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Paul Davies, MS  
Chair of the Economy, Trade and Rural Affairs Committee

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Dear Paul,

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Peter Fox MS 

### **Food (Wales) Bill: response to the Economy, Trade and Rural Affairs Committee's Stage 1 report**

I would like to thank the Economy, Trade and Rural Affairs Committee for their scrutiny of the Food (Wales) Bill ("the Bill") during Stage 1 and for the report which was published on 12 May 2023. I would also like to pass on my thanks to all those who took the time to give evidence to the Committee, whether that was in writing or in person during the Stage 1 scrutiny sessions. I have been overwhelmed by the level of engagement on this Bill throughout the legislative process.

I have set out my response to the Committee's recommendations in Annex A. Where recommendations are aimed at Welsh Government rather than for me as the Member in Charge of the Bill, I have noted these, but have included my own thoughts in response where appropriate.

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 Legislation, Justice and Constitution 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 Economy, Trade and Rural Affairs Committee's Stage 1 Report on the Food (Wales) Bill

**Recommendation 1.** Although the Committee unanimously supports the policy objectives of the Bill, it cannot come to a unified position on the need for legislation to deliver those objectives. We therefore recommend that the Senedd decides whether it agrees the general principles of the Bill.

#### **Response: Noted**

I welcome the Committee's unanimous support for the policy objectives of the Food (Wales) Bill. This very much reflects the majority of evidence that I have seen presented to the Committee.

It is disappointing that the Committee could not reach a unified position on the need for legislation to achieve the policy objectives. As you have stated in your report, the majority of those who responded to the Committee's consultation were in favour of the legislation, with support from farming unions, environmental non-governmental organisations, animal welfare groups, academics, local authorities and local health boards.

There are specific objectives of the Bill that could be delivered without the need for primary legislation – for example, the Welsh Government could bring forward a national food strategy. However, I have been clear all along that one of the benefit of setting out the policy through primary legislation is that future Welsh governments would be bound by the legislation to deliver the policy in a consistent way. The lack of legislation to deliver the policy would also leave that policy without any proper mechanism for scrutiny or accountability.

I note the recommendation that the Senedd decides whether it agrees the general principles of the Bill. I very much hope that the Senedd reflects on the overwhelming support for the Bill from stakeholders and organisations across Wales, and decides to support its General Principles.

**Recommendation 2.** The Welsh Government must improve its approach to the food system by ensuring policies are joined-up and complementary. This could either be through this Bill or by non-legislative means. If the Bill falls, the Welsh Government must examine which elements of the Bill it could take forward by a non-legislative route.

**Response: Noted**

I welcome the Committee's recommendation. One of the key reasons underpinning the need for this Bill is the disjointed way in which Welsh Government approaches its food policy. As I state in the EM, and as you have quoted in the report: *"Current Welsh Government policy relating to food is not joined up, leading to policy incoherence and unintended consequences. There is a need for a single, overarching holistic approach to the whole food system in Wales to maximise the wide range of benefits a coordinated, resilient and sustainable food system can bring."*

In my own consultation on the draft Bill, 100% of those who responded on this specific question agreed that Welsh Government food policy was not joined up.

**Recommendation 3.** If the Bill proceeds to Stage 2 the secondary food goals should be amended to be less sectoral.

**Response: Accept in principle**

During the development of the Bill, there was a high level of engagement on the detail of the food goals. I received suggestions from many stakeholders and organisations across different sectors about what the food goals should contain, and the areas they should cover.

Unfortunately, it would not have been possible to accommodate everybody's expectations and wishes on the face of the Bill.

I made a commitment to the Committee during Stage 1 that I would consider all of the evidence that was received to explore where the food goals may need to be amended. I am, however, not absolutely clear what providing 'less sectoral' food goals would mean in practice. However, reiterating the commitment above, I will be happy to work with the Committee, stakeholders, and with the Welsh Government to explore potential amendments to the food goals.

The key policy objective of the Bill is to deliver affordable, healthy, and economically, environmentally and socially sustainable food for people now and for future generations. The establishment of "food goals" in the opening part of the Bill provides a mechanism to help towards the delivery of that key policy objective. It is therefore vital that the food goals are aligned so that they feed in to delivering an integrated food system.

**Recommendation 4.** If the Bill falls the Welsh Government should commit to publishing a document setting out all of its food policies, across departments, and how these align against its key overarching objectives. This document should be regularly updated.

**Response: Noted**

I note the Committee's recommendation.

As with a number of the Committee's recommendations, I truly hope that the Bill does proceed to Stage 2 of the legislative process. My responses throughout this report reflect my belief that the best way to achieve the policy objectives I have set out, and to which the Committee has unanimously agreed, is through enactment of the Food (Wales) Bill.

