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**Y Gweinidog Newid Hinsawdd**  
**Minister for Climate Change**



**Llywodraeth Cymru**  
**Welsh Government**

Eich cyf/Your ref  
Ein cyf/Our ref

Llyr Gruffydd MS  
Climate Change, Environment and Infrastructure Committee  
Senedd Cymru  
Cardiff Bay,  
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21 April 2023

Dear Llyr,

Thank you for your letter of 31 March. Please find below my responses to your questions following the evidence session of 29 March 2023, at the Climate Change, Environment and Infrastructure Committee on the Environment (Air Quality and Soundscapes) (Wales) Bill.

## **Air Quality Targets**

### **1. Why have you chosen not to be more prescriptive about the information the Welsh Ministers must have regard to before making regulations setting air quality targets (to reflect the proposal in the White Paper)?**

Evidence on the effects of air pollutants is constantly emerging. Therefore, it is important to be able to respond to evolving circumstances. The Welsh Government is committed to evidence-based policy making and will consider the World Health Organisation air quality guidelines in developing target proposals, alongside independent expert advice, evidence and analysis on a range of factors. This includes the health benefits of reducing pollutant levels and the practical feasibility and economic viability of taking different actions which could deliver on potential targets.

These factors will be considered alongside existing comprehensive requirements of associated regulatory impact assessments, prior to consulting on and then setting specific air quality targets in regulations.

### **2. What consideration did you give to using the Bill to place the Clean Air Advisory Panel on a statutory footing?**

The Bill provides that before making regulations to set long-term targets or a target for PM2.5, Welsh Ministers must firstly seek advice from persons they consider to be

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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independent and to have relevant expertise. Secondly, they must have regard to scientific knowledge on air pollution.

Independent expert advice and scientific knowledge are available to Welsh Government through several routes. We have established the Clean Air Advisory Panel, which is providing advice and recommendations on the target setting process and specific priority air pollutant targets in Wales. However, Welsh Ministers may also need to take further advice from individual specialists or broader expert groups, depending on the scientific discipline or issue. For example, further independent and expert advice is provided to Welsh Government from the UK advisory groups, the Air Quality Expert Group and the Committee on the Medical Effects of Air Pollution. This is in addition to advice provided by public sector organisations such as Public Health Wales and Natural Resources Wales.

The ability of Welsh Ministers to determine the source of the advice provides necessary flexibility to obtain expert advice from the most appropriate sources depending on the matter in hand. Putting the Panel on a statutory footing would not change or add to the requirement for Ministers to seek advice. These duties go further than Welsh Ministers' requirements under the existing legislative framework and ensure Ministers are accountable now and in the future.

### **3. There is no requirement on the Welsh Ministers to consult relevant organisations/the public before making regulations setting air quality targets. Why is this?**

The Bill does require Welsh Ministers to seek advice from persons they consider to be independent and to have relevant expertise before making regulations under sections 1 and 2 of the Bill. In addition, the Welsh Government has committed to consult prior to introducing legislation. Full and open public consultation on legislative proposals should provide all stakeholders, including organisations and the public, with the opportunity to provide their views.

### **4. Why have you chosen to extend the timeframe for making regulations by a year?**

We want targets to be ambitious, credible, and supported by society. It is therefore critical that specialists, stakeholders, Members of the Senedd and the public have the chance to comment on, and input into this process. This will ensure relevant evidence is properly gathered, scrutinised and tested.

Targets set under the Bill are required to be achievable. Assessment of feasibility and cost is an essential aspect of target setting to ensure they can be delivered, they minimise inequalities, are affordable and coherent with other government policy. The Bill also requires Welsh Ministers to have regard to scientific knowledge when setting national air quality targets, which will include consideration of the WHO air quality guidelines. We do not yet know whether it is possible to achieve the WHO guidelines everywhere across Wales, and how and by when this could be achieved if it is possible.

We are committed to following an evidence-based process to set ambitious and effective targets in Wales. However, we need to understand the limits of what is possible and associated constraints, based on robust science and socio-economic analysis. This time is necessary as there are a significant number of steps that need to be undertaken. This includes determining the scope of targets, analysing ambitious, affordable and feasible target options, proper engagement and consultation and full drafting of the targets and the details of how they must be assessed. For context, the development of PM<sub>2.5</sub> target regulations in England took the UK Government more than three years to complete.

