicates that:**

- **over half the pre-assessed areas contain no opportunity for DNS level projects once site-specific constraints are applied.**
- **Only approximately 5% of the total pre-assessed areas for onshore wind were considered as being theoretically developable<sup>2</sup> following application of standard constraints (It is likely that even this figure is optimistic because it includes areas which would not be large enough to support DNS projects - i.e. 10MWs and above)**

It is RUKC’s view that *The National Plan* should also include policies relating to all types of DNS, not just renewable energy generation projects.

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<sup>2</sup> RUKC response to the National Development Framework, p.9&10

While this would have been a helpful addition, RUKC welcomes the clarification that “future iterations of Future Wales will contain additional policies for other types of Development of National Significance where needed.”<sup>3</sup>

#### **Further points for the CCERA committee to consider in relation to Policies 16-18**

- Policy 18 – Each of the stipulated criteria address these in terms of “*no unacceptable adverse impacts*” whereas criterion 3 (nature conservation) sets a higher threshold (i.e. “*no adverse impacts*”).
- The absence of the word “*unacceptable*” in criterion 3 means that the decision-maker is potentially limited in its ability to exercise judgement in the assessment of impact on nature conservation interests.
- **Is the intention for nature conservation to have a different threshold from all other criteria?** *We would request that “no unacceptable adverse impact” be adopted for criterion 3 for it to be consistent with other criteria.*
- Policy 18 - criterion 2 refers to “*minimising*” the visual impact on nearby communities and individual dwellings and introduces “*acceptability*” only in the context of *cumulative* impact. Although not referred to in policy, the reference appears in the supporting text (page 97) – regarding “*minimising*” landscape & visual (L&V) impact, “*particularly*” those near “tourism receptors”.
- **We therefore seek clarification regarding Welsh Government’s interpretation of the concept of a ‘minimal’ impact as opposed to ‘no unacceptable impact’.**
- *We would also contend that it doesn’t immediately follow that a receptor is impacted. There needs to be a distinction between receptors per se (e.g. “tourism”) and receptors which are potentially sensitive to impact. A criterion which stipulates “no unacceptable adverse impact” would represent a more consistent approach.*
- RUKC would also note that cumulative impact is only mentioned in the context of L&V but is equally a consideration for all other topics (nature conservation, cultural heritage, transport etc). **What is the basis for that distinction?**
- The statement that “*The Welsh Government will use regional energy planning to identify opportunities for all types of renewable projects*” requires clarification as it suggests that areas will be allocated for renewable energy development within Strategic Development Plans. This is an approach which could result in very limited opportunities for renewable energy development being identified and would severely jeopardise the achievement of the objectives of Future Wales and Wales’ net zero obligations.

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<sup>3</sup> Future Wales – The National Plan, P.96

## **Further points for the CCERA committee to consider in relation to ‘Future Wales – The National Plan’ in the context of constraints on transmission and distribution networks**

RUKC is aware that ‘Future Wales – The National Plan’ sets the high-level basis upon which Wales considers planning matters for infrastructure using a spatial approach.

It well understands that this is not an energy policy document, since this competence resides within the relevant portfolio.

However, RUKC members remain extremely concerned regarding constraints on the grid for connecting new large scale on and offshore renewable energy projects and how these are considered.

Wales remains committed through legislation to deliver its netzero obligation. This is likely to require strengthening and adaptation of existing energy networks. As the Minister for Environment, Energy and Rural Affairs noted during recent questions in plenary:

*“Networks in Wales are remarkably resilient. Since 2010, 2.4 GW of new renewable capacity has been connected to the existing grid. However, we will need new infrastructure to achieve our ambitious decarbonisation targets. The UK Government dictates the ability to build new grid infrastructure through price controls, currently being reviewed by Ofgem.”<sup>4</sup>*

As also noted by the Minister for Housing and Local Government during CCERA committee scrutiny on October 15<sup>th</sup>:

*“You’ll know how bad the Grid is in Mid Wales. It isn’t great North and South either”<sup>5</sup>*

### **This is of concern to RUKC for several reasons:**

1 – Networks in Wales are **not** resilient. Projects are unable to connect now, are subject to prohibitive cost for grid consenting, or subject to connection offers which are many years in the future.

2 - In its current iteration, the National Plan contains several references to co-ordinating action to address grid capacity issues. It does not (as RUKC understands), contemplate an associated presumption in favour of associated infrastructure development (up to 132KV).

3 - RUK does not have confidence that Ofgem’s current iteration of its RIIO2 plan will deliver the levels of green infrastructure investment required to deliver netzero.

4 – Welsh Government is seeking to heat and power all new homes from clean energy sources by 2025. This will necessitate “phasing out the use of high-carbon fossil fuels and moving to cleaner ways to heat our homes through the introduction of low carbon heating and energy generation, such as renewable energy sources (photovoltaic panels), heat pumps or district heat networks.” **This places additional importance on the development of grid resilience and capacity.**

5 – Welsh Government has also acknowledged the likely impact of the electrification of transport on Grid: *“The planned large-scale uptake of electric vehicles will place pressures on the electricity grid in Wales; we will work with the energy sector to plan for this. We will also support innovative actions to test and promote smart charging, renewable energy, energy storage and local energy network linked*

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<sup>4</sup> record.assembly.wales/WrittenQuestion/80932

<sup>5</sup> CCERA scrutiny session with Minister for Housing and Local Government, October 15th

to electric vehicles.”<sup>6</sup> It is critical therefore that Welsh Government sets out its plans for these issues and describes how power networks will need adapt to support this transition.

***These concerns are supported by other recent reports published in the intervening period between the NDF’s first and second drafts:***

National Grid ESO’s Future Energy Scenarios 2020 outlook notes that in energy investment terms, 2050 is “just around the corner.” It also predicts a possible doubling of demand for electricity by 2050.<sup>7</sup>

Scottish Power Energy Networks also published its scenario-based report for its 2050 outlook in April 2020. It notes that, absent the potential benefit of smart and vehicle to grid (V2G) charging, EV charging alone could account for an additional 727MW to its peak demand volumes<sup>8</sup>

As also noted by the Economy, Skills and Infrastructure committee of the Welsh Parliament in July 2020:

*“The Welsh Government should outline for the Committee what consideration it is giving to energy and grid capacity issues for running fully electric vehicle fleets in Wales and how is it building that into the Welsh planning system, and to provide assurances about its sustainability plans for managing the procurement and circular recycling of electric batteries.”<sup>9</sup>*

The UK CCC published its annual report to Parliament in June 2020. Among its six key recommendations were that “**Energy networks must be strengthened** for the net-zero energy transformation to support electrification of transport and heating. Government has the regulatory tools to bring forward private sector investment.”<sup>10</sup>

#### **Questions in relation to grid capacity in the context of ‘Future Wales – The National Plan’**

- **What is meant by ‘transition towards a multi-vector grid network’<sup>11</sup> and how does Welsh Government anticipate that this will happen?**
- **What is meant by reference to ‘reduce the barriers to implementation of new grid infrastructure’<sup>12</sup> ?**
- The draft National Plan states ‘The Welsh Government will use its policy levers to assist in the delivery of renewable energy projects in these areas by co-ordinating strategic action to build the case for new or reinforced grid infrastructure where necessary’<sup>13</sup>.
- **Does this relate to Wales generally, or only to the Pre-Assessed Areas where there is very little opportunity?**
- **Also, does Welsh Government consider that it needs to ‘lead’ strategic action rather than merely ‘co-ordinate’ it?**
- RUKC notes support for ‘Regional energy planning’ “to identify opportunities for all types of renewable projects.”<sup>14</sup> **Can Welsh Government clarify how it plans to square the requirement for nationally strategic investments with a planning environment which prioritises support for regional energy planning?**

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<sup>6</sup> Welsh Government, Prosperity for all, p.106

<sup>7</sup> FES in 5 online, P.20-21, Consumer Transformation scenario

<sup>8</sup> SPEN DFES, April 2020, Key findings, P.15

<sup>9</sup> Decarbonisation of transport, Economy, Skills, an Infrastructure committee, July 2020

<sup>10</sup> UK CCC press release, COVID-19 can be an historic turning point in tackling the global climate crisis

<sup>11</sup> Future Wales – The National Plan – working draft p.95

<sup>12</sup> Ibid, P.95

<sup>13</sup> Ibid, p.97

<sup>14</sup> Ibid, p.99



Lesley Griffiths MS  
Minister for Environment, Energy and Rural Affairs

6 October 2020

*Dear Minister*

Thank you for attending the Committee's meeting on 17 September. The Committee has agreed that I should write to you to follow up on several matters. This letter also addresses several issues which have been raised with the Committee by stakeholders in response to a call for written evidence in relation to Covid-19. **I would be grateful if you would respond by 6 November**, so that your response can inform the next scrutiny session you have agreed to attend.

### Animal Welfare

#### *Third-party puppy sales*

1. In your Written Statement of 5 October, you announced that "a ban on commercial third party sales will be introduced by the end of this Senedd." Can you provide the Committee with an update on when you will bring forward the secondary legislation? Will you commit to providing the Committee with the secondary legislation in draft in advance to enable the Committee to consider and provide feedback on them?

#### *Dog and Cat homes*

2. The Committee has received concerning information from the Association of Dogs and Cats Homes (ADCH) in relation to the Welsh animal rescue sector. In response to a survey it conducted about the impact of Covid-19, only two Welsh respondents were certain they would remain solvent beyond the end of this year. Welsh respondents to the same survey predicted income reduction of an average of 80% due to Covid-19. Given that the impact on the sector will likely continue for



**Senedd Cymru**  
Bae Caerdydd, Caerdydd, CF99 1SN

✉ SeneddNHAMG@senedd.cymru

☎ 0300 200 6565

**Welsh Parliament**  
Cardiff Bay, Cardiff, CF99 1SN

✉ SeneddCCERA@senedd.wales

☎ 0300 200 6565

some time, what support will be made available to ensure that organisations based in Wales can continue to operate?

#### *Veterinary practices*

3. The Committee has been told that veterinary practices have been severely impacted by Covid-19 and have not been able to access some of the financial support provided to businesses because of the unique nature of their work. Can you provide the Committee with details of any discussions you have had with the British Veterinary Association about the impact of Covid-19 on the sector? Can you provide the Committee with an update on the grants and financial support that is available to the sector?

