

# Economy, Transport and Rural Affairs Committee

## The Food (Wales) Bill

### A paper from the Minister for Rural Affairs, Trefnydd and North Wales

#### Summary

1. The Welsh Government opposes the [Food \(Wales\) Bill](#) ('the Bill') on the grounds it is unnecessary, would create bureaucracy and cost for numerous public bodies. Most significantly it would undermine the legislative and governance framework already established for strategic planning, policy making and long-term action, put in place by the [Well-being of Future Generations \(Wales\) Act 2015](#) (hereafter the WFG Act).

#### The general principles of the Food (Wales) Bill and the need for legislation to deliver the stated policy intention

2. The Bill's proposed policy objective<sup>1</sup> is to provide '*a framework that enables a coherent, consistent and strategic cross-governmental approach to policy and practice on all aspects of the food system*'.

3. Describing the Bill's purpose, the Explanatory Memorandum states it is:

*'to establish a more sustainable food system in Wales. This means strengthening our food security through a resilient supply chain, supporting the development of our food industry, improving Wales' socioeconomic well-being and enhancing consumer choice. The food system the Bill seeks to establish will also have environmental considerations at its core, such as: protecting and restoring nature; tackling and mitigating the effects of climate change; and minimising Wales' global environmental footprint.'*<sup>2</sup>

4. Crucial to the question of whether there is a case for a Bill, neither the Explanatory Memorandum nor any other evidence submitted in support of the Bill has demonstrated convincingly that there is any significant inconsistency or lack of coherence, or failure to work across Welsh Government or beyond, in creating or delivering food related policies. Concerningly, the Explanatory Memorandum makes unsubstantiated statements for example:

*'current Welsh Government policy relating to food is not joined up, leading to policy incoherence and unintended consequences'*<sup>3</sup> and also

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<sup>1</sup> Explanatory Memorandum, paragraph 8.

<sup>2</sup> Ibid paragraph 9.

<sup>3</sup> Ibid paragraph 17.

*‘food policy is too often thought of in silos, with Welsh Government departments taking different approaches to food policy, resulting in policy aims that can often contradict each other’<sup>4</sup>.*

5. These statements appear to rely heavily on claims from a small number of stakeholders quoted in the Explanatory Memorandum which offer some brief, confused and inaccurate examples<sup>5</sup> such as suggesting the Welsh Government’s strategic goal to develop the food and drink manufacturing industry is at odds with policy to develop sustainable agriculture, or claiming there is a missed opportunity to develop sales of healthy food and drink products (joining up industrial policy with Healthy Weight Healthy Wales) when there is already a target to support reformulation of 25 products a year through Food Innovation Wales support in pursuit of this exact policy join-up.
6. The Explanatory Memorandum refers to *‘a lack of scrutiny of policy related to the wider food system in Wales’*<sup>6</sup> but fails to consider the role the Senedd can and does play in scrutinising the Welsh Government and so does not see or examine the strength of inquiry which can already be brought to bear on food issues.
7. We note 63% of respondents to the Bill consultation think food related policies are not joined up enough and no respondents thought they are<sup>7</sup>. This is a striking finding and, even if the responses are probably skewed towards respondents who are motivated to change the food system or criticise current policy, we do not dismiss this clear message. It warrants consideration why respondents think this. It is disappointing it has not been explored following the consultation or in the Explanatory Memorandum. It is possible the underlying reason for this opinion could be failure to communicate the connections policy clearly rather than the policies themselves not being clear or coherent, which would be a crucial distinction. If that is the case an appropriate response would be to consider how to change communication of policy, not to make additional law. Disappointingly the Explanatory Memorandum fails to explore any option other than ‘do nothing’ or legislate. There are no suggestions about how to improve policy coherence using the current legislative framework, and the work of existing organisations, but instead it leaps to conclude new legislation must be the answer.
8. The Welsh Government strongly agrees policy should be coherent, consistent and strategic, with a cross-governmental approach extending across and beyond Welsh Government. It is our opinion this is already the case with a comprehensive suite of food related policies in place building on a long-term track record. In summary, and in simplified form, set against the Bill’s secondary food goals, below is a selection of relevant policies we have in place or in development:

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<sup>4</sup> Ibid paragraph 18.

<sup>5</sup> Ibid paragraph 26.