These considerations will help ensure that, based on the best available evidence, proposed targets are achievable and affordable whilst able to drive the ambitious changes we need to protect the environment.

## **Promoting Awareness about air pollution**

### **5. What consideration did you give to including further detail about the steps the Welsh Ministers would be expected to take to meet the duty in section 8, for example, preparing and publishing a ‘delivery plan’ (referred to in the Explanatory Memorandum)?**

The Explanatory Memorandum sets out that we will publish a delivery plan to implement this duty. In order to explain what we mean by delivery plan, we have given examples of the types of action it could include. These actions have been taken from feedback to our Clean Air Plan consultation, as well as ongoing engagement with stakeholders.

We will develop the delivery plan with stakeholders to ensure it is effective and focuses efforts in the right areas. It is unlikely the actions in the plan will be delivered by Welsh Government alone. A key part of developing the delivery plan with stakeholders will be identifying not just what we need to do, but also who is the most effective delivery partner.

Our consideration has therefore been to balance providing a meaningful description of how the duty will be implemented, with the need to avoid pre-determining the actions the plan could include. This will allow us to develop the scope and content of the plan with stakeholders.

### **6. What arrangements will be put in place to monitor compliance with/effectiveness of the duty, and how does the Bill provide for this?**

The Bill does not contain specific arrangements for monitoring compliance or effectiveness because this provision has intentionally been broadly drafted to avoid limiting the ways in which we can promote awareness of air pollution.

In future there could be new and additional steps Ministers could take to promote awareness of air pollution, which the broad nature of the proposed provision would encompass.

A wide range of perspectives and views will need to be heard to fully evaluate effectiveness of this duty and we do not want to restrict this process. Therefore, we have not included provisions relating to monitoring compliance and effectiveness to avoid narrowing the scope of the duty and ensuring the legislation is future proof.

Arrangements to monitor and evaluate the effectiveness of the actions included in the promoting awareness delivery plan will be developed with stakeholders and included in the delivery plan. If in future the delivery plan is included within Welsh Government air quality strategies, the actions would be subject to the same scrutiny, monitoring and evaluation as the wider plan.

## **National Air Quality Strategy**

### **7. What consideration did you give to including a requirement on the Welsh Ministers to review the national air quality strategy at a set time (e.g. 12 months) following a Senedd election on the face of the Bill?**

We did consider reviewing the national air quality strategy at a set time. However, the Environment Act 2021 established the current five-year review cycle, which was agreed by the Senedd through a Legislative Consent Motion. The statutory review deadline currently falls around two years after the most recent Senedd election, which allows time for a new national air quality strategy to be developed following an election, if Ministers wish it, informed by the Programme for Government, the latest Future Trends Report, and so on. This change achieved one of our policy aims set out in the White Paper on the Clean Air (Wales) Bill. Therefore, the Bill as introduced does not seek to change the current statutory timescale. Setting the deadline one year after the most recent election might not always allow sufficient time for this work to be carried out.

We have taken this approach because the Environment Act 2021 (and for soundscapes, the Environmental Noise (Wales) Regulations 2006) have established five-year review cycles with deadlines currently falling at reasonable points in the Senedd electoral cycle. However, the Bill provides Welsh Ministers with the power to change this review period through regulations. This would be used for example, if the Senedd election cycle changed or if the timing of the review is found not to work for any other reason.

#### **8. What criteria will the Welsh Ministers use to determine whether to designate a 'devolved Welsh authority' as a 'relevant Welsh public authority' for the purpose of applying the duty under section 11?**

A devolved Welsh authority might need to be designated as a relevant Welsh public authority if (a) it routinely exercises functions of a public nature that Welsh Ministers consider likely to affect air quality in Wales, and (b) there is no other formal requirement in place for every part of that organisation which exercises such functions to have regard to national policy in this area when so doing. (This approach would be applied similarly for soundscapes).

#### **Smoke Control**

#### **9. Can you clarify whether the Welsh Ministers could strengthen existing smoke control legislation in the manner outlined above using existing powers, i.e. without the need for further primary legislation?**

The Welsh Ministers have powers under section 19 of the Clean Air Act 1993 to direct local authorities to create smoke control areas where they are satisfied that the local authority has not sufficiently exercised their powers under section 18 of the Clean Air Act 1993 to abate identified air pollution by way of a smoke control order. In principle, this could allow the Welsh Ministers to direct a local authority in relation to any densely populated, urban area where air pollution is being caused by smoke, on a case-by-case basis. Welsh Ministers will work with local authorities to ensure any necessary smoke control areas are established by them under section 18. Powers of direction would only be used as a last resort.

