



Paul Davies MS
Chair
Economy, Trade and Rural Affairs Committee

Paul.Davies@senedd.wales

24 October 2022

Dear Paul,

Thank you for the opportunity to discuss the Agriculture (Wales) Bill at the Committee session on 5 October. During the meeting, Sarah Murphy MS asked a number of questions regarding (1) whether the collection of data provisions in the Bill are in line with the UK General Data Protection Regulation ("UK GDPR"), (2) whether data collected under the Bill could be sold to third parties, (3) whether farmers would have to consent to the provision of data, and (4) how the Bill would be affected by the possible abolition of the UK GDPR. I agreed to write to the Committee on the selling of data to third parties and I thought it may be helpful to expand further on these points more generally.

I can confirm the Bill's data collection provisions are compliant with the UK GDPR and overarching data protection legislation.

In relation to the second question, there is no provision within the Bill which specifically prevents the sale of collected information to third parties. However, it is not the policy nor wider intent of the Welsh Government to sell data onto third parties. The Bill's data sharing provisions are very detailed and include several limitations and safeguards relating to the purposes for which data can be collected and how the data is to be processed. For example, data can only be collected in furtherance of one or more of a specific and limited list of purposes which are set out in the Bill, such as helping to increase productivity, promoting transparency or fairness in agri-food supply chains or monitoring supply sources for food.

In relation to safeguards, the Bill requires the Welsh Ministers to have published their proposed draft requirements for at least four weeks, for comment, prior to information requirements being introduced. These requirements must set out the purposes for which the information will be processed and the processing of the information cannot breach the set requirements. Furthermore, any regulations under the Bill made by the Welsh Ministers introducing obligations to provide information can only be made using the affirmative Senedd procedure, which provides significant scrutiny powers to Senedd members in relation to the information being collected.

There are further safeguards in place. As per our statutory obligation to consult with the Information Commissioners Office (ICO), as the UK Regulator (Article 36(4)) when drafting legislation which impacts upon the processing of personal data, officials have consulted with the ICO on the data provisions within the Bill. This is an ongoing engagement on all aspects of data collection and data protection regarding the Bill. The ICO ensures the provisions are compliant with the data protection principles enshrined in the UK GDPR and the Data Protection Act 2018. Consequently, the Welsh Government cannot put in place legislation which overrides these principles and which does not respect UK GDPR. This statutory consultation process with the ICO provides an additional level of safeguarding.

In relation to consent to the provision of information, where data is collected from farmers on a voluntary basis, for example by the Annual Farm Business Survey, their consent is required to the processing of the data. The Bill also contains statutory mechanisms which can require specific types of data to be provided by farmers for limited and particular purposes, and whilst farmers' consent will not be required where these mechanisms are used, farmers will be able to influence those requirements by making representations either themselves, via stakeholder representatives or Senedd members about the nature, effect and practical impact of the proposed requirements. Finally, farmers will be provided with clear privacy information about how their data will be used by Welsh Government and any partners.

Regarding the point raised by Sarah Murphy MS in relation to the UK GDPR and the possibility this may be removed by the UK Government, I can confirm Welsh Government officials have been working with UK Government officials on the draft Data Protection and Digital Information (DPDI) Bill. I am aware of recent comments made by the Secretary of State for Digital, Culture, Media and Sport, however, at this stage we have no further information from the UK Government on what this may mean for the draft DPDI Bill. Consequently, officials continue to work on the basis the UK GDPR and other existing overarching data protection legislation remains in force until such time as it is amended or replaced by the UK Government. Any changes to the UK GDPR will have wide ranging consequences, and any proposed replacement of the UK GDPR will need to be carefully considered once the detail is known.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive, flowing style.

Lesley Griffiths AS/MS
Y Gweinidog Materion Gwledig a Gogledd Cymru, a'r Trefnydd
Minister for Rural Affairs and North Wales, and Trefnydd