On this specific recommendation, I would welcome the publication of such a document by Welsh Government. It is important that all of their food policies are properly mapped out against objectives – and published.

**Recommendation 5.** If the Bill proceeds to Stage 2 it should be amended to require a strong monitoring and evaluation mechanism to be incorporated for each food target when that target is set.

**Response: Accept in principle**

The Bill already includes mechanisms for monitoring and evaluating the food targets. In particular:

- the reporting requirements in section 6 provide the mechanism for scrutiny and accountability for progress towards meeting the targets set; and
- the reviewing requirements in section 7 help ensure that the targets set in accordance with the Bill remain relevant and measurable.

However, I agree that the monitoring and evaluation mechanisms for the food targets need to be robust and as strong as they can be. I would therefore be happy to work with stakeholders and the Welsh Government to explore whether amendments at Stage 2 are necessary to strengthen these requirements.

**Recommendation 6.** If the Bill falls the Welsh Government should undertake a gap analysis exercise of existing targets of relevance to the food system, and in consultation with stakeholders introduce new targets to fill any gaps.

**Response: Noted**

I agree that the Welsh Government should commit to undertaking work in this area to ensure that there are no 'gaps'. However, this should not be done in isolation, and this work should be aligned to any work the Government does to develop any new food strategies etc.

**Recommendation 7.** If the Bill proceeds to Stage 2 it should be amended to require the Welsh Government to consult on expanding the functions of the Welsh Food Commission to include additional responsibilities. These could include monitoring UK and international food policy and trading relationships which impact on the Welsh food system.

**Response: Reject**

The functions of the Food Commission should be set out on the face of the Bill. As introduced, the Bill does not provide Welsh Ministers with the power to amend those functions through Regulations. To meet this recommendation, the Bill would not only need to be amended to require the Welsh Government to consult, it would need to be amended to introduce a new Regulation making power to enable the Welsh Government to amend the Commission's functions.

If the functions of the Food Commission were to be expanded, the most appropriate mechanism for doing this would be through amendment at Stage 2. Given the strength of views expressed during Stage 1, I would be happy to bring forward relevant amendments at Stage 2 for this purpose and will consult stakeholders accordingly.

**Recommendation 8.** If the Bill falls the Committee recommends that the Welsh Government should either establish an internal food policy board or work with the Future Generations Commissioner to create a dedicated food-systems post to drive joined-up food policy in Wales, with the aspiration of delivering affordable and healthy food that is economically, environmentally, culturally and socially sustainable for people now and in the future. The Minister should update the Committee on the work of this board on an annual basis.

**Response: Noted**

I note the Committee's intentions here, but strongly believe that the best way to drive forward joined-up food policy in Wales – with the aspiration of delivering affordable and healthy food that is economically, environmentally, culturally and socially sustainable for people now and in the future – would be to enact the Food (Wales) Bill and establish an independent Food Commission.

**Recommendation 9.** Regardless of whether the Bill proceeds or falls, the Committee supports the development of a national food strategy by the Welsh Government with the key aim of joining up Welsh Government food policy across departments.

**Response: Noted**

I very much welcome the Committee's recommendation. As set out in my response to Recommendation 2, Welsh Government food policy needs to be much more joined up. The development of a national food strategy is integral to that.

**Recommendation 10.** The national food strategy should include existing and any new food targets set.

**Response: Reject**

Unfortunately it is not clear what the intention of this recommendation is, as there is insufficient narrative around this issue in the report.

If this recommendation is referring to new targets set under Section 4 of the Bill, then these would be reflected in the national food strategy as part of the process set out in the Bill (i.e. the strategy must set out the policies to be pursued in order to meet the targets – and that would apply to all targets made under the Bill).

If however, the Recommendation is referring more generally to the food targets the Welsh Government sets outside of the Bill's provisions, it is not clear whether the Committee is calling for amendments to the Bill to ensure they are included in the strategy.

Without that detail, I am unable to accept the recommendation.

**Recommendation 11.** If a Welsh Food Commission is established it should have a strong role in advising the Welsh Government in the development and implementation of the national food strategy.

**Response: Accept**

While I accept this recommendation, the Bill already provides mechanisms that will enable the Food Commission to have a strong role in advising, and scrutinising, Welsh Government on the development and implementation of the national food strategy. In particular:

- Section 12 of the Bill already makes it a requirement for Welsh Ministers to seek the advice of the Food Commission before making the national food strategy.
- Section 10 of the Bill (functions of the Commission) includes the function to scrutinise the national food strategy and local food plans.