The Clean Air Act 1993, the Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2019 and the Smoke Control Areas (Exempted Classes of Fireplace) (Wales) Order 2019 set out the legislation for burning in a smoke control area. The existing framework for statutory nuisance is covered by the Environmental Protection Act 1990. Certain, very limited, outdoor burning is captured with the Clean Air Act 1993, that is when smoke is emitted from a chimney such as from a summerhouse.

Extending the scope of legislation around smoke control areas to include outdoor burning beyond that which is already captured in the Clean Air Act 1993 and the Environmental Protection Act 1990 would need to be pursued through primary legislation.

Further work on domestic burning, which includes outdoor burning, is taking place following the consultation on reducing emissions from domestic burning of solid fuels. When proposals are developed to tackle pollution caused by outdoor burning in all areas, we will look at the extent to which we can use existing legislative functions rather than develop primary legislation.

The Bill introduces a requirement for local authorities to have regard to any guidance published by the Welsh Ministers in relation to smoke control areas. The guidance replaces our original 'requirement to review' proposal and will be developed with stakeholders and periodically reviewed and updated.

## **Trunk Road Charging**

### **10. Can you confirm that where a trunk road charging scheme is made by virtue of section 167(3) for the purpose of reducing or limiting air pollution, the Welsh Ministers' share of the net proceeds of the scheme can be applied for any purpose?**

The intention from the outset has been to address the current restriction that requires net proceeds to be used only for transport policies and proposals. This proposal was included in our White Paper on the Clean Air (Wales) Bill.

The transport policy proposals requirement on the use of net proceeds would restrict the action we could take to further address poor air quality. For instance, with the existing arrangements, we might be unable to support some forms of Local Air Quality Management activity, or extend air quality monitoring, or address emissions from industry and domestic burning.

It is important we can demonstrate a clear link between fees levied for the improvement of air quality, and specific measures to further improve air quality that would be funded by these fees.

Hypothecation will not be applied to the use of net proceeds arising from schemes to limit or reduce air pollution in the vicinity of the road. This will give Ministers greater freedom to utilise income most effectively to deliver our policy ambitions.

To reflect the air quality improvement focus, Ministers will be required to assess proposed expenditure against expected impact (if any) on air quality. This will ensure air quality is at the heart of decision-making in this process.

### **11. Can you provide an update on the development of a framework for Clean Air Zones?**

In 2018 we published a draft Clean Air Zone Framework for Wales for consultation. The framework was intended to guide local authority action to improve air quality and reduce polluting emissions. The draft Framework described key considerations including the development of evidence to support the introduction of a charging scheme.

The development of our Clean Air Zone Framework is closely linked to our broader approach to demand management. This includes alternative approaches such as road space reallocation and workplace charging levies, as well as road user charging schemes.

Demand management can help motivate people away from private car use. Our Wales Transport Strategy, Llwybr Newydd, includes a commitment to develop a national road user charging framework. This is also reflected in our National Transport Delivery Plan commitment to develop a Strategy for fair road user charging.

Further work will be undertaken to develop a fair and equitable road user charging framework, including how local authorities can borrow against these future revenue streams to fund transport improvements; and consider other alternatives such as workplace car parking levies and road space reallocation.

This broader framework/strategy will encompass advice on the development and introduction of Clean Air Zones/Low Emission Zones on local authority roads, building on our draft Clean Air Zone Framework for Wales. The document will also describe the circumstances under which Clean Air Zones may be introduced on our trunk road network using new powers within the Bill.

This work will be programmed in due course to ensure we can deliver this in line with the published National Transport Delivery Plan timescales (2022-2026).

## **Anti-Idling**

### **12. Why do you consider the powers to prescribe a monetary range are needed when there is already an existing power to set a fixed penalty amount? What consideration has the Welsh Government given to simply increasing the existing charge?**

The current monetary penalty of £20 is too low to deter people from vehicle idling and the charges do not make it viable for local authorities to prioritise enforcement.

