

Peter Fox OBE MS

Aelod o'r Senedd dros
Mynwy

Member of the Senedd for
Monmouth


Senedd Cymru

Bae Caerdydd, Caerdydd, CF99 1SN
Peter.fox@senedd.cymru

Welsh Parliament

Cardiff Bay, Cardiff, CF99 1SN
Peter.fox@senedd.wales

Huw Irranca-Davies, MS
Chair of the Legislation, Justice and Constitution Committee

0300 200 7298 

@Peterfox_ms 

@PeterFox61 

Peter Fox MS 

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Dear Huw,

Food (Wales) Bill: response to the Legislation, Justice and Constitution Committee's Stage 1 report

I would like to thank the Legislation, Justice and Constitution Committee for their scrutiny of the Food (Wales) Bill ("the Bill") during Stage 1 and for the report which was published on 11 May 2023.

I have set out my response to the Committee's recommendations in Annex A.

While it has not been possible for me to accept all of the Committee's recommendations, I hope you will find this response useful. I will also be writing to the Chairs of the Finance Committee and the Economy, Trade and Rural Affairs Committee with respect to their Stage 1 Reports, and will copy the letters to all three Committee Chairs.

Kind regards,



Peter Fox MS for Monmouth
Member-in-Charge, Food (Wales) Bill

Annex A

Response from Peter Fox, MS to the Legislation, Justice and Constitution Committee's Stage 1 Report on the Food (Wales) Bill

Recommendation 1. As part of its review of the Member Bill procedure, the Business Committee should explore the feasibility of introducing a more transparent process for engagement between the Welsh Government, its officials and Members of the Senedd who have secured leave to proceed to introduce a Member Bill.

Response: Noted

I very much welcome this recommendation. I understand, and accept, that the process for introducing primary legislation into the Senedd needs to be robust – and that includes Member Bills. However, it is difficult for individual Senedd Members to fully meet the requirements of Standing Order 26.6 without having engagement with and assistance from Welsh Government officials.

While Senedd Members are responsible for developing the policy and drafting the Member Bill, it will in most cases be the Government that has to implement the legislation once enacted.

In relation to the Food (Wales) Bill, it was necessary to provide flexibility for Welsh Government to (for example) shape the National Food Strategy, or set the food targets. Greater communication between Welsh Government, its officials and the Member will only help the development of the legislation.

Having had the experience of winning the Ballot and securing leave to proceed, I would be happy to feed in to any wider review of Member Bills that might be undertaken by Business Committee.

Recommendation 2. The Member in charge should table an amendment to the Bill to provide that statutory guidance must be issued to public bodies on how the duties imposed on them by the Bill interact with their existing duties under the Well-being of Future Generations (Wales) Act 2015.

Response: Accept

I acknowledge the concerns raised during Stage 1 about how the provisions of the Bill would interact with the Well-being of Future Generations (Wales) Act. While I believe both Acts would work seamlessly together, I can see the benefit of issuing statutory guidance to public bodies setting out how the duties under the Food Bill would interact with existing duties

under the Future Generations Act. I will, therefore, bring forward an amendment at Stage 2 for this purpose.

Recommendation 3. The Member in charge should table an amendment to the Bill to remove section 2 of the Bill, which sets out the primary food goal.

Response: Reject

I believe the inclusion of the primary food goal provides an overarching vision for the food system in Wales, as well as acting as an anchor point that policy created through the Bill will aim to achieve. I do not agree that this should be removed from the Bill.

The Bill was developed following extensive engagement and consultation with stakeholders across Wales. The inclusion of this overarching primary food goal was included in the draft Bill in response to discussions I had had with stakeholders who felt there was a need for a key principle to be set out in the Bill.

In the consultation on the draft Bill 59% of those responding agreed with the inclusion of a primary food goal supplemented by secondary food goals. Only 8% of those who responded disagreed with this approach. There were views expressed about the detail and focus of the primary food goal, there was majority support from stakeholders to its inclusion.

Discussions during the Economy, Trade and Rural Affairs Committee's Stage 1 scrutiny highlighted again that there were differing views amongst stakeholders on the detail of the primary food goal, but there was no call for its removal.

Recommendation 4. The Member in charge should outline the mechanisms by which public bodies will be provided with full and comprehensive information about the secondary food goals and how they are to be interpreted.

Response: Accept

In the drafting of the Bill it was envisaged that the Commission will proactively be providing public bodies with information in the day to day exercise of its functions. The statutory framework set out in the Bill aims to promote ongoing cooperation between the Commission and the relevant public bodies.

Section 10 of the Bill sets out the functions of the Welsh Food Commission. These include developing, and assisting public bodies to develop, policies in relation to food matters; as well as advising, informing and assisting public bodies in relation to food matters. The functions of the Food Commission also include, in particular, a function:

(d) to provide oversight and performance review of the exercise of the functions of public bodies in relation to the food goals and food targets;

Section 18 of the Bill provides that public bodies may consult the Food Commission, Future Generations Commissioner, or other appropriate persons, before making a food plan. This would include seeking advice on the food goals.

I believe these functions provide the mechanisms by which public bodies will be provided with all the information they need on how the food goals should be interpreted, in order for them to develop and make their local food plans.