#### **Fisheries**

4. You have told the Committee the Welsh Government will provide financial support to eligible aquaculture businesses via the Aquaculture Business Support scheme, which closed on 21 September. Can you provide the Committee with an update on the take-up of the scheme?
5. The WFA-CPC (Welsh Fishermen's Association - Cymdeithas Pysgotwyr Cymru) drew the Committee's attention to the "Barnett consequential" the Welsh Government will receive due to allocations to the UK Government's fisheries response fund. Can you confirm how much the Welsh Government has received and how much of this funding was used to support fisheries in Wales?
6. Do you have plans to extend the Welsh Fisheries Grant? What further financial support will be available to Welsh fishers to deal with the effects of the pandemic?
7. The WFA-CPC told the Committee about the severe impact on the sector of the closure of export markets, such as Asia. In the likelihood that this situation is not remedied soon, what actions do you plan to take or have already taken to increase domestic consumption of seafood?
8. The UK Government has made funding available for businesses focused on processing and direct sales. Is this something you have considered for Wales?
9. The sector has been severely impacted by Covid-19 and the closure of export markets and faces considerable uncertainty with a potential "no-deal" Brexit months away. Can you provide the Committee with details of your plans to support fisheries and aquaculture businesses in the event of a "no-deal" Brexit?

#### **Food and drink**

10. Can you provide the Committee with an update on discussions you have or intend to have with UK Government counterparts concerning the proposals to make changes to the Small Brewer Relief?
11. Cardiff University's Sustainable Places Research Institute told the Committee that during the Covid-19 pandemic "Businesses have experienced rapid increases in consumer demand for Welsh grown produce". The Open Food Network (OFN) told us that since the Covid outbreak there has been an 850% increase in the turnover through OFN shopfronts across Wales. What actions are you taking to ensure that such increases can be converted into long term changes in consumption behaviours?

#### **Air quality**

12. You told the Committee that "the first two months of lockdown really showed significant decreases in some pollutant levels, but other pollutant levels apparently increased at the same time." Can you



provide the Committee with further information on this matter, in particular those areas where pollutants increased? Do you believe any lessons can be learned from this variance?

13. Can you provide an update on:

- any discussions you have had with the UK Government about restricting the sale and use of fireworks, and
- the outcome of work undertaken by officials across departments to establish where best the Welsh Government can focus its efforts to reduce the negative impact of fireworks on people and animals?

### **Green/Blue recovery and Climate Change**

14. Will you give a commitment that marine issues will be a central part of any “green” recovery? Can you provide examples of how this will be achieved?

15. You have told the Committee that you are awaiting a report arising from the work Sir David Henshaw has been leading concerning the green/blue recovery. Will you update the Committee on the outcomes of that work as soon as you can?

### **Agriculture and food security**

16. You told the Committee that the “EU agri-food supply chain stakeholder group” had recently met for the first time. Can you provide further details of the purpose and membership of the group?

17. Cardiff University’s Sustainable Places Research Institute told the Committee that “Wales currently relies on imports for 95% of its fresh fruit and vegetables”. What preparatory work has been made to ensure that, in the event of a “no-deal” Brexit, domestic food producers can step in to fill any gaps in the food supply chain? Will you commit to bringing forward a plan to increase the use of domestically produced food if importing food becomes more difficult?

18. How has the Covid-19 pandemic affected your approach to food policy in Wales? Please provide examples.

19. Can you provide the Committee with an update on Welsh Government policies on allotments?

20. You told the Committee that “COVID-19 has shown me how many more discussions I should be having with supermarkets”. Can you provide an update on the meetings with supermarket representatives you have scheduled up to Christmas 2020?

### **Plastic pollution and littering**

21. The Marine Conservation Society told us it anticipated levels of pollution on Welsh beaches would rise over the summer months “given that there are now limited opportunities for organisations such as ourselves to be able to undertake beach cleans using dedicated volunteers, coupled with a likely overall increase in domestic coastal holidays”. What assessment have you undertaken of any increases in marine pollution as a result of this?

### **Other issues**

22. Several of the Committee’s stakeholders have benefitted from the Welsh Government Third Sector Covid-19 Response Fund. What discussions have you had with the sector about any further financial support that will be required once furlough arrangements come to an end?



23. Wales Environment Link (WEL) told the Committee that “Many elements of the Welsh Government’s Environmental Growth agenda will depend on the work of charities, and many conservation and community projects are partnerships between Government agencies and civil society.” It went on to say that “On-going financial losses will hamper the ability of charities to deliver essential conservation and infrastructure improvement work.” What consideration have you given to the impact of this on the delivery of Welsh Government environmental and climate change policies?

### **Common Frameworks**

24. Can you provide the Committee with an update on the development of Common Frameworks that fall within the Committee’s remit, including your latest understanding of when provisional frameworks will be available for Senedd scrutiny?
25. Are you content with the process for developing and finalising the Common Frameworks? Do you have any specific concerns relating to any of the frameworks that fall within your remit?

### **Environmental principles and governance**

26. Can you provide the Committee with an update on discussions with the UK Government to secure an amendment to the UK Environment Bill to make provision for cooperative working between the Office for Environmental Protection and any equivalent environmental governance body?
27. Can you confirm that interim environmental governance measures will be in place by the end of the Implementation Period?
28. What arrangements will be put in place to raise public awareness of the interim complaints procedure?
29. You have previously told the Committee that you intend to put in place arrangements for all complaints to be independently assessed. Who will be responsible for undertaking these assessments?
30. Can you clarify whether, and when, you intend to publish proposals for longer-term environmental governance arrangements?

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 5.2

**Julie James AS/MS**  
**Y Gweinidog Tai a Llywodraeth Leol**  
**Minister for Housing and Local Government**



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref MA/JJ/2231/20

Mike Hedges AS/MS  
Chair  
Climate Change, Environment and Rural Affairs Committee  
Welsh Parliament  
Cardiff Bay  
Cardiff  
CF99 1SN

15 October 2020

Dear Mike,

I am pleased to share a draft of the Hazardous Substances (Planning) Common Framework with you.

My officials, together with their counterparts in UK Government, Scottish Government and the Northern Irish Executive have been working jointly to develop this framework. I am sharing this framework for your committee to review.

The primary focus of this specific framework is to maintain the principles and objectives of retained EU legislation across the hazardous substances consent regime. The proposed framework sets out ways of co-operating when developing policy, while respecting the ability of administrations to pursue diverging policy agendas. The arrangements reflect the existing co-operation of officials over the past two decades taking forward transposition of the various Seveso Directives. The common goals set out in the Directives have been implemented using the different planning and hazardous substances controls in each administration, with co-operation, information sharing and general support provided by the officials involved.

The outline framework is due to be laid in the UK Parliament, Scottish Parliament and the Northern Ireland Assembly over the next few weeks.

Yours sincerely

**Julie James AS/MS**  
**Y Gweinidog Tai a Llywodraeth Leol**  
**Minister for Housing and Local Government**

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Gohebiaeth.Julie.James@llyw.cymru](mailto:Gohebiaeth.Julie.James@llyw.cymru)  
[Correspondence.Julie.James@gov.Wales](mailto:Correspondence.Julie.James@gov.Wales)

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.

## OFFICIAL SENSITIVE

### COMMON FRAMEWORKS: OUTLINE FRAMEWORK

*This outline framework for Hazardous Substances should be read as an example of how common frameworks are being developed. The outline framework template has been designed to allow for a variety of approaches to suit the needs of particular policy areas. This example is therefore without prejudice to how other frameworks may be developed in the future.*

#### **Purpose**

This document provides a suggested outline for an initial UK-wide, or GB, framework agreement in a particular policy area. It is intended to facilitate multilateral policy development and set out proposed high level commitments for the four UK Administrations; it should be viewed as a tool that helps policy development, rather than a rigid template to be followed. The document may be developed iteratively and amended and added to by policy teams as discussions progress. It should be read alongside the accompanying guidance (UK Government and Devolved Administrations Guidance Note for Phase 2 Engagement).

Population of the agreement skeleton should be based on the existing work undertaken and should remain consistent with the underlying Framework Principles agreed by the UK, Scottish and Welsh Governments. The content should inform the drafting of any legislative and non-legislative mechanisms required to implement UK-wide frameworks.

Until it is formally agreed this document should not be considered as Government policy for any of the participating administrations and should be treated as confidential. The process for developing and finalising this document will be mutually agreed by all administrations.

The document is made up of four sections:

#### **Outline**

- 1. Section 1:** What We Are Talking About. This section will set out the area of European Union (EU) law under consideration, current arrangements, and any elements from the policy that will not be considered. It will also include any relevant legal or technical definitions.
- 2. Section 2:** Proposed Breakdown of Policy Area and Framework. This section will break the policy area down into its component parts, explaining where common rules will and will not be required and the rationale for this approach. It will also set out any areas of disagreement.

**Operational Detail**

3. **Section 3:** Proposed Operational Elements of Framework. This section will explain how the framework will operate in practice by setting out: how decisions will be made; the planned roles and responsibilities for each administration, or a third party; how implementation of the framework will be monitored and, if appropriate enforced; arrangements for reviewing and amending the framework; and proposed arrangements for resolution of a dispute.
  
4. **Section 4:** Practical Next Steps and Related Issues. This section will set out the next steps that would be required to implement the framework (subject to Ministerial agreement) and key timings.

**Draft Framework Agreement**

**OUTLINE**

**SECTION 1: WHAT WE ARE TALKING ABOUT**

**1. Policy area**

Hazardous Substances Planning. Encompasses the elements of the Seveso III Directive (2012/18/EU) which relate to land-use planning, including: planning controls on the presence of hazardous substances and handling development proposals both for hazardous establishments and in the vicinity of such establishments.

The Seveso III Directive ('the Directive') has the objective of preventing on-shore major accidents involving hazardous substances, as well as limiting the consequences to people and/or the environment of any accidents that do take place. 'Hazardous substances' in the legislation include individual substances (such as ammonium nitrate), or whole categories of substances (such as flammable gases). The Ministry of Housing, Communities and Local Government (MHCLG) and devolved administrations (DAs) are responsible for the land-use planning (LUP) requirements of the Directive. In accordance with the retained Seveso III Directive, the UK is obliged to ensure that the objectives of preventing major accidents and limiting the consequences of such accidents are taken into account in land-use policies. This requires controls on the siting of new establishments and modifications to establishments which fall within scope of the Directive, and on new developments and public areas in the vicinity of such establishments. It also requires these considerations to form the development of relevant policy and has requirements on public involvement in decision making, including relevant plans and programmes.

## OFFICIAL SENSITIVE

When implementing the original EU Directive in this regard, a distinction was made between those elements relating to on-site controls for establishments to minimise the risk of a major accident (those now covered by the Control of Major Accident Hazards (COMAH) Regulations 2015 (GB) and their Northern Ireland equivalent) and the residual off-site risk. The latter is primarily the risk of a major accident arising due to the proximity of hazardous substances to other development or sensitive environments (i.e. if there were an accident due to on-site failures, what the risks would be where certain developments or habitats are or would be close by). This latter issue was considered to be a spatial planning matter to be addressed through planning controls. Subsequently, LUP matters generally in the UK were devolved to the new administrations. To summarise; the significant majority of the Directive relates to COMAH which focuses on ensuring businesses take all necessary measures to prevent and mitigate accidents within their establishments. What is referred to here as the hazardous substances regime focuses solely on *where* these establishments are sited, and what is sited around them (a much smaller aspect of the Directive).

