

Lesley Griffiths AM  
Minister for Environment, Energy and Rural Affairs

28 February 2019

Dear Lesley

### **Environmental governance and principles**

Thank you for your letter, dated 7 February, in relation to the UK Government's draft Environment (Principles and Governance) Bill and the Welsh Government's proposals for environmental governance following the UK's exit from the European Union (EU).

The Committee considered your letter at its meeting on 21 February and agreed I should write to you to follow up on a number of issues.

Firstly, we are disappointed by the delay in responding to the Committee's request for information and that the response that was received failed to answer several questions asked by the Committee. This is the second occasion we have felt it necessary to write again to ask you to fully address the issues raised in earlier correspondence. We fully acknowledge the workload pressures on your department arising from Brexit. Follow up letters and the work they generate can be avoided if the initial response is comprehensive.

We would like you to address a number of questions that remain outstanding from our initial letter, and for you to expand on your response to others.

### **Analysis of the environmental governance gap in Wales**

In responding to our June 2018 report, *Environmental governance arrangements and environmental principles post-Brexit*, you advised that you were undertaking analysis of the environmental governance gaps as they relate to Wales.



**1. Can you clarify whether this analysis has been completed? If so when will the findings be made available?**

#### **Contingency plans for a no deal Brexit**

In our letter of 10 January, we asked you to clarify what environmental governance arrangements would be in place in the event of a no deal Brexit. You told us that “existing accountability bodies, such as the Public Services Ombudsman, will continue to receive citizens’ complaints and our Future Generations Commissioner will continue to act as the guardian of sustainable development.”

As you have previously pointed out, bodies such as these have been established with a specific role, purpose and constitutional structure. The bodies to which you refer do not:

- have powers to investigate complaints about compliance with environmental law;
- have powers of enforcement where complaints about compliance with environmental law are upheld; or
- have a role in monitoring, measuring and reporting on the Welsh Government’s performance on environmental policy and delivery in Wales.

Given this, and in view of the current functions of the bodies you refer to, we question whether it would be appropriate or reasonable to rely on them to fill any environmental governance gaps, even on an interim basis.

**2. Please explain in more detail how you envisage existing bodies will maintain effective environmental governance, in the event of a no deal Brexit.**

**3. How do the functions of these bodies align with the environmental governance functions currently exercised at an EU level?**

**4. What discussions have you had with existing bodies, including the Public Services Ombudsman for Wales and the Future Generations Commissioner, about their role in maintaining effective environmental governance, in the event of a no deal Brexit? In particular, whether they have sufficient capacity, expertise and resources to undertake any additional work associated with this.**

**A new environmental governance body**



We are disappointed that the consultation on environmental principles and governance has been the subject of considerable delay. We presume that the responses to this consultation will inform your decisions on a range of pressing issues, including a new governance body.

You have made clear that the UK Government's proposed Office for Environmental Protection ('OEP') for England is not workable for Wales, or compatible with the devolution settlement or existing Welsh legislation. Notwithstanding this, you told us that you "remain ready to work collaboratively on potential UK-wide approaches" and "continue to proactively engage with the UK Government".

**5. What changes would need to be made to the provisions in relation to the OEP in order for it to be workable for Wales, and what discussions have you had with the UK Government in this regard?**

**6. Can you clarify whether there will be sufficient time available, following the outcome of your forthcoming consultation, to co-design with the UK Government any relevant legislative proposals, including those for the OEP?**

**7. What opportunity will there be for Assembly scrutiny of any such legislative proposals?**

#### **A future Welsh Bill**

In our June 2018 report, *Environmental governance arrangements and environmental principles post-Brexit*, we highlighted the need for greater clarity on how and when the Welsh Government would legislate to address any governance gap arising from Brexit. We are disappointed that, almost nine months on, this clarity has yet to be provided.

While the implementation period would provide the Welsh Government with some time to develop alternative environmental governance arrangements, there would be limited time within which to pass, and subsequently implement legislation, before that period ends in December 2020. Furthermore, we are aware that you have already committed to introducing two other Brexit-related Bills, with the intention of them being passed before the end of the Fifth Assembly.

**8. Can you clarify whether there is sufficient flexibility within the legislative programme to introduce a Welsh Bill on environmental principles and governance in this Assembly?**

Given that exit day is now imminent, I should be grateful if you would respond as a matter of urgency, and by 14 March at the latest.



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 AM**

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