Obviously, penalties must be proportionate. However, local authorities currently have no flexibility in the level of monetary penalty that they issue. We are therefore making provision for local authorities to be able to choose the level of monetary penalty to apply in each case from within a range that will be set in regulations.

Taking a power to set a monetary range in regulations will facilitate enforcement by local authorities or their authorised officers. It gives them a degree of discretion as to the level of fixed penalty that could be awarded for a stationary idling offence.

It also allows flexibility for the level of penalty to reflect the location where the idling occurs. For example, a penalty at the higher end of the range could be imposed where someone is idling outside a school. This is not possible under the current regime where Welsh Ministers only have the power to set a single fixed penalty amount.

We also considered simply increasing the existing charge. Welsh Ministers have the power to do that by making an amendment to the existing Regulations. However, the approach we have taken in the Bill provides far more flexibility for local authorities and enables more effective enforcement.

### **13. What assessment has been made of the impact of both the trunk road charging and anti-idling proposals on those from lower income groups?**

In respect of anti-idling, the relevant regulations set out how the enforcement system should work. A local authority enforcement officer will ask a motorist to stop engine idling and if the motorist complies there will be no fine.

Fines are only issued when the motorist refuses to stop idling after being asked to do so. Our guidance for local authorities will highlight the need to take account of socio-economic factors when designing penalties.

We are aware the level of fixed penalty must be appropriate for local circumstances. If penalties are too high for local conditions for example, in an area of multiple deprivation, there will be many instances of non-payment which would discredit the regime. Moreover, non-payment could lead to even higher penalties for those who have not paid, which could push those already impoverished into further debt. Our guidance will take full account of this sensitive issue.

In terms of trunk road charging fees for drivers of non-compliant (more polluting) vehicles, impacts on lower income groups would need to be considered when developing specific scheme proposals.

An Economic Impact Assessment will be required to evaluate potential impacts that may result from charging schemes and help determine potential mitigations to limit negative consequences. Assessment should consider the full potential impact of a proposed Clean Air Zone, and the costs and benefits should be carefully weighed.

Any action taken to address air quality issues should be proportionate to the scale of the problem, and in line with well-being of future generations requirements.

There would be consultation before any schemes were introduced where there would be ample opportunity to ensure the impact of the scheme on those from lower income groups has been properly evaluated.

## **Soundscapes**

### **14. How does the Welsh Government define ‘soundscapes’?**

“Soundscape” is formally defined in Planning Policy Wales (PPW) edition 11 (footnote 142)<sup>1</sup>, the Noise and Soundscape Action Plan 2018-2023 (footnote 10)<sup>2</sup> and the recent consultation draft of TAN 11 (glossary)<sup>3</sup> in accordance with the British and international standard definition<sup>4</sup>, to mean the acoustic (i.e. sound) environment as perceived or experienced and/or understood by a person or people, in context. We have also defined “appropriate soundscape” to mean the right sound environment in the right time and place. Appropriate soundscapes and clean air are two of the National Sustainable Placemaking Outcomes established in PPW.

### **15. What consideration did you give to including a definition of ‘soundscapes’ in the Bill?**

It was considered, but we know British and international standards are subject to periodic review and update. The definition of soundscape endorsed by the acoustics community has been established for less than a decade. If it were to be refined in a few years’ time, for example to broaden it beyond human listeners to include how some animals experience and perceive sound in context, the Welsh Government might wish to adopt the latest definition in policy. Making such a change in national policy documents like PPW and the Noise and Soundscape Plan, which are also subject to periodic review and update, would

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<sup>1</sup> [Planning policy Wales | GOV.WALES](#)

<sup>2</sup> [Noise and soundscape action plan 2018 to 2023 | GOV.WALES](#)

<sup>3</sup> [Revised planning guidance in relation to air quality, noise and soundscape | GOV.WALES](#)

<sup>4</sup> [BS ISO 12913-1 - Acoustics. Soundscape. Definition and conceptual framework \(bsigroup.com\)](#)

be relatively straightforward. Amending a definition enshrined in primary legislation would not.