Recommendation 5. The Member in charge should table an amendment to section 3(3) of the Bill so that the duty to consult before amending the descriptions of the secondary food goals applies to other appropriate bodies as well as the Welsh Food Commission.

Response: Accept

As I set out in my letter to the Committee of 8 March 2023, the intention through the Bill is that the Welsh Food Commission will lead on driving the food goals forward, playing a central role as the body that the Welsh Ministers look to for advice and information. That's why there is a requirement that the Welsh Ministers consult the Commission before amending any of the secondary food goal descriptions.

Having that requirement does not prevent Welsh Ministers also seeking the views of other bodies and stakeholders. For example, if the Welsh Ministers decide to amend the description of the environment secondary food goal, they may seek the views of (for example) Natural Resources Wales as well as the Food Commission.

However, as I also set in my letter, if there was a consensus among the Committee that there was a need to specify on the face of the Bill that other appropriate persons may or must be consulted prior to the descriptions being amended, then this is something that I would look to do through amendments at stage 2.

Recommendation 6. The Member in charge should table an amendment to section 4(5) of the Bill to provide that the first regulations setting one or more targets for each secondary food goal must be made and come into force within two years of section 4 coming into force.

Response: Accept

As set out in my letter to the Committee on 8 March 2023, I agree that this amendment is necessary. It is my intention to bring forward this amendment at Stage 2.

Recommendation 7. The Member in charge should table an amendment to the Bill to expand the duty within section 5 of the Bill to consult the Welsh Food Commission to also include bodies the Welsh Ministers deem appropriate to consult.

Response: Accept

The detail in the Committee's report seems to suggest that the concerns around Section 5(1)(b) of the Bill were with the inclusion of the duty for Welsh Ministers to seek advice from "other persons the Welsh Ministers consider to be independent and to have relevant expertise".

While this recommendation seeks for section 5 of the Bill to be expanded to **also** include bodies the Welsh Ministers deem appropriate to consult, the narrative in the report, and in the scrutiny session, seem to suggest that the amendment you wish to be tabled would actually remove the reference to 'other persons the Welsh Ministers consider to be independent and to have relevant expertise' and replace it with reference to 'other persons who the Welsh Ministers consider appropriate'.

As I set out to the Committee during the scrutiny session, this was an area that we needed to reflect on further to ensure that we didn't exclude somebody who could usefully contribute or who the Government might want to consult. I would therefore be happy to bring forward an amendment at Stage 2, as I set out above.

Recommendation 8. The Member in charge should table an amendment to section 17 of the Bill to extend the period of time within which a public body should publish a local food plan, from two years after the Bill coming into force to three years after that date.

Response: Accept

I agree with the committee that extending the period in within which public bodies should publish their food plans would reduce the risk of imposing additional pressures on public bodies if the Welsh Government has been unable to publish the national food plan in good time.

As I outlined to the Committee, I find it inconceivable that a Government couldn't put together a food strategy within two years, however the suggested amendment would reduce risk should that happen.

Recommendation 9. The Member in charge should provide examples of circumstances where a public body may be removed by the Welsh Ministers from the list of public bodies within section 22(1) of the Bill.

Response: Reject

As currently drafted, there is only a limited list of public bodies included on the face of the Bill. I cannot think of any circumstances where those public bodies already listed would be removed from Section 22(1).

However, section 22(2) of the Bill also allows Welsh Ministers to add public bodies to the list. It is possible therefore that the list of public bodies may look different over time.

Without knowing which bodies might be added to the list it would not be possible to provide specific examples of the circumstances that might lead to them being removed from the list. The provisions set out in Section 22(2) of the Bill (that public bodies may be removed) is included in the Bill to 'future proof' this particular section of the legislation. If circumstances arise where it is considered appropriate to remove a public body, the provision is there.

In general terms, each public body (including any additional bodies added) must publish periodic reports assessing the effectiveness of its local food plan, and in particular, the contribution it has made towards advancing the food goals and achieving the food targets. Over time, those periodic reviews may underline that placing a duty on a particular body to produce local food plans does not align with the work or functions of that body. The decision may then be made to remove that body from the list.

Recommendation 10. The Member in charge should set out the disadvantages of providing in section 22(5)(b) of the Bill that the Welsh Ministers must consult with a person which is to be removed from the list of public bodies within section 22(1) of the Bill.

Response: Reject

The drafting used in section 22 of the Bill is consistent with other Welsh legislation including section 52(4) of the Well-being of Future Generations (Wales) Act 2015.

Adding a body to the list of public bodies will always require consultation, to inform that body of any additional responsibilities it will be subject to. Whereas removing a body from the list does not impose any additional responsibilities on that body, only removing those duties, therefore they will not always need to be consulted.

In addition, section 22(5)(c) provides when making Regulations to remove a public body from the list, the Welsh Ministers must consult with any persons they consider appropriate, which will in all likelihood include the body which is being removed.

I therefore do not believe placing a duty on the face of the Bill that Welsh Ministers must consult with those persons being removed is required. I would say that setting out my reasoning is more appropriate than setting out the disadvantages of something that is (in my view) not required.