Very broadly the hazardous substances regime;

- a) sets limits on the amount of dangerous substances that can be stored/used in an establishment before that establishment must apply for consent to do so from their local planning authority (usually the local authority);
- b) requires the preparation of planning policies to take into account the aims and objectives of the Directive; and
- c) requires local planning authorities to comply with various consultation requirements and consider any major accident hazard issues before they can grant planning permission in relation to establishments, to certain types of development near such establishments, and hazardous substances consent.

To note the hazardous substances regime does NOT ban any substance, or any development around establishments containing hazardous substances. All decisions rest with local planning authorities, or in some cases, called-in applications or appeals, the Minister(s) in England, Wales, Northern Ireland or Scotland.

It should also be noted that LUP controls on hazardous substances existed in Great Britain for around a decade before becoming an EU requirement. This is an issue on which the UK has led the way.

## 2. Scope

- The scope of this Common Framework is any legislation which applies the LUP elements of the retained Seveso III Directive in the United Kingdom. At the time of writing the following regulations constitute the main body of legislation that applies these elements of the Directive, future regulations applying regulations in this area are also expected to be in scope once established:

In England



## OFFICIAL SENSITIVE

- The Planning (Hazardous Substances) Act 1990
- The Planning (Hazardous Substances) Regulations 2015
- The Town and Country Planning (Development Management Procedure) (England) Order 2015

### In Scotland

- Planning (Hazardous Substances) (Scotland) Act 1997
- The Town and Country Planning (Hazardous Substances) (Scotland) Regulations 2015
- The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013

### In Wales

- The Planning (Hazardous Substances) Act 1990
- The Planning (Hazardous Substances) (Wales) Regulations 2015
- The Town and Country Planning (Development Management Procedure) (Wales) Order 2012

### In Northern Ireland

- The Planning (Hazardous Substances) (No.2) Regulations (Northern Ireland) 2015
- The Directive's minimum requirements are common across England, Scotland, Wales and Northern Ireland. Whilst the different administrations are currently free to use their devolved planning powers to increase controls beyond the minimum requirements of the Directive, this has not happened in any substantive way.

Now the UK has left the EU this set of common minimum requirements may cease to be in effect and the different administrations will have wider scope to use their planning powers to make changes. This is subject to the terms of the Future Relationship with the EU and any other relevant future agreements, including the upcoming inter-governmental relations (IGR) review.

There is an existing MOU between DAs and the various bodies that make up the COMAH Competent Authority (see box 10), which applies to the COMAH aspects of the Seveso III Directive. In place of a full framework this MOU is being updated to reflect the situation post-Exit. Despite the policy links between COMAH and hazardous substances, it is not felt that there is any significant overlap between this framework and the updated COMAH MOU, which explicitly states that land use planning requirements are separately implemented. This is also the case with the hazardous substances regime and the rest of the planning system. The hazardous substances consent process sits outside of the development consent process, and the current requirement for planning authorities to consult HSE if their development is in a consultation zone does not overlap with other requirements (i.e. if this were altered in any way there would be no significant knock-on effects further along the planning system).

- The primary focus of this agreement is to maintain the principles and objectives of retained EU legislation across the hazardous substances regime, that is, primarily, to prevent on-shore major accidents involving hazardous substances and limit the consequences to people and/or the environment of any accidents that do take place. It also seeks to, wherever possible, facilitate the sharing of information on a multilateral basis.

## OFFICIAL SENSITIVE

- Post Exit, the UK will still be party to the following relevant international agreements;
  - The Convention on the Transboundary Effects of Industrial Accidents is a UNECE convention designed to protect people and the environment from the consequences of industrial accidents. Parties are required to, amongst other things, take appropriate measures and cooperate within the framework of this Convention, to protect human beings and the environment against industrial accidents...shall ensure that the operator is obliged to take all measures necessary for the safe performance of the hazardous activity and for the prevention of industrial accidents...take measures, as appropriate, to identify hazardous activities within its jurisdiction and to ensure that affected Parties are notified of any such proposed or existing activity. The Convention also sets out detailed requirements when it comes to siting of/around hazardous establishments as well as setting out the types and quantities of substances that should be considered hazardous.
  - The UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ('the Aarhus Convention') establishes a number of rights of the public (individuals and their associations) with regard to the environment. The Parties to the Convention are required to make the provisions necessary so that public authorities (at national, regional or local level) will contribute to these rights to become effective.

### 3. Definitions

All technical definitions used in this agreement will reflect those set out in legislation implementing the retained Seveso III Directive.

In this framework the following definitions are also used:

- *JMC(EN)*. The JMC (EN) Joint Ministerial Committee (Europe Negotiations) is a subcommittee of the JMC that was established in 2016 to facilitate discussion between Westminster and the devolved governments over the UK's EU Exit strategy. The JMC comprises Ministers from the UK and devolved governments, providing central co-ordination of the overall relationship between the UK and the devolved nations.
- *HSE & HSE NI*. The Health and Safety Executive and Health and Safety Executive Northern Ireland are government agencies responsible for the encouragement, regulation and enforcement of health and safety.
- *MoU – Memorandum of Understanding*. This is a multilateral agreement which indicates a common line of action. It is often used where a legal commitment would not be required or appropriate.

## SECTION 2: PROPOSED BREAKDOWN OF POLICY AREA AND FRAMEWORK

### 4. Summary of proposed approach

## OFFICIAL SENSITIVE

It is important to first note the context in which the proposed approach has been developed. Divergence is already entirely possible across the devolved administrations, however there are currently a number of restrictions on what the United Kingdom Government (UKG) and DAs can amend based on what has been set at EU level. The key restrictions are that the UKG and DAs;

- i) are unable to change the definition of what an establishment is (in short, a location where dangerous substances are present in significant quantities);
- ii) must not lower standards on what constitutes a dangerous substance (i.e. by removing categories of substances or individual substances from the list, or raising the threshold at which the quantity becomes significant and the establishment falls into scope of the regime);
- iii) must ensure that the objectives of preventing major accidents and limiting the consequences of such accidents for human health and the environment are taken into account in their land-use policies, through controls on the siting of new establishments and new developments close to establishments;
- iv) must set up appropriate consultation procedures to ensure that operators provide sufficient information on the risks arising from the establishment and that technical advice on those risks is available when decisions are taken; and
- v) facilitate public involvement at various stages of decision-making on relevant applications for consent or plans and programmes.

In simplified terms, what may become possible post-Exit that is not possible now is that the UKG and devolved administrations will have the powers within a domestic context to relax requirements on the level of substances that can be held before triggering the regime and relax the process around what is required once the regime is triggered.

It is considered that whilst a framework is appropriate for the hazardous substances regime, it should be non-legislative. This will be in the form of a Concordat, setting out the principles of engagement between the UK government, DAs and HSE where changes to legislation are concerned (see box 6 for more details). This view is guided by the overarching principle established by JMC(EN); that any framework should secure the proper functioning of the regime whilst at the same time respecting the devolution rights of the devolved administrations. It is also guided with reference to the priorities that JMC(EN) list as key, that any framework should be established where they are necessary to:

- *enable the functioning of the UK internal market, while acknowledging policy divergence*

Hazardous substances planning is not significantly different from devolved planning controls generally – it is about consenting the locations of substances with major accident hazard potential and development around those locations. As stated in box 1, establishments which store certain amounts of certain substances or developers looking to build near such establishments will be required to seek consent from a local authority. The regime is not focused on banning activities or making a substance illegal in a general sense. As a result, (and in a scenario in which the non-regression principle did not apply) the biggest potential discrepancy would be where, for example in one administration, controls were removed for a certain substance completely, where across the border, operators would need to go through the hazardous substances consenting process with their local authority to hold the

## OFFICIAL SENSITIVE

substances at a site in the same quantities. Whilst any such scenario could result in a potentially damaging 'race to the bottom', due to the nature of the regime this would bring very limited economic benefits – relaxed hazardous substances standards would not bring a significant enough benefit to operators to influence which administration they set up business in to the point where this would distort the internal market. Obtaining hazardous substances consent is a relatively quick and inexpensive process for operators/developers; the fee in England for making an application is £200-250, in Wales it is £200-400, in Scotland it is £500-1000, and in Northern Ireland it is free of charge. In addition, a hazardous substances authority must inform an applicant of a decision within 8 weeks in England, Wales and Northern Ireland. In Scotland it is 2 months. This period can be extended by an agreement in writing between the applicant and the planning authority. In communication with industry stakeholders there have been consistent messages that the current processes play an important role in enshrining vital safeguards against major accidents.

As such reducing standards in this way is not something that industry has been pushing for or is likely to pursue and the proposed approach is considered appropriate. However, as with all workstreams further arrangements will need to be considered at a higher level to manage any such impacts on the internal market within this – or related – policy areas.

- *ensure compliance with international obligations*

The UK is a signatory to two international agreements relevant to the hazardous substances regime (as mentioned in box 2), the Aarhus Convention and the Convention on the Transboundary Effects of Industrial Accidents. The latter in particular cements many of the requirements of the current regime in international law, therefore any significant stripping back of the hazardous substances regime could result in a breach of international obligations. This presents limits on what the UKG can do as the party to the treaties, but also constrains the administrations. In very extreme cases the Secretary of State has step-in powers already built into Devolution settlements where there is a potential breach of international law, although we do not envisage these forming any part of the framework. A non-legislative framework would provide the appropriate forum for any policy changes to be addressed, where anything of concern can be flagged and any necessary dispute resolution measures (see box 13) can be put into place.

In the event that either of the two relevant international agreements are amended UKG will decide whether the amendments should be ratified. Before ratifying any international agreement, the DAs must be consulted. If the legislation of one or more administrations needs to be brought into line with the requirements of any new amendments then this must be finalised before any amendment can be ratified. Where necessary any disagreements should be resolved through the dispute resolution mechanism as set out in this framework.

This framework does not impact on the Belfast Agreement.

- *ensure the UK can negotiate, enter into and implement new trade agreements and international treaties*

Not applicable. Through discussions we have not identified any differences between administrations on hazardous substances that would have an impact on the UK's ability to negotiate (etc.) trade agreements and treaties. Negotiation of any new trade agreements or treaties would in any event need to take account of where devolved competence means there are or could be divergence across the UK in matters pertinent to that particular treaty or agreement. The terms on which the UK leaves the European Union, and any future UK arrangements with the EU, may incorporate certain commitments which could cover the hazardous substances regime (e.g. on environmental standards). In this scenario the

## OFFICIAL SENSITIVE

ability of administrations to diverge will be reduced, although it is considered that the best practice ways of working as set out in this framework will still prove a positive basis for sharing of information etc. and as such the framework will remain unchanged.