**16. What consideration did you give to establishing a Soundscapes Advisory Panel to provide expert advice to the Welsh Ministers (comparable to the Clean Air Advisory Panel)?**

The Welsh Government obtains advice and support from many different noise and soundscape practitioners, who cover between them a wide range of specialisms. The areas of expertise needed from time to time include large-scale computer modelling and data handling for national noise mapping, systematic reviews of academic research to summarise evidence on health and well-being, the practical application of powers to investigate noise complaints and take enforcement action, public participation in soundscape assessment and interventions at a local community level, noise control engineering, and many other areas of specialist knowledge.

We access these experts in several ways, including through existing government procurement frameworks, our own well-established network of Welsh noise regulators, and our membership of, and participation in, British Standards Institute noise committees, the Institute of Acoustics (IOA), and the UK Acoustics Network (UKAN+).

These arrangements have served us well to date. We are willing to consider any case made for the establishment of a more formal standing advisory panel on soundscapes, akin to the Clean Air Advisory Panel. However, such a committee would require a very broad and flexible membership if it is to cover all the issues and evidence needs within scope of a national soundscapes strategy. We would also need to be convinced that the value it adds to the current arrangements would outweigh administrative costs.

**17. How will the Welsh Ministers monitor the effectiveness of the national soundscapes strategy in reducing levels of noise pollution?**

The national soundscapes strategy must contain the Welsh Ministers' policies with respect to the assessment and management of soundscapes in Wales, and our policies for assessing and reducing levels of noise pollution.

Population exposure to noise pollution is difficult to quantify reliably at a national scale. Certain types of outdoor sound, such as from transportation, can be modelled at a national level by computers. However, the software and calculation methods are constantly evolving. The "strategic noise maps" so generated do not tell us how well different buildings are protecting the people inside, which depends on room layout and methods of construction. This means that even for road and railway noise, reliably quantifying real-world changes in the population's overall noise exposure over time has so far been elusive. For other major forms of noise, such as neighbour noise, public authorities only become aware when people make formal complaints, and these are not always recorded and reported consistently. Our National Survey noise questions found in both 2017-18 and 2021-22 that a quarter of people in Wales are regularly bothered by noise from outside their homes. A large part comes from their neighbours, but many of these people do not make formal noise complaints to their local authority.

Our most reliable measure of the prevalence of noise annoyance in Wales is the National Survey. We hope to re-run the noise questions asked in 2017-18 and 2021-22 from time to time. We also continue to report hard-hitting headline results, such as the evident correlation between regular noise annoyance and area deprivation, in the Noise and Soundscape Plan, which is our national soundscapes strategy. As more people come to live in closer proximity to one another within our towns and cities, realistically we do not expect to see rapid or dramatic improvements in the overall response to the questions asked.



Where government can improve the current picture and prevent new problems from arising we will seek to do so, including through the policies contained in the Plan.

In the current financial climate the principal realistically achievable goal of the Noise and Soundscape Plan 2023-2028 will be to ensure noise and soundscapes are properly considered in decision-making by public bodies. This is in a manner consistent with the ways of working in the Well-being of Future Generations Act, to avoid creating new noise problems, and to maximise benefits from any opportunities arising to reduce existing noise levels and promote healthier soundscapes. We intend to consult on our updated national soundscapes strategy this summer.

Any actions taken under the strategy must respond to events and policy development in other areas. Our 2018 Plan could not have predicted the lockdowns of 2020 and the subsequent rapid uptake of working from home. Nor was it known at that time where policy would be five years later in relation to our Clean Air Bill, speed limits, fireworks and new technologies such as air source heat pumps. But the broad guiding principles and ways of working contained in the Plan have proven valid and relevant to all those things and will continue to be relevant to whatever issues come up affecting soundscapes in Wales over the course of the next five years.

The success of the new Noise and Soundscape Plan should be judged by how well the Welsh Government and other public bodies factor the health and well-being impacts of changing soundscapes into their decision-making processes over the course of the next five years. This includes planning decisions, transport policies, decarbonisation initiatives and air quality interventions. Putting the Plan on a more solid legal foundation as the national soundscapes strategy will raise its profile and, we hope, its effectiveness in guiding informed decision-making.

**18. What consideration did you give to including a requirement on the Welsh Ministers to report on progress towards the implementation of the national soundscapes strategy?**

We would expect that the public consultation on each five-year review and update of the national soundscapes strategy will include a report on how effectively the previous iteration of the strategy has been implemented. This will be necessary to determine any modifications required.

I hope you find the responses to the questions raised in your letter helpful.

Yours sincerely



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