I would be happy to work with the Committee at Stage 2 to explore whether amendments are needed at Stage 2 to further strengthen these mechanisms, if that is considered appropriate.

**Recommendation 12.** If the Bill falls and the recommendation to establish an internal food board within Welsh Government is taken forward this board should have an oversight role regarding development and implementation of the strategy.

**Response: Noted**

As with recommendation 8, I note the Committee's intentions here, but strongly believe that the best way to take this forward would be to enact the Food (Wales) Bill and establish a Welsh Food Commission.

Specifically in relation to whether the internal food board should have an oversight role on the development and implementation of the Food Strategy, I do not believe an internal, non-statutory, Government Board would have the level of independence required to have proper oversight of Welsh Ministers in delivering this policy.

**Recommendation 13.** The strategy must not "sit on the shelf" and should be implemented at both a national and local level. If the Bill proceeds to stage 2 consideration should be given to amendments that would support public bodies' implementation of the strategy.

**Response: Reject**

The way the Bill is intended to operate is that there would be a national food strategy, implemented on a national level. That national food strategy would set out the overall strategy and policies the **Welsh Ministers** will pursue to advance the food goals and achieve the food targets.

The Bill then requires public bodies to make local food plans, to be implemented on a local level. These local food plans would set out the policies the **public bodies** will pursue to advance the food goals and achieve the food targets. In making the local food plans, a public body must have regard to the national food strategy.

The distinction between the national strategy and the local plans is a very important one. It is not intended that the national strategy should be implemented on a local level, as that is what the local food plans will do.

**Recommendation 14.** Section 17 should be amended to include the need for local food plans to support local procurement of food.

**Response: Accept in principle**

As I have set out in relation to Recommendation 13, local food plans would set out the policies the public bodies will pursue to advance the food goals and achieve the food targets.

The primary food goal includes the provision of socially sustainable food; the Economic well-being secondary food goal includes reference to creating new economic opportunities through promotion of locally produced food. In advancing these food goals a public body could include local procurement of food within its local food plans.

However, I would be happy to work with the Committee at Stage 2 to amend the Bill to make it more explicit that local procurement of food should be included in local food plans. I believe the most appropriate way of doing that would be to amend the description of the relevant food goal in Section 3, rather than amending section 17 itself.

As I set out in my response to Recommendation 3, I made a commitment to the Committee during Stage 1 that I would consider all of the evidence that was received to explore where the food goals may need to be amended.

**Recommendation 15.** If the Bill progresses to Stage 2 an amendment to section 18 should be considered to include a duty to consult with community-based organisations currently delivering and promoting local food projects.

**Response: Reject**

Section 18(1) of the Bill provides that before making a local food plan, public bodies **may** consult with specific bodies or persons. In developing the Bill this provision was carefully considered, and drafted to ensure that any consultation undertaken by public bodies was a choice rather than a duty. It was considered that making this a duty could potentially negatively impact on certain public bodies, who already undertake substantial work on delivering local food policies.

Section 18(1)(a) & (b) contain specific reference to two bodies that may be consulted (the Food Commission and the Future Generations Commissioner for Wales). Section 18(1)(c) of the Bill sets out a general provision relating to consultation with 'such other persons as the public body considers appropriate'. This would enable those community-based organisations to be consulted if the public body considered it appropriate.

I do not believe it would be appropriate to provide a list of who those 'other persons' should be within section 18 of the Bill. This opens up a Pandora's box of who should be included and who shouldn't. This general provision for consultation is also consistent with similar provisions in other legislation including the Well-being of Future Generations (Wales) Act 2015.

**Recommendation 16.** If the Bill falls the Minister should, via appropriate guidance, encourage actions that would promote the implementation of local food plans to encourage the use of locally sourced food by public sector organisations.

**Response: Noted**

As with earlier recommendations, I note the Committee's intentions here, but strongly believe that the best way to take this forward would be to enact the Food (Wales) Bill which would require the implementation of local food plans, which build from a national strategy. I find it extremely difficult to see how the use of non-statutory guidance to encourage action in this area would have the desired effect. The use of guidance in this way would also not ensure a consistent approach that is maintained over future years.

**Recommendation 17.** If the Bill falls the Welsh Government should encourage more emphasis on food sustainability at a local level through the best mechanisms available under the Well-being of Future Generations Act 2015. This could be through including a new Well-being indicator/s with milestones to support a better food system. This should result in Public Services Boards further considering public procurement and sustainability of food in their well-being plans and assessments.

**Response: Noted**

It will be for the Welsh Government to discuss with the Future Generations Commissioner how this could be done through the Well-being of Future Generations Act.