- *enable the management of common resources*

HSE/HSE NI – as indicated, they operate across the different planning jurisdictions (HSE NI covering Northern Ireland), and so any divergence could affect them, and so any framework encouraging and providing a forum for discussion would be beneficial.

However, potential changes to the regime with significant impacts on HSE are already a potential feature of the existing regime *within the EU framework* and are not triggered by EU exit. There is not a new significant issue being created on this point that would need to be addressed by legislative means.

- *administer and provide access to justice in cases with a cross-border element*

Not applicable. Any differences between administrations on hazardous substances will not have an impact on the UK's ability to administer or provide access to justice.

- *safeguard the security of the UK*

Differing hazardous substances planning controls in parts of the UK are already a possibility, i.e. not affected by EU Exit, and these differences do not pose a threat to UK security.

Reducing protections below current levels could become possible after Exit, which could increase the risk to safety *within an area (acknowledging the limited risk of cross-border impacts)* e.g. by allowing hazardous substances near a sensitive development (to note, safety measures within establishments would still be regulated through non-planning requirements under the Control of Major Accidents Hazards Regulations 2015 or their equivalent). As stated previously, hazardous substances powers are broadly analogous to other devolved planning powers in this regard and as such should be seen as a matter for individual administrations – divergence in and of itself does not pose a risk to the security of the UK as a whole.

According to the JMC(EN) principles a legislative framework should be considered only where absolutely necessary. As set out above a potential legislative framework for hazardous substances would not meet these criteria. According to the principles set out by JMC(EN) and the objective of securing the proper functioning of the hazardous substances regime whilst at the same time respecting the devolution rights of the devolved administrations, this Common Framework will not be a legislative vehicle but rather a reflection of the discussions that have taken place and agreements reached on ways of working going forward, post the UK's departure from the European Union.

### *Other considerations*

- the devolved regimes predate the current version of the Directive, and in certain cases go further than its minimum requirements; this demonstrates the lack of appetite to legislate below its minimum standards.
- the HSE have a cross-cutting role which provides a common evidence base which all DAs look to; with policy development across all administrations in Great Britain informed by HSE advice, differing approaches would be unlikely.

Current potential for divergence – decision making is devolved, so as long as the aims of the Directive are taken into account, it should be emphasised that despite the scope for such divergence, very little of it has occurred. It should also be noted

that planning authorities and Ministers in the various home nations are free to make decisions on applications as they see fit, provided the major accident hazard potential forms part of the consideration.

#### **5. Detailed overview of proposed framework: legislation (primary or secondary)**

Whilst no legislation is considered to be necessary to put this framework in place, the following 'operability' regulations have been laid to ensure that the regime continues to function as it does currently following Exit:

- The Planning (Hazardous Substances and Miscellaneous Amendments) (EU Exit) Regulations 2018. *For England*
- The Planning (Environmental Assessments and Miscellaneous Amendments) (EU Exit) (Northern Ireland) Regulations 2018
- The Town and Country Planning (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019
- The Town and Country Planning and Electricity Works (EU Exit) (Scotland) (Miscellaneous Amendments) Regulations 2019

These regulations are fully independent of this framework.

## 6. Detailed overview of proposed framework: non-legislative arrangements

The UKG and the DAs have agreed a set of nine principles for future ways of working that would make up the agreement:

- i. In the absence of EU requirements applying to the UK, the nations of the UK will consider appropriate evidence and expert advice (for example that of the Control of Major Accidents Hazards (COMAH) competent authority and industry bodies), as appropriate, as regards the substances and quantities to which hazardous substances consent should apply.
- ii. Administrations will respect the ability of other administrations to make decisions (i.e. allowing for policy divergence).
- iii. Administrations will consider the impact of decisions on other administrations, including any impacts on cross-cutting issues such as the UK Internal Market.
- iv. Wherever it is considered reasonably possible, administrations agree to seek to inform other administrations of prospective changes in policy one month, or as close to one month as is practical, before making them public.
- v. Administrations will ensure an appropriate level of public transparency in decision making that leads to policy changes.
- vi. Parties will create the right conditions for collaboration, by for example ensuring policy leads attend future meetings.
- vii. Future collaborative meetings will be conducted at official level and on a without prejudice basis.
- viii. In order to broaden the debate at future collaborative meetings, parties will ensure that different perspectives are present.
- ix. Those attending future collaborative meetings recognise the importance of how collaboration is approached.

## 7. Detailed overview of areas where no further action is thought to be needed

N/A

**OPERATIONAL DETAIL**

**SECTION 3: PROPOSED OPERATIONAL ELEMENTS OF FRAMEWORK**

**8. Decision making**

Following exit day all decision making under the relevant devolved competences (within the scope of the framework) will fall to the UKG and the DAs within their respective territories, following usual procedures but taking into account the principles set out in box 6. An exception will be where there is a desire for any proposed policy changes to be applied across more than one territory. In such a scenario administrations will work together to determine the best way to coordinate these changes. The procedure will be similar to that taken forward in previous coordinated work on transposing regulations following updated Directives, or the preparing of operability regulations in advance of EU Exit. Any scenario will require a slightly different approach and timeframe, so this framework does not seek to be prescriptive in how work should be carried out; current arrangements for coordinating work on the implementation of the Seveso III Directive are also ad hoc.

Usually, HSE acts as the coordinator for implementing new requirements from revision of, or amendments to the Directive and engages with planning representatives from the various administrations to coordinate implementation. They may play a similar role in future but will have no explicit responsibility to do so. As other issues arise, contact is made, again on an ad hoc basis, to seek to resolve these. Ministers responsible for planning individually sign off implementing legislation or changes to procedures. The framework will also link into any future arrangements for the functioning of the UK Internal Market.

To facilitate the sharing of information where appropriate, and as a forum to discuss wider policy issues, it is envisaged that a working group of the policy leads in each administration will hold a six-monthly telephone conference to discuss any issues and share learning. This would not rule out issues being raised for consideration by the working group between meetings if necessary. The initial meeting will be arranged and chaired by UKG, with arrangements for further meetings discussed as an agenda item. Whilst not expected to be required at the initial 6 month mark, subsequent meetings will discuss any post-Exit policies that have been implemented at either the UK or devolved level, how successful they have been for example, and whether there had been any unexpected impacts. It is expected that the results of these reviews will be fed into the more formal post-implementation review that is required by the Planning (Hazardous Substances) Regulations 2015 at five-year intervals.

**9. Roles and responsibilities of each party to the framework**

*See key principles (box 6).*



## 10. Roles and responsibilities of existing or new bodies

In Great Britain the COMAH competent authority (CA) is made up of the relevant safety body (HSE – or the Office for Nuclear Regulation (ONR) at nuclear establishments), acting jointly with the appropriate environment agency for the locality; i.e. the Environment Agency in England, the Scottish Environment Protection Agency in Scotland and Natural Resources Wales in Wales. In Northern Ireland the CA is HSE NI and the Environment and Heritage Service of the Department of the Environment, acting jointly. The CA determines the nature and severity of the risks to the environment and people in the surrounding area from the hazardous substances in the application and advises the Hazardous Substances Authority on whether they should grant consent. They also have responsibility for advising on any changes to the lists of controlled substances and other policy updates that may impact the hazardous substances regime. In relation to Planning Applications, HSENI is a statutory consultee and provides advice to Planning Authorities in Northern Ireland.

HSE have the lead on the Seveso III Directive in Great Britain, and post-Exit will be taking up several of the functions that currently sit with the European Commission in relation to COMAH, this will include the responsibility for advising on any changes to the lists of controlled substances or other policy updates that may impact the hazardous substances regime. Changes in their policy, e.g. on risk or the way they engage in the planning system ultimately rest with the UK Secretary of State for Work and Pensions. Beyond this proximity to the regime, and as a potential source of advice, neither HSE/HSE NI or the CA have any official role within the structure of this framework.

They will continue in their current role and with their current responsibilities after Exit and have been kept informed throughout the process of developing this framework.

## 11. Monitoring and enforcement

As no legislative arrangements are considered necessary then enforcement measures are not appropriate. In place of formal monitoring measures there will be regular meetings to review the framework (see boxes 8 and 12.) Policy officials acknowledge that there are likely to be ongoing reporting requirements associated with being part of the frameworks work programme and will cooperate with all relevant requests and commissions that come from the centre.

## 12. Review and amendment

We propose having a review meeting between UKG and DAs, arranged by UKG, two years after the day the framework comes into effect. This will be to consider the ongoing application of transposing domestic legislation across the different administrations. The meeting would focus in particular on any issues encountered and allow parties to provide a forward look of any changes that they are considering. The involvement of other

## OFFICIAL SENSITIVE

stakeholders would be considered at the time. This would not rule out an earlier review if required.

If any party to this framework feels an early review is necessary, then a request can be made at official level. It is expected that such requests also be resolved at official level, and that such requests be accommodated unless there is a valid reason for refusal. Timeframes can be discussed on a case-by-case basis, but unnecessary delay should be avoided. If an agreement cannot be reached, then the dispute resolution procedure set out in box 13 will apply.

After an initial review a more permanent arrangement for recurring meetings on this framework will be decided based around a timeframe that is considered appropriate.

### 13. Dispute resolution

The intention under this framework is that there will be a regular group at working level to discuss and work through any issues at an early stage.

It should be noted that there have not previously been disagreements in this area that have warranted engagement between senior officials or portfolio Ministers of the different administrations. There is no particular reason to suppose that EU Exit will make the need for that level of engagement any more likely, however it is appropriate to have a procedure in place in the event it is needed.

The intention is for this process to remain flexible and adaptable to individual situations, and this precludes us from affixing timescales to each stage. However, resolving issues as quickly as possible will be a key priority and escalation will always be seen as a last resort.

This process would be as follows:

*Policy leads.* Where officials become aware of potential issues or areas of disagreement via any means the first step will be to seek to resolve this amongst policy leads without escalation. This will usually be resolved via discussion with equivalents in other administrations to determine the source of the disagreement, to establish whether it is a material concern and to work through possible solutions to the satisfaction of all parties. It is expected that most disagreements would be resolved at this point.

*Director level/Chiefs of planning.* Where disagreements cannot be resolved amongst policy leads the next stage will usually be to escalate the issue to director level. At this stage directors can decide whether it would be appropriate to arrange a meeting with counterparts across administrations. Alternatively, or after such a meeting, directors may determine that the issue cannot be resolved at this stage at which point the involvement of Ministers will be required.