<sup>6</sup> Ibid paragraph 18.

<sup>7</sup> Ibid paragraph 25.

<a href="#">Strategic Vision</a> for the food and drink manufacturing and processing industry	Economic well-being (but in ways which take account of other well-being goals.)
<a href="#">Healthy Weight, Healthy Wales</a> <a href="#">Healthy Start</a>  <a href="#">Free Primary School Meals</a> <a href="#">Big Bocs Bwyd</a> <a href="#">Child Poverty Strategy</a> <a href="#">Social partnership and public procurement Bill</a>	Health and social
<a href="#">Curriculum for Wales</a>	Education
<a href="#">Agriculture (Wales) Bill</a> and <a href="#">Sustainable Farming Scheme</a>	Environment and Economic well-being
<a href="#">Beyond Recycling</a>	Food Waste
<a href="#">Community Food Strategy</a>	Potentially all goals to some degree.

9. The Bill is very similar to the [Good Food Nation \(Scotland\) Act 2022](#) in scope and approach. The Scottish proposals are explicitly about food and so make that prominent, but their practical effect is only to create what in broad terms already exists in law in Wales thanks to the WFG Act.
10. The Explanatory Memorandum claims the Bill has been drafted to be consistent with the WFG Act<sup>8</sup>, and it will help public bodies meet their duties under the WFG Act<sup>9</sup>. What the Bill overlooks is Wales has already legislated to improve the country's well-being by creating the Future Generations Commissioner with legislative powers to advise and assist public bodies and by placing duties on public bodies to pursue seven well-being goals and act in accordance with the sustainable development principle. The WFG Act strengthens existing governance arrangements for improving the social, economic, environmental, and cultural well-being of Wales. The well-being goals aim to build a more equal, prosperous, healthier, resilient, and globally responsible Wales with more cohesive communities and a vibrant culture and Welsh language. Although food is not explicitly mentioned there is obvious overlap between them and the secondary food goals, in particular with the goals for a prosperous Wales, resilient Wales and healthier Wales. The WFG Act makes provision requiring public bodies to do things in pursuit of the economic, social, environmental and cultural well-being of Wales in a way that accords with the sustainable development principle. It also provides for a suite of national well-being indicators<sup>10</sup>(x50) and milestones<sup>11</sup> (x8). It also put Public Services Boards on a statutory basis. And to emphasise, the Future Generations Commissioner already has the statutory powers to advise, assist, review and make recommendations to public bodies, in relation to the well-being goals.

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<sup>8</sup> EM paragraph 148.

<sup>9</sup> EM paragraph 14.

<sup>10</sup> [Well-being of future generations: national indicators and milestones for Wales 2021 | GOV.WALES](#)

<sup>11</sup> The Welsh Government are currently consulting on a second wave of national milestones | [Further national milestones to measure our nation's progress | GOV.WALES](#)

11. Collectively these extant arrangements provide all the mechanisms for joined-up, long term policy making on complex matters, making the Bill unnecessary and causing duplicative, resource wasteful work and overlaps through the duties to set targets and make plans. But, potentially of very great significance, is the Bill potentially undermines the overarching governance systems and principles established by the WFG Act through creating the precedent of legislating on a single issue.

## Food goals and targets

12. It is unclear why the Bill has set a primary goal and secondary goals or what the relationship between them is exactly. The Explanatory Memorandum says nothing more than the primary goal being ‘overarching’<sup>12</sup>. The Welsh Government is particularly concerned about the inclusion of ‘affordable’ in the primary goal<sup>13</sup> as this has a potentially very wide interpretation which could conceivably for example mean the provision of subsidised or free food directly or indirectly by public bodies, or intervention in the market to impact food retail or charitable activities.

13. As referred to already, the Welsh Government is already pursuing diverse policies relevant to delivering the secondary goals. These policies have or commit to create explicit targets and indicators. Some examples are:

- a. bringing economic well-being through advancing a long term [Strategic Vision for the food and drink manufacturing and processing industry](#). Support programmes through this strategy are helping businesses thrive across Wales, adding value, promoting our products, employing people and creating prosperity.
- b. focus on health and social aspects of food through for example [Healthy Weight, Healthy Wales](#), and our expansion of support for community initiatives providing accessible and affordable food such as [Big Bocs Bwyd](#).
- c. The [Agriculture Bill](#) has at its start<sup>14</sup> the sustainable land management objective which includes producing food in a sustainable manner.
- d. The [Beyond Recycling Strategy](#) commits to eradicate all avoidable food waste by working with businesses across the whole supply chain, to limit food waste in all settings. BRS sets a target to halve avoidable food waste by 2025, and by 60% by 2030.