*Portfolio Ministers.* This is expected to be a last resort for only the most serious issues and where all alternatives have been exhausted. In very extreme cases the Secretary of State has step-in powers, already built into Devolution settlements, although we do not envisage these forming any part of the framework.

*HSE/HSE NI.* They may be included at multiple stages of the process, potentially flagging issues, or providing advice on possible solutions.

*Agree to disagree.* It does not always follow that where disagreements emerge these will need to be escalated or a 'solution' need to be established. This framework will not prejudice the right of administrations to 'agree to disagree' in certain circumstances.

## **SECTION 4: PRACTICAL NEXT STEPS AND RELATED ISSUES**

### **14. Implementation**

This framework will take effect once agreed by all parties and approved by Ministers. It is intended that the Concordat be in effect when the transition period ends.

On 3 July 2019 Cabinet Office published a draft of this framework to serve as a pilot alongside a wider update on the progress of the frameworks workstream in general.

Julie James MS  
Minister for Housing and Local Government

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26 October 2020

Dear Julie,

Thank you for your letter, dated 15 October 2020, covering the draft Framework Outline Agreement (FOA) for Hazardous Substances Planning.

The Committee currently has limited capacity to scrutinise the common frameworks, which fall within its remit, that are expected to be published before the end of 2020. While we do not envisage undertaking a substantive piece of work on the provisional FOA for Hazardous Substances Planning, we would welcome a response from you on the following:

Development of the common framework

- 1. Can you explain why you believe a framework is necessary in this policy area?**
- 2. Can you expand on why the UK administrations chose to pursue a non-legislative framework?**
- 3. Can you outline how you have engaged Welsh stakeholders, including industry, Local Planning Authorities and Natural Resources Wales in the development of the framework?**
- 4. Can you outline the key issues raised by Welsh stakeholders and how these been reflected in the framework?**

Interaction with domestic and international law, and international agreements

- 5. Can you clarify whether and how the framework interacts with existing domestic legislation, other than that already listed in Section 1 of the draft FOA?**

6. The UK is signatory to two international agreements relevant to the hazardous substances regime: the Aarhus Convention and the Convention of the Transboundary Effects of Industrial



Accidents. **Can you expand on how the framework will ensure compliance with these Conventions?**

**7. Can you clarify whether and how the outcome of the on-going EU-UK negotiations on the Future Relationship will impact on the framework?**

**8. Can you clarify whether and how the UK Government's Internal Market Bill will impact on the framework?**

Scrutiny process and timelines

**9. Can you confirm that the framework will comprise the provisional FOA, the Concordat and the updated MOU referred to in the draft FOA?**

**10. Can you clarify whether the Concordat and the updated MOU will be available for Senedd scrutiny?**

**11. Can you clarify the timeline for Senedd scrutiny of the provisional FOA and associated documents?**

Monitoring and review arrangements for the framework

According to the draft FOA, there are no formal monitoring measures associated with the framework. Instead, policy leads in each administration will hold six-monthly telephone conferences "to discuss any issues and share learning". In addition, a review meeting between the UK administrations will be held two years after the framework comes into effect.

**12. Can you explain why the UK administrations have chosen not to establish a more formal mechanism for monitoring the implementation of the framework?**

**13. Can you clarify whether a report of the review meeting between the UK administrations will be made publicly available?**

The draft FOA states that the involvement of stakeholders in the review and amendment process for the framework "would be considered at the time".

**14. Can you explain in what circumstances would it not be appropriate to involve stakeholders in the review process for the framework?**

**15. Can you confirm whether and how the Senedd will be able to contribute to the review process for the framework?**

Background to the common framework

**16. Can you outline the 'minimum requirements' of the Seveso III Directive in relation to hazardous substances planning, which are common across the UK?**



According to the draft FOA there is already considerable scope for divergence under the current hazardous substances planning regime. However, there are a number of restrictions on what the UK administrations can amend based on what has been set at EU level. The 'key restrictions' include changing the definition of what an establishment is and lowering standards on what constitutes a dangerous substance.

**17. Can you provide further details on the scope for divergence under the current hazardous substances planning regime?**

The post-EU Exit hazardous substances planning regime

**18. Can you clarify whether any of the current 'key restrictions' will be maintained at a UK-wide level post-EU Exit? How will this be reflected in the framework?**

Under the current hazardous substances planning regime, minimum requirements are common across the UK. This may not necessarily be the case under the post-EU Exit regime, where the UK administrations will have wider scope to use their powers to make changes. These changes could include relaxing requirements on the level of substances that can be held before triggering the consent process, and potentially (in a scenario in which the non-regression principle did not apply), completely removing controls for certain substances.

**19. What consideration has been given to maintaining common minimum requirements, including, for example, minimum standards on what constitutes a hazardous substance?**

**20. What are the potential risks and opportunities associated with not maintaining common minimum requirements and with widening the scope for divergence?**

**21. To what extent are you satisfied that the chosen approach in this policy area, i.e. a non-legislative framework, will not result in a lowering of standards and a reduction in the levels of protection for human health and the environment?**

**22. To what extent does the framework align with the Welsh Government's commitment to non-regression of environmental standards?**

Proposals for future changes to the hazardous substances planning regime

In responding to its Consultation on transposing the land use planning requirements of the Seveso III Directive on the control of major accident hazards (August 2015), the Welsh Government indicated it would "consider reform of the regime at a later date".

**23. Can you clarify whether the Welsh Government has undertaken any work on proposals for the reform of the hazardous substances planning regime since the above consultation?**

**24. Can you clarify whether the Welsh Government has any immediate or future plans to review the hazardous substances planning regime?**



**25. In what circumstances would the Welsh Government consider proposals to reduce controls below the current minimum requirements, for example, on the level of substances that can be held, or in relation to the consent process?**

**26. Can you clarify whether changes to the current minimum requirements would be subject to public consultation and Senedd approval?**

**27. To what extent are you satisfied that there is sufficient technical expertise at a Wales or UK level to replace that currently available at an EU level in this policy area?**

**28. In the absence of new or revised EU requirements in relation to hazardous substances planning applying to the UK, what arrangements will be put in place to review domestic requirements, taking account of developments elsewhere?**

I should be grateful if you could respond as soon as possible, and by 13 November 2020, at the latest.

I am copying this letter to the Chair of the Legislation, Justice and Constitution Committee, and the Chair of External Affairs and Additional Legislation Committee.

Regards,



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

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



**Lesley Griffiths MS**

Minister for Environment, Energy and Rural Affairs

13 October 2020

Dear Lesley,

**UK Emissions Trading Scheme Common Framework**

Thank you for attending our meeting on 8 October to give evidence in connection with the UK Emissions Trading Scheme. Following the meeting, Members agreed that I should write to you to ask for further explanation and/or clarification on the following:

**Carbon Emissions Tax**

1. During your evidence session, you explained that discussions on the UK Government's proposals for a Carbon Emissions Tax were taking place at an official level. Given the significance of a unilateral decision by the UK Government to introduce a Carbon Emissions Tax, what discussions have taken place at a Ministerial level on this matter, and what has been the outcome?
2. Can you clarify whether the UK Government has indicated to you the circumstances in which it would introduce a Carbon Emissions Tax rather than jointly pursue with the devolved administrations a standalone UK ETS?
3. What assessment have you made of the impact of the proposed Carbon Emissions Tax on Welsh installations and on Wales's progress in reaching net zero by 2050? How does this assessment compare with that for a standalone UK ETS?
4. What can you do to ensure that the Welsh Government has a formal role in the design of a Carbon Emissions Tax? How will you seek to ensure that Welsh interests are fully considered, and that Wales receives its fair share of tax revenue?



**Senedd Cymru**

Bae Caerdydd, Caerdydd, CF99 1SN

✉ [SeneddNHAMG@senedd.cymru](mailto:SeneddNHAMG@senedd.cymru)

☎ 0300 200 6565

**Welsh Parliament**

Cardiff Bay, Cardiff, CF99 1SN

✉ [SeneddCCERA@senedd.wales](mailto:SeneddCCERA@senedd.wales)

☎ 0300 200 6565



5. In giving evidence to the Committee, you said that a decision by the UK Government to introduce a Carbon Emissions Tax “goes completely...against the principles of the common frameworks that we've agreed back in 2017”. What are the implications of a failed UK ETS Common Framework for the delivery of the wider Common Frameworks Programme?

### **Auction revenues**

6. Can you outline the arrangements currently in place to ensure that Wales receives its fair share of revenue generated from the UK's participation in the EU ETS?

7. Can you confirm that creating a UK Industrial Decarbonisation Fund remains your preferred approach to recycling revenue generated from a UK ETS? If not, what has led to a change in your position, and what is your new preferred approach?

8. What discussions, if any, have you had with the UK Government about Wales's proportion of auction revenue being returned directly to the Welsh Government to fund its spending priorities?

### **Mitigating carbon leakage**

9. The European Commission is considering introducing a carbon border adjustment mechanism as an alternative to free allocation of allowances to address the risk of carbon leakage. What are your views on this? What consideration, if any, has been given to how such a mechanism could work in the context of a standalone or linked UK ETS?

I should be grateful if you would respond as soon as possible, and by **30 October 2020, at the latest**.

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 5.4



Northern Ireland  
Assembly

**Declan McAleer MLA**  
**Chairperson, Committee for Agriculture, Environment  
and Rural Affairs**

Mike Hedges MS  
Chair, Climate Change, Environment and Rural Affairs Committee  
Welsh Parliament  
Cardiff Bay  
Cardiff  
CF99 1SN

12th October 2020

Dear Mr Hedges

**Common Framework on a UK Emissions Trading Scheme.**

As Chairperson of the NI Assembly Committee for Agriculture, Environment and Rural Affairs I am contacting you in connection with the Common Framework on a UK Emissions Trading Scheme. I am aware that this Common Framework is also being considered by sister Committees in the other legislatures. I therefore, thought it would be useful to share what consideration the AERA Committee has undertaken on this matter to date.

To date we have taken receipt of

- Draft Statutory Instrument & associated documents - The Greenhouse Gas Emissions Trading Scheme Order 2020; and
- UK ETS Common Frameworks summary note ([here](#)); and
- A Research Briefing on Emission Trading Schemes ([here](#))

The Committee took oral evidence from Department of Agriculture, Environment and Rural Affairs (DAERA) on 17<sup>th</sup> September 2020 and felt that it may be useful to share the Hansard of that session with you. ([here](#))

In its consideration of the proposed UK ETS, the AERA Committee noted that the power generators located in this jurisdiction and which account for

some 80% of the Greenhouse Gases regulated under the current EU ETS, will under the terms of the Ireland / Northern Ireland Protocol, remain in the EU ETS. The implications of the Internal Market Bill upon this arrangement and indeed upon the proposed UK ETS remains an area that therefore requires some clarity.