14. Consequently the practical effect of the Bill would be to create a duplicative system of planning, target setting and reporting which would achieve no additional impact or benefit in itself.

## Welsh Food Commission

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<sup>12</sup> Ibid paragraphs 192 and 196.

<sup>13</sup> Bill section 2.

<sup>14</sup> Agriculture Bill, section 1.

15. The Welsh Food Commission would have the objective<sup>15</sup> to advance the food goals and achievement of the targets. The Commission's creation would be a wholly new development not in any current or proposed Welsh Government policy.
16. Welsh Government is concerned about the cost of establishing and maintaining the Commission, which would divert resource year after year for no obvious benefit. We are also concerned about the proposed Commission functions to advise, inform and assist<sup>16</sup>, especially the function to inform and advise the public<sup>17</sup>. These proposed functions overlap unclearly with the functions of the Food Standards Agency<sup>18</sup>. Potentially this lack of clarity could cause confusion, would complicate communication, and consequently given the risk inherent in food matters regarding the decisions businesses, stakeholders and members of the public take, it is concerning.
17. It is also likely the Commission's proposed functions to advise and assist public bodies will overlap with the WFG Commissioner's functions to advise and assist public bodies on achieving the well-being goals given the food goals are inherently within the scope of the well-being goals of the WFG Act. This is important because it could impact how public bodies discharge their functions.

### **National food strategy and local food plans**

18. The Bill requires the Welsh Ministers to publish a national food strategy setting out the overall strategy and individual policies they intend to pursue in order to advance the primary and secondary food goals and achieve the food targets. The Welsh Government sees this as unnecessary given there is already a comprehensive set of policies and plans in place for food related matters. Where there are gaps, we are taking action to address them, such as the commitment to develop a Community Food Strategy. The underlying organising principle of all this work is the WFG Act and policy development is inclusive of stakeholders with co-production of policy and delivery a strong feature.
19. The duty on public bodies to produce local food plans potentially duplicates what can be done through the requirement to produce local well-being plans which are the focus of local authority led Public Service Boards (PSBs) established under the WFG Act. PSBs are revising their initial plans and there is opportunity to increase their focus on food matters.

### **General matters including meaning of terms, regulations, interpretation, and commencement**

20. The Bill sets extremely challenging timescales which are at high risk of failure or, to meet them, will result in superficial and sub-optimal outputs with the consequent impact on resource use and outcomes.

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<sup>15</sup> Bill section 9

<sup>16</sup> Bill section 10

<sup>17</sup> Bill section 10(c)

<sup>18</sup> Food Standards Act 1999

21. The requirement to establish the Commission, ready to discharge legal functions, within 3 months of Royal Assent is unrealistic. The experience of establishing the office of the WFG Commissioner is a comparison. The WFG Act received Royal Assent in April 2015, with the Commissioner's office starting through a commencement order which came into force on 1 February 2016, a period totalling about 10 months but significantly as it was a Welsh Government policy a matter for which considerable pre-preparation had also been done in advance.
22. The Bill would require the Welsh Government and public bodies to discharge a number of related duties within two years of commencement to set targets for the secondary goals (themselves to be approved by the Senedd under the affirmative procedure), to publish a national food strategy and to make local food plans. The Welsh Government would be required to consult with the Commission in making the strategy and setting the targets yet given the unrealistic timetable set for establishing the Commission, the complexity latent in the food goals, and the likelihood or desirability of consulting widely on proposals it is likely this would take considerable time to achieve. Consequently, there would be very little time left within the two year period allowed for public bodies to consider the targets and national food strategy for them to develop local food plans. Furthermore, it is likely public bodies will wish to consult with the Commission, the WFG Commissioner, and perhaps other persons, given the steer the Bill provides to do so<sup>19</sup>. If they do in significant numbers, it will pose a capacity challenge for the Commission and WFG Commissioner which is another factor likely to militate against plans having any quality or value.