The AERA Committee has indicated that it would welcome any update that you wish to provide it with, on your approach and work on the proposed UK ETS, as well as issues that may be of concern.

Yours Sincerely



Declan McAleer

Chairperson, Committee for Agriculture, Environment and Rural Affairs

Declan McAleer

Chairperson, Committee for Agriculture, Environment and Rural Affairs

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16 October 2020

Dear Mr McAleer,

Thank you for your letter, dated 12 October, outlining your Committee's consideration of the UK Emissions Trading Scheme Common Framework (the Common Framework).

The Senedd's Climate Change, Environment and Rural Affairs Committee is also considering the Common Framework. We have recently held evidence sessions with the UK Committee on Climate Change, the Zero Carbon Commission, and the Minister for Environment, Energy and Rural Affairs (the Minister) to inform our work.

To date, the sessions have focused on:

- the process of the development of the Common Framework and the Welsh Government's role;
- the implications of a linked EU-UK ETS and standalone UK ETS for Welsh installations;
- the design of the UK ETS, and the extent to which it aligns with the Welsh Government's ambition to achieve net zero by 2050; and
- how funding generated from the UK ETS will be used to support Welsh industries to decarbonise, and to mitigate climate change.

Once the provisional Framework Outline Agreement (FOA) becomes available for scrutiny, we intend to take further evidence from the Minister. We anticipate that our report on the Common Framework will be published in early December, depending on the timeline for scrutiny, which has yet to be agreed.

I would like to thank you for drawing our attention to the exclusion of electricity generators in Northern Ireland from the UK ETS under the Northern Ireland/Ireland protocol. This is not something our Committee has considered, to date.

While I would not wish to pre-empt the conclusions of our report, I can say that the Committee is concerned there is a lack of clarity about the circumstances in which the UK Government would seek to introduce a Carbon Emissions Tax as an alternative to a standalone UK ETS. A final decision may be



dependent on the outcome of ongoing EU-UK negotiations, it is nevertheless incumbent on the UK Government to make clear its intentions at the earliest available opportunity.

I very much welcome the opportunity to exchange our Committees' views on the Common Framework and, indeed, on any other matters of mutual interest.

Should you require any further information, please do not hesitate to contact me.

Regards,

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

Mike Hedges

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

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



# Agenda Item 5.5

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/2635/20

Mike Hedges MS  
Chair of Climate Change, Environment and Rural Affairs Committee  
Senedd Cymru  
Cardiff Bay  
Cardiff  
CF99 1SN

[SeneddCCERA@senedd.wales](mailto:SeneddCCERA@senedd.wales)

13 October 2020

Dear Mike

I wish to provide an update to the Climate Change, Environment and Rural Affairs Committee on a number of changes to the common frameworks which fall within my portfolio.

The UK Government published the latest version of their Frameworks Analysis on 24 September 2020. The analysis was first published in 2018 and was updated in 2019. The latest version is available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/919729/Frameworks-Analysis-2020.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/919729/Frameworks-Analysis-2020.pdf)

To inform this publication, the four governments of the UK recently undertook a reclassification exercise to determine:

- whether two or more frameworks should be merged into a single framework;
- whether one framework should be split into two separate frameworks;
- where no framework is required; and
- whether a framework is potentially legislative or non-legislative.

The outputs from the reclassification exercise relating to frameworks in my portfolio are detailed below.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

[Gohebiaeth.Lesley.Griffiths@llyw.cymru](mailto:Gohebiaeth.Lesley.Griffiths@llyw.cymru)  
[Correspondence.Lesley.Griffiths@gov.wales](mailto:Correspondence.Lesley.Griffiths@gov.wales)

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.

### Merged frameworks

A number of frameworks were listed as separate areas in the original 2018 analysis but subsequent policy discussions have indicated they should be developed together due to all having a common theme. These are:

Previous framework classification	New merged framework classification
Animal health and traceability	Animal health and welfare
Animal welfare	
Chemicals	Chemicals and pesticides
Chemicals regulation (including pesticides)	
Pesticides	

### Split frameworks

For this category, developing separate frameworks is considered to be administratively more efficient and convenient and has no significant policy or delivery implications. The separate policy areas will remain within scope of the Common Frameworks Programme. However, because they involve different issues, and different or largely different structures and processes, they can be dealt with more efficiently as discrete areas. These are:

Previous framework classification	New split framework classification
Plant health, seeds and propagating material	Plant health
	Plant varieties and seeds
Air quality	Air quality
	Best available techniques

### No framework required

As part of policy discussions during the development of individual frameworks, there are some areas where the four governments have agreed no framework is required. This was either if the existing arrangements between the four governments are viewed as being sufficient or no framework is needed. These frameworks are:

Framework area	UK Government Department
Natural Environment – Biodiversity	Defra
Biodiversity – Access and Benefit Sharing of Generic Resources	Defra
Spatial Data – Infrastructure Standards	Defra
Marine Environment	Defra
Energy Efficiency	BEIS
Strategic Environment Assessment	MHCLG

One further area, namely agriculture – GMO marketing and cultivation, has also been agreed as no framework required, however, it was not included in the UK Government's revised analysis.

## Legislative or non-legislative frameworks

The original analysis listed potential frameworks based on whether they were expected to be underpinned by legislation or were likely to be established through non-legislative means.

Welsh Government and counterparts in Defra, Scottish Government and the Northern Ireland Executive are continuing to work through the practical legislative implications of the Northern Ireland Protocol and the link to trade, as well as the potential impact of the UK Government's Internal Market. This includes the impact on the legislative / non-legislative classification of frameworks. It has therefore been agreed for the purposes of the revised analysis, no changes were made at this stage to the legislative/ non-legislative categories of EFRA-related areas. However, they continue to be kept under review.

## Next steps / forward look

Following the reclassification exercise the following 14 frameworks in my portfolio will be taken forward:

- Animal health and welfare
- Chemicals and pesticides
- Fisheries management and support
- Plant health
- Plant varieties and seeds
- Agricultural support
- Fertiliser regulations
- Organic farming
- Zootech
- Ozone depleting substances and F-gases
- Air quality
- Best Available Techniques
- Emission Trading Scheme
- Radioactive substances

There is one further, related framework on waste management. This falls within the responsibility of Hannah Blythyn MS, Deputy Minister for Local Government and Housing, but is led by officials in the Environment and Rural Affairs department. It is also considered by the Inter-Ministerial Group-EFRA on which I represent Welsh Government.

The above frameworks will continue to be developed in line with the revised delivery plan. Jeremy Miles MS, Counsel General and Minister for European Transition wrote to the Chair of the External Affairs and Additional Legislation Committee of 2 July 2020 to provide further detail on the frameworks programme. The letter outlined the aim for all frameworks to have achieved at least a Framework Outline Agreement by the end of 2020 which has received provisional confirmation from Ministers and is operable in draft form.



This would include at a minimum: a delivery timeline, clear governance across the relevant governments (including how divergence might be managed), a dispute avoidance and resolution mechanism, and a Statement of Purpose to confirm our shared commitment to bring this to early resolution. This will ensure the minimum level of operability, whilst recognising frameworks still have to undertake the full scrutiny phase by legislatures.

I hope this update is useful to the 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  
Welsh Government

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12 October 2020

Dear Lesley,

### **Draft Budget scrutiny 2021-22**

The Climate Change, Environment and Rural Affairs Committee has started its preparations for scrutiny of the Welsh Government's draft Budget for 2021-22.

We appreciate that the timetable for the draft budget is yet to be finalised. However, we thought it would be helpful to inform you that we will invite you in due course to attend a scrutiny session on the draft budget. I hope we can agree a date for your attendance once the timetable has been finalised.

To assist the Committee in our preparations, I would be grateful if you would provide information in relation to the matters set out in this letter. Of course, you should not feel limited by our request and are welcome to address any other issues you believe will assist the Committee in its work.

I would be grateful if you could provide the following information in advance of the scrutiny session. I have asked the Clerking team to liaise with your officials about an exact deadline.

### **Programme for Government / Prosperity for All**

- An explanation of how the budget allocations within your portfolio align to Programme for Government and Prosperity for All commitments and priorities.



**Senedd Cymru**  
Bae Caerdydd, Caerdydd, CF99 1SN

✉ SeneddNHAMG@senedd.cymru

☎ 0300 200 6565

**Welsh Parliament**  
Cardiff Bay, Cardiff, CF99 1SN

✉ SeneddCCERA@senedd.wales

☎ 0300 200 6565

- An explanation of how the introduction of a higher statutory emissions reduction target, due in early 2021, has influenced budget allocations.
- Examples of budget allocations that will contribute to decarbonisation.
- For an update on work to align the fiscal and carbon budgets.
- An explanation of how the Welsh Government is responding to its declaration of a “Climate Emergency” and how that has influenced budget allocations.
- An explanation of how the setting of biodiversity as the eighth Prosperity for All priority has influenced this year’s budget setting process.
- Examples of budget allocations that will contribute to reversing the decline in biodiversity.

### **Preventative Spend**

- Details of the proportion of portfolio budget allocated to preventative spending measures and how this has increased compared to last year’s budget.
- Details of which specific policies or programmes in the portfolio are intended to be preventative.

### **Evidence-based policy making**

- An explanation of how you have used evidence in prioritising your draft budget allocations and how you will monitor and evaluate programmes to ensure they provide value for money and inform future budget setting processes.
- Details of how the development of the draft budget has been informed and influenced as a result of consultation with stakeholders.

### **Well-being of Future Generations Act**

- Examples of how the Act has informed decisions on specific budget allocations.
- Details of how the impact assessment process has influenced the development of the draft budget, including examples of where a decision has been assessed against the Welsh Government’s well-being objectives.

### **Equality, Welsh language and children’s rights assessment**

- Details of how you have considered the impact of the draft budget on groups with protected characteristics and the Welsh language, including details of any relevant impact assessments.
- Details of how children’s rights have been considered in the budget decisions for the portfolio.



## **Covid-19 Reconstruction: Challenges and Priorities**

An explanation of how the budget allocations within your portfolio align with the key priorities for reconstruction in light of the Covid-19 pandemic.

## **Withdrawal from the European Union**

I would be grateful if you could provide information about budget allocations in the following policy areas, and the purposes for which they have been allocated:

- The development of the new land management programme for Wales;
- Future fisheries policy;
- A potential new environmental governance body and related transitional arrangements;
- Sufficient staffing resource for the development of policies and legislation associated with Brexit; and
- Any other matter of significance in relation to Brexit.

Please could you also provide an update on discussions with the UK Government about replacement EU funding, including for agriculture support.

## **Legislation**

I would be grateful if you could provide information about the budget allocations for the implementation of existing and planned primary legislation; the implementation of planned and existing subordinate legislation; and for the implementation of UK legislation such as the Agriculture Bill, Fisheries Bill and Environment Bill.

## **Natural Resources Wales (NRW)**

Details of budget allocations for NRW, including explanations of any changes.

## **Additional areas of Committee interest**

The Committee would also be grateful if you could provide details of how allocations in the draft budget will address the following matters:

- Air quality, including the take up of the Air Quality fund and the implementation of the Clean Air Plan;
- Delivery of the Welsh Government's priority actions for 2021-2023 set out in its proposed Tackling Fuel Poverty 2020–2035: A plan to support people struggling to meet the cost of their domestic energy needs;



- Implementation of the recommendations of the “Better Homes, Better Wales, Better World” report;
- Implementation of the Welsh Government’s forthcoming Strategic Plan for the Food & Drink Industry in Wales;
- Bovine TB Eradication Programme (including Delivery Plan, testing and compensation);
- Implementation of the Woodlands for Wales Strategy;
- Nitrate Vulnerable Zone management;
- Implementation of the National Strategy for Flood and Coastal Erosion Risk Management, including the take up of the Coastal Risk Management Programme;
- Implementation of the Environmental Growth Plan;
- The proposed licensing regime for Animal Exhibits; and
- Banning third party sales of puppies and kittens.
- Initiatives to reduce plastic pollution, including a deposit return scheme, and the development of an extended producer responsibility (EPR) scheme.

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.



Elin Jones MS

Y Llywydd and Chair of the Business Committee

22 October 2020

Dear Elin

## **Scrutiny of Covid-19 regulations**

Thank you for your letter of 8 October 2020, which we considered at our meetings on 12 and 19 October 2020.

Your letter sought to ascertain whether it would be appropriate for “the Welsh Government to flag new Regulations where the underlying principle had already been scrutinised, to enable a decision to be taken by the Business Committee about the level of further scrutiny which might be required before the debate.” As a consequence, you asked for our views on whether there was a possibility of enabling certain Covid-related Regulations to be prioritised for debate in such circumstances.

We do not believe the option suggested by the Business Committee to be appropriate for several reasons. In our view, approval for any form of legislation should not be on an ‘in principle’ basis. We do not therefore see ourselves having a role in endorsing (or rejecting) any assessment by the Welsh Government that a particular set of regulations were in principle the same as a previous set. Moreover, the value of such an assessment would in our view be questionable, given that while a new set of regulations may follow a similar policy objective, they could still be subject to reporting points under Standing Orders 21.2 or 21.3.

We believe our scrutiny of all Covid-19 regulations has been efficient and timely. We have reported on most regulations subject to the made affirmative procedure within 14 days of the instrument having been laid. In the majority of cases, this has enabled the Senedd to vote on whether the regulations should remain in force well before the 28 days permitted by the *Public Health (Control of Disease) Act 1984* and the 40 days permitted by the *Coronavirus Act 2020* (which the Senedd consented to in March this year). We



**Senedd Cymru**

Bae Caerdydd, Caerdydd, CF99 1SN



SeneddDCC@senedd.cymru



0300 200 6565

**Pack Page 98**

**Welsh Parliament**

Cardiff Bay, Cardiff, CF99 1SN



SeneddLJC@senedd.wales



0300 200 6565

would also wish to highlight that the majority of made affirmative regulations have been laid on a Friday; this coupled with our Monday morning meeting slot means that there has inevitably been a week's gap between laying and committee scrutiny, irrespective of the work needed to prepare reports for committee consideration. We also draw attention to the comments of the Minister for Health and Social Services, Vaughan Gething MS, in Plenary on [6 October 2020](#), which we welcome:

“I also welcome the fact that the committee has, from time to time, helped us with consistency in legislative provisions. That's part of the point of the scrutiny. We're making these regulations in a rapid manner because of the fast-changing picture with coronavirus, and I think there's value in having the committee undertaking its scrutiny function before the legislature is then able to exercise its function in determining whether these regulations can continue or not.”

Nevertheless, we have considered a range of options to facilitate an even quicker scrutiny process. We discussed whether meeting more than once a week would facilitate the scrutiny of regulations laid by the Welsh Government at different points during the previous working week. Given the Welsh Government's practice of laying the majority of made affirmative regulations on a Friday, we also considered whether it would be feasible to move our Committee's regular meeting slot to a Wednesday morning, in order to consider regulations made on the previous Friday and to lay a report in time for a debate that afternoon. We also discussed whether we could give a formal commitment to report on made affirmative regulations within a 14-day deadline.

However, we concluded that such approaches are very likely to give rise to significant timetabling issues for the Welsh Government and Senedd Members. Furthermore, given the complexity of this legislation, any formalisation of our existing arrangements for the scrutiny of Covid-related legislation needs to be considered alongside the backdrop of an increasing volume of legislation to deal with the UK's exit from the EU, not least because such formalisation could potentially require additional resource or different working patterns. This latter point is particularly relevant given that our remit means that our work programme is currently heavily constrained by the necessary and important scrutiny of subordinate legislation related to EU exit and legislative consent memoranda for UK EU exit related Bills, including the constitutionally significant UK Internal Market Bill.

We recognise that matters related to the pandemic have been prioritised in government time during plenary sessions. We also considered whether the Welsh Government could consider using the draft affirmative procedure if at all possible when making Covid-related legislation under section 45C of the 1984 Act. Although we appreciate that this may not be feasible, we would encourage the Welsh Government to consider whether opportunities do exist for its use.



We will continue to do whatever we can to ensure the scrutiny of Covid-related regulations is conducted in a timely manner. However, we do not believe that our scrutiny function should be compromised in any circumstances.

I am copying this letter to the Chairs of all committees.

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 AM**

Chair

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





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

12 October 2020

Dear Lesley

**Agriculture (Model Clauses for Fixed Equipment) (Wales) Regulations 2019**

At the Committee's meeting of 1 October 2020, Members discussed correspondence between the Tenant Farmers Association (TFA) and yourself in relation to the Agriculture (Model Clauses for Fixed Equipment) (Wales) Regulations 2019 and agreed I should write to you for further explanation on this matter.

We are concerned that during the course of exchanges the TFA was provided conflicting information regarding your intention to include the repair and replacement of field drainage and flood banks when amending the 'model clauses'. I would be grateful if you could clarify the following points:

1. Following the outcome of your consultation on Agricultural Tenancies in Wales, was it your intention to add the repair and replacement of field drainage and flood banks as new liabilities when amending the regulations? If so, how and why were they omitted?
2. If it was not your intention to add them, can you clarify whether this was a change in policy position, or for some other reason, and why was the TFA initially advised that plans were in place to make the necessary revisions to the regulations?
3. Given the TFA'S ongoing concerns on this matter, do you have any plans to revisit this issue ?



I would welcome a response by 9 November 2020.

I am copying this letter to George Dunn, Chief Executive, Tenant Farmers Association.

Yours sincerely

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style with a large initial 'M'.

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.



Mike Hedges MS  
Chair, Climate Change, Environment and Rural Affairs Committee  
Welsh Parliament  
Ty Hywel  
Cardiff Bay  
CF99 1SN

28 October 2020

Dear Mike

**Petition P-05-825 Protect children's lungs from harmful pollution whilst at school**

The Petitions Committee considered the above petition most recently at our meeting on 13 October, alongside further comments from the petitioner.

At that meeting, the Committee agreed to close the petition, and in doing so write to you to share the petitioners' detailed comments to inform your current [Inquiry into air quality](#).

Further information about the petition, including related correspondence, is available on our website at:  
<https://business.senedd.wales/mgIssueHistoryHome.aspx?IId=22262>.

If you have any queries, please contact the Committee clerking team at the e-mail address above, or on 0300 200 6454.

Yours sincerely



Janet Finch-Saunders AS/MS  
Cadeirydd/Chair

Enc: Correspondence from the petitioners dated 06.10.2020





Deputy Clerk  
Petitions Committee  
Senedd Cymru  
Cardiff  
CF99 1NA

06 October 2020

Dear Sirs,

1. We write in reply to the request submitted by the committee for further comments and thoughts on the Clean Air Plan for Wales concerning the petition 'Protecting Children's Lungs from Harmful Pollution whilst at School'.
2. First, we would like to thank the committee for further opportunity to elaborate on our concerns that we initially raised on 21 January 2020. In our response, we will refer to matters raised in our previous correspondence to the committee, dated 15.01.20.<sup>i</sup>
3. Secondly, having been involved in the development of this plan, we are incredibly proud of what it has become. This ambitious proposal offers the opportunity to transform our country and create a greener, healthier Wales.
4. The proposed plan commits to several asks raised by the British Lung Foundation (Now Asthma UK and British Lung Foundation (AUK-BLF)) through the Healthy Air Cymru Group and seeks to enshrine them in a new Clean Air Act, we welcome:
  - a. Enshrining in law new WHO air quality guidelines,
  - b. Reviewing and updating legislative instruments to review air quality strategies every five years,
  - c. Increasing local monitoring by providing statutory duty on local authorities to assess air pollution
  - d. Introducing a White Paper on a new Clean Air Act for Wales.
5. Thirdly, it is quite clear that COVID-19 has had an impact on everyone, as the only lung charity looking after the nation's lungs we note the impact to our beneficiaries, families and communities across the country. Therefore, we cannot respond without taking into account the effect that COVID-19 has had on our environment, air quality and health.
6. The cost of such changes is deadly, and when submitting evidence, we do so with remorse at the human toll to record such a reduction.
7. However, pollution levels collated by the University of Swansea have noted the significant drop in NO<sub>2</sub> concentrations across Wales.<sup>ii</sup> The reduction is significantly lower, where roadside emissions are the main contributory factor. The effects of which have been felt by our beneficiaries with lung conditions and will benefit everyone's lung health, especially children's developing lungs.