**Any potential barriers to the implementation of the Bill's provisions and whether the Bill takes account of them**

23. The timescales imposed by the Bill are risks to achieving the duties imposed because they are too tight. Consequently public bodies may fail to discharge their duties or they will do so superficially.
24. The Bill provides no means to change timescales to provide for flexibility to take account of changing circumstances or to adapt in the light of experience.
25. The lack of clarity of the potentially overlapping functions of the Commission, the FSA, the WFG Commissioner, and perhaps others, may raise potential barriers and perhaps risks. The duty imposed on public bodies to exercise functions related to the food goals and targets, and to have regard to their local food plans, is untested and, given the diversity of public body functions, may in experience prove complex and resource intensive in unforeseen ways.
26. It is not clear what is the practical difference between a report assessing the effectiveness of the national food strategy<sup>20</sup> and the review of the same

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<sup>19</sup> Bill section 18

<sup>20</sup> Bill section 15



strategy<sup>21</sup>. As mentioned previously, the difference and relationship between the primary and secondary goals is unclear.

27. Points made already about how the Bill would operate in relation to the WFG Act are also potential barriers to its implementation.

### **The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 6 of Part 1 of the Explanatory Memorandum)**

28. The powers proposed appear appropriate except they do not include any flexibility to amend the timescales imposed by the Bill which is a potentially serious risk to the Bill's operability and how public bodies will discharge their duties.

### **Whether there are any unintended consequences arising from the Bill**

29. There are significant and potentially serious consequences for the governance framework for long term policy making by public bodies established by the WFG Act (as described already).

30. The Welsh Government recognises and shares concern about aspects of the food system which have motivated proposing the Bill. However the Bill is likely to result in the creation of bureaucracy, duplication, confusion of roles with the consequent risk that arises and waste of resources.

### **The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum)**

31. The Explanatory Memorandum presents very conservative cost estimates of between £4,729,250 and £8,584,370<sup>22</sup>. These are new and recurrent costs.

32. The technical calculations to make cost estimates appear to be broadly correct but they are based on big assumptions about the amount of work the Bill would create. The Explanatory Memorandum states<sup>23</sup> it is not possible to estimate the current Welsh Government resource on food related issues, whether some will no longer be needed, or whether there could be savings to official time arising from better connected and improved functioning of food policy. In broad terms the Welsh Government agrees with that conclusion because multiple official roles have some connection to the diverse range of issues within the scope of the Bill and, in many cases, it may be just part of an official's role rather than a full time role. However, the Welsh Government has identified nothing in the Bill or Explanatory Memorandum to suggest it would save work. It is likely all the current food related activities within Welsh Government would need to continue and the

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<sup>21</sup> Bill section 16

<sup>22</sup> Explanatory Memorandum paragraph 325, table 3.

<sup>23</sup> Explanatory Memorandum paragraph 325, table 4 'cost savings' (p72).

Bill would just impose additional work demanding more resources to accomplish. We anticipate the same would be the position in other public bodies subject to duties under the Bill.

33. There are elements of the financial implications which are probably significant under-estimates. The Bill estimates it would take two officials spending 20% of their time to accomplish all the new functions the Bill would impose on Welsh Government in its first two years, totalling c£42k<sup>24</sup>. We understand this estimate has been made by adopting the Scottish Government's own estimate for the Good Food Nation Act. This approach is logical except we understand current experience in Scotland in beginning the commencement of their Act is proving to be considerably more resource intensive. The policy issues relevant to the targets and national food plan are complex and there will be considerable administrative work to design and establish the Welsh Food Commission. Furthermore, no account is taken of the legal resource which will also be needed to prepare what are likely to be lengthy and complex regulations for the targets. Collectively we would anticipate the actual resource need is likely to be many times that anticipated and would require a small but full-time team to achieve.
34. The extra cost to the FGW Commissioner is estimated at £21k pa<sup>25</sup> but we anticipate it is likely most public bodies will consult the Commissioner in making their local plans and the time demand on the Commissioner might be considerable. This would either be at the cost of other work or might require significant additional resource.

**Lesley Griffiths MS**  
**Minister for Rural Affairs, Trefnydd and North Wales**  
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<sup>24</sup> Explanatory Memorandum paragraph 325, table 4.

<sup>25</sup> Explanatory Memorandum paragraph 418.