### Funding at a Local Authority Level

8. In our previous correspondence, we welcomed the reforms to powers at local authority (LA) level such as the proposed reform to smoke control zones and domestic burning, legislation which is long overdue for reform. However, we had concerns about the financial implications for councils to implement such new frameworks to tackle air pollution.
9. Although there is no direct mentioning of funding to be made available in the Clean Air Plan, there are increased references in the plan to increase resources for local authorities. However, there are still some concerns about a lack of direct promises for further funding for future clean air improvements. Recent actions by the Welsh Government has gone some way to alleviate those concerns many are referenced in the Clean Air Plan:
  - a. £1m of capital funding which has been made available to accelerate the deployment of Ultra Low Emission (ULE) refuse collection vehicles in the Welsh public sector.<sup>iii</sup>
  - b. £69 million to develop walking and cycling routes, facilities and improvements to existing infrastructure.<sup>iv</sup>
  - c. Recent £15.4 million to LAs to introduce measures to improve the safety and conditions for sustainable active travel modes in response to the COVID-19 crisis.<sup>v</sup>
  - d. Promise to work across Government and external partners to develop and align behaviour change programmes to promote active travel.<sup>vi</sup>

- e. Increased budget by 50% for the Active Journeys programme, which promotes walking, cycling and scooting to school to reduce air pollution at the school gates.<sup>vii</sup>
  - f. £25 million for Cardiff and Caerphilly councils to comply with Legal compliance NO2 limits.<sup>viii</sup>
10. We stress that there needs to be continued investment in our local communities to improve air pollution and reduce the health impacts on our future generations. Further, in authorities where the £15.4 Million of funding was granted, we call for a detailed analysis of the monitoring measures undertaken of areas of known air quality issues. Such an analysis is vital to highlight the positive health, economic and environmental impacts of such interventions so that future local authorities can suggest such means to be implemented when they update their air quality management plans.
  11. Further, we note the impact that working from home has had on the reduction of air pollution. As mentioned earlier concentrations of NO<sub>2</sub> in Wales has fallen during the pandemic.
  12. This is directly linked to the reduction of human activity as we were all asked to stay home and then to stay local.
  13. One of the significant impacts is the increase in people working from home. Research conducted towards the end of the first wave of the pandemic noted that close to half of all working adults (41%) had travelled to work between the 11th - 14th, June 2020.<sup>ix</sup> This is compared to the recent release (October 1st 2020) of 59% (a fall from 64% from the previous week).<sup>x</sup> The same release highlights that a third of the working force is currently working from home.
  14. Common sense alone can make the link that if we continue to improve resources and access to support for our workforce to work from home, then the commute to work will continue to remain low and could fall further. Such a reduction in the commute to work will, in turn, reduce traffic during hours when children are either walking, cycling, scooting or been driven to school. Meaning that in the short term, whilst combustion vehicles are still driven and active travel provisions are being improved, if we continue to work from home more, school children will be exposed to less air pollution.

## Exclusion Zones

15. As highlighted above, we welcome the increased funding and promotion of walking and cycling to school through the Active Journeys Programme, which is in collaboration with over 400 schools across Wales. However, there is still no direct comments in the plan around School Exclusion Zones.
16. The plan does highlight welcomed planned changes to strengthen car idling laws which pollute our streets unnecessarily as the car remains idle. Such idling concerns the charity and members of HAC, as such idling is seen at the school gates, increasing the levels of air pollution that children breathe. However, there is no direct mention of school exclusion zones.
17. To remind members of the committee, a school exclusion zone is a zone around a school where parents are encouraged not to drive their car to school and promote active travel instead. Such a measure could be applied alongside a 'park and stride' model (Living Streets toolkit here<sup>xi</sup>) where parents are recommended to park at another location and walk with their children or a group of children in the supervision of an adult instead of driving to the school gates.
18. We further highlighted in our previous response that children growing up around severe air pollution are five times more likely to have poor lung development. High levels of air pollution from vehicles has been linked to worsening of symptoms of conditions such as asthma, which is common in children.
19. Sustrans, in partnership with 'playing out', is working with local authorities and schools in implementing exclusion zones around schools in Wales. The plan could incorporate such a method to reduce air pollution around schools and legislate to strengthen such initiatives.
20. We would like to see school exclusion zones to be a tool available to local authorities across Wales. There are areas where it is harder to implement due to a school's proximity to the main road; however, if the plan seeks to strengthen anti-idling laws, then school exclusion zones should be part of that reform and sought to implemented where practical.

## WHO Guidelines

21. In our previous correspondence to the committee, we highlighted our concern that there is no direct commitment in the draft clean air plan to legislate WHO (World Health Organisation) air quality guidance.
22. In the current plan, it states that the Welsh Government plan is to improve air quality by: 'New evidence-based, health-focused targets for fine particulate matter (which take account of stringent WHO guidelines values) and improving national air pollution monitoring and modelling capabilities.'<sup>xii</sup>
23. Although we are concerned that there isn't a direct promise of the new Clean Air Act to legislate for WHO limits, there are, however, optimistic promises for '... concentrations across Wales to below the WHO guideline for PM2.5 where it is possible, and lower still where there is sufficient potential, and there is high public exposure or risk to sensitive receptor groups.'<sup>xiii</sup>
24. The plan highlights that the future targets for PM2.5 are underpinned by the right evidence and metrics to achieve the most significant improvement to air quality. This target is based on the current lack of understanding and analysis of measures to

achieve WHO guidance everywhere in Wales. The plan highlights that a Clean Air Advisory Panel has been established to provide independent, evidence-based advice and air quality matters in Wales.

25. We welcome the plan's commitment to reduce levels of air pollution to the lowest levels possible, as there are no 'healthy' levels of air pollution. However, we believe that the new Clean Air Act for Wales should at least set an ambition for WHO guidelines to become Wales' legal air quality limits. We understand that further research and advice may need to be taken; however, the Welsh Government should ask of the panel of when Wales could achieve such a target and legislate a timetable for implementation.

### The Clean Air White Paper

26. In our previous response, we expressed concerns about the lack of detail in the draft Clean Air Plan of the detail of the White Paper for a new Clean Air Act for Wales.
27. We further stressed that a Bill should be debated in this Senedd term. However, our call was made before the start of the COVID-19 pandemic, and we understand that the Senedd's time has been allocated to focus on the crisis.
28. We, therefore, welcome the plan's commitment for a White Paper to be introduced at the end of this Senedd term.
29. In our previous response, the draft Clean Air Plan didn't grant much detail as to the contents of the White Paper for a Clean Air Act for Wales. Some of our concerns have been alleviated as the plan sets out:
- a. Consultation on LAQM legislative intent in a White Paper by the end of this Senedd term.<sup>xiv</sup>
  - b. The Welsh Government will publish and seek to consult on a White Paper on a Clean Air Act for Wales before the end of this Senedd Term.<sup>xv</sup>
  - c. The plan highlights further examination of the evidence base for strengthening anti-idling measures and will set out proposals during 2020, in the Clean Air Act White Paper.<sup>xvi</sup>
  - d. The Welsh Government will publish and consult on a White Paper on a Clean Air Act for Wales before the end of this Senedd Term.<sup>xvii</sup>
30. However, concerning there is no further detail as to the contents of the Clean Air White Paper. Because of the nature of the proposed instrument used to introduce the new Act, there will also be no clear funding plans to accompany the aims and ambitions of this plan and no need to provide further detail than what is already stated in the Clean Air Plan.
31. We would call for the Clean Air Plan for Wales to be introduced by the Environment, Energy and Rural Affairs Minister in the Senedd to allow Members of the Senedd the proper chance to scrutiny the planned proposals and highlight their concerns for the plan. Such a statement and questions after that might unveil possible future content of the White Paper and place positive pressure on the Welsh Government to deliver this White Paper by the end of this Senedd term.

**Warm Regards,**



Joseph Carter  
Head of Devolved Nations  
Asthma UK & British Lung Foundation Wales.

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- <sup>i</sup> Correspondence 15.01.20 for item 3, meeting 21/01/20.  
<https://business.senedd.wales/documents/s97590/15.01.20%20Correspondence%20-%20Petitioner%20to%20Committee.pdf> Accessed 5<sup>th</sup> of October 2020.
- <sup>ii</sup> Swansea University Trend Analysis of Air Pollution in Wales. Link to data can be found here:  
[https://chemri.shinyapps.io/Air\\_pollution\\_change\\_in\\_Wales\\_2020/](https://chemri.shinyapps.io/Air_pollution_change_in_Wales_2020/)
- <sup>iii</sup> Clean Air Plan for Wales, <https://gov.wales/sites/default/files/publications/2020-08/clean-air-plan-for-wales-healthy-air-healthy-wales.pdf> Page 54.
- <sup>iv</sup> Clean Air Plan for Wales, <https://gov.wales/sites/default/files/publications/2020-08/clean-air-plan-for-wales-healthy-air-healthy-wales.pdf> Page 61.
- <sup>v</sup> Clean Air Plan for Wales, <https://gov.wales/sites/default/files/publications/2020-08/clean-air-plan-for-wales-healthy-air-healthy-wales.pdf> Page 62.
- <sup>vi</sup> Clean Air Plan for Wales, <https://gov.wales/sites/default/files/publications/2020-08/clean-air-plan-for-wales-healthy-air-healthy-wales.pdf> Page 62.
- <sup>vii</sup> Clean Air Plan for Wales, <https://gov.wales/sites/default/files/publications/2020-08/clean-air-plan-for-wales-healthy-air-healthy-wales.pdf> Page 62.
- <sup>viii</sup> Clean Air Plan for Wales, <https://gov.wales/sites/default/files/publications/2020-08/clean-air-plan-for-wales-healthy-air-healthy-wales.pdf> Page 66.
- <sup>ix</sup> Coronavirus and the latest indicators for the UK economy and society: 18 June 2020, ONS. Link to data can be found here:  
<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/bulletins/coronavirustheukconomyandsocietyfasterindicators/18june2020>.
- <sup>x</sup> Coronavirus and the latest indicators for the UK economy and society: 18 June 2020, ONS. Link to data can be found here:  
<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/bulletins/coronavirustheukconomyandsocietyfasterindicators/1october2020#social-impacts-of-the-coronavirus-on-great-britain>.
- <sup>xi</sup> Living Streets, Park and Stride Toolkit, <https://www.livingstreets.org.uk/media/2035/park-and-stride-print.pdf>.
- <sup>xii</sup> Clean Air Plan for Wales, <https://gov.wales/sites/default/files/publications/2020-08/clean-air-plan-for-wales-healthy-air-healthy-wales.pdf> Page 6.
- <sup>xiii</sup> Clean Air Plan for Wales, <https://gov.wales/sites/default/files/publications/2020-08/clean-air-plan-for-wales-healthy-air-healthy-wales.pdf> Page 27.
- <sup>xiv</sup> Clean Air Plan for Wales, <https://gov.wales/sites/default/files/publications/2020-08/clean-air-plan-for-wales-healthy-air-healthy-wales.pdf> Page 33.
- <sup>xv</sup> Clean Air Plan for Wales, <https://gov.wales/sites/default/files/publications/2020-08/clean-air-plan-for-wales-healthy-air-healthy-wales.pdf> Page 39.
- <sup>xvi</sup> Clean Air Plan for Wales, <https://gov.wales/sites/default/files/publications/2020-08/clean-air-plan-for-wales-healthy-air-healthy-wales.pdf> Page 65.
- <sup>xvii</sup> Clean Air Plan for Wales, <https://gov.wales/sites/default/files/publications/2020-08/clean-air-plan-for-wales-healthy-air-healthy-wales.pdf> Page 73.