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Peter Fox MS 

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Dear Peredur,

Food (Wales) Bill: response to the Finance Committee's Stage 1 report

I would like to thank the Finance 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 have set out my response to the Committee's conclusions and recommendations at Annex A. Where conclusions have been made, or 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 Economy, Trade and Rural Affairs 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

Response from Peter Fox, MS to the Finance Committee's Report on the Food (Wales) Bill

Conclusion 1. The Committee is disappointed with the lack of information on a number of elements of the Bill and therefore is unable to draw a conclusion as to whether the resources are adequate and reasonable to deliver the legislation. We have made a number of recommendations and should this Bill proceed we would expect to see the information requested included in an updated Regulatory Impact Assessment following Stage 2 proceedings.

Conclusion 2. We reiterate previous calls that Regulatory Impact Assessments must contain the best estimate possible for costs and benefits to enable us to fully scrutinise the overall financial implications of a Bill. This includes all Bills introduced in the Senedd by the Welsh Government, individual Members and Committees.

Response: Noted

I understand the Committee's disappointment that there may have been a lack of information on the costs of some elements of the Bill. However, as an individual Member it would be almost impossible to provide accurate costs for elements of a Bill that are subject to a future national strategy and subsequent regulations, without having considerable engagement with Welsh Government officials sanctioned by the Minister.

The Bill was deliberately drafted as a framework Bill, giving flexibility for Welsh Government around the implementation of key provisions. This would include (for example) for the detail contained in future Regulations. Allowing Welsh Government to have control over this 'secondary' phase was essential. While it was possible to engage with stakeholders to estimate the administrative costs of the Bill, it would not have been possible for me to provide accurate costs for many elements of the Bill.

I agree with the Committee's view that RIAs must contain the best estimate possible for costs and benefits. However, in agreeing this, it must be borne in mind that the best estimate that is 'possible' for individual Members to include for their Bills is likely to be less comprehensive than the estimates that Welsh Government themselves could bring forward. In relation to the Food (Wales) Bill, I believe that the estimates I provided were the best estimates that were possible with the resources available to me as an individual Member of the Senedd.

Recommendation 1. The Committee recommends that in future, the Welsh Government commits to assisting individual Members and/or Committees proposing legislation by providing relevant financial information prior to a Bill's introduction to ensure that costs in Regulatory Impact Assessments are as comprehensive and detailed as possible.

Response: Noted

As outlined in my response to Conclusions 1 and 2, it would be almost impossible for individual Members to provide accurate, or sometimes any, costs for certain elements of a Bill, which are subject to future regulation making powers based on a yet to be formed national strategy, without having assistance from Welsh Government. However, I can also see the difficulty from the Government's perspective in providing those costings prior to introduction. This recommendation would have resource implications for Welsh Government in providing that assistance.

As I said during scrutiny, there was always going to be a need to provide flexibility for Welsh Ministers and the Food Commission to give direction on important elements of the Bill – much of which would require Regulations to be made later.

In relation to the costs included for those elements of the Bill that are not subject to future Regulation, I believe these have been costed to the best of my ability. I would like to thank all the people who helped out on costings, in organisation across Wales and officials in Scotland. The engagement we had with those organisations was very helpful.

Recommendation 2. The Committee recommends that the Member in Charge reassess and updates the costs in the Regulatory Impact Assessment based on the latest costs provided by the Scottish Government for The Good Food Nation (Scotland Act 2022)

Response: Accept

As the Committee will already be aware, I gave a commitment during the scrutiny of the Food (Wales) Bill as Stage 1 that I would engage further with officials in the Scottish Government as the Bill progressed through the legislative process in the Senedd. I also refer the Committee to my letter to the Minister for Rural Affairs and North Wales, and Trefnydd dated 4 May – where I reiterate this commitment. I appreciate the Committee including reference to that letter of 4 May in this Stage 1 report despite it being sent late in the Stage 1 timetable.

Recommendation 3. The Committee recommends that the Member in Charge liaises with the Welsh Government in relation to the scale and scope of the Food Commission, including the number of staff required to support it and updates the Regulatory Impact Assessment.

Response: Accept

I would very much welcome the opportunity to discuss the scale and scope of the Food Commission as the Bill progresses through the legislative process. Should the Regulatory Impact Assessment require updating as a result, I will work with Welsh Government to provide updated information and include it in a revised RIA.

Conclusion 3. The Committee is unable to reach a view, on whether the Bill would create duplication with the Well-being and Future Generations (Wales) Act 2016 and if the Future Generations Commissioner for Wales has the expertise or capacity to undertake the necessary work relating to the Bill, given the lack of information available on this issue.

Response: Noted

It is disappointing that the Committee could not reach a view on this. I strongly believe, as did a number of key stakeholders during Stage 1 scrutiny, that the Food (Wales) Bill and the Well-being and Future Generations (Wales) Act would align with each other, and act in a complimentary way. The Future Generations Commissions would also have a role to play in helping to shape, for example, the National Food Strategy going forward.

In terms of whether the Future Generations Commissioner for Wales has the expertise or capacity to undertake the necessary work relating to the Bill, it was very clear to me from discussions I had with the Commissioner that she did not believe this to be the case. This is something that I raised specifically during Stage 1. I have not had opportunity to discuss the Bill with the new Future Generations Commissioner, but would be happy to do so as the Bill progresses through the process.

Recommendation 4. The Committee recommends that the National Food Strategy is accompanied by a full impact assessment and that the Welsh Government ensures the Senedd will have the opportunity to scrutinise any costs associated with it.

Response: Noted

Although this is not a requirement set out on the face of the Bill, it should be the expected practice that the Welsh Government would undertake an impact assessment of any new 'policy' it implements. This would include the development and implementation of the National Food Strategy.

Recommendation 5. The Committee recommends that the Member in Charge undertakes further work analysing the cost benefits of the Bill and that the Regulatory Impact Assessment should be updated to include further information on these benefits, including how they will be analysed and when they are anticipated to be delivered.

Response: Reject

As I outlined in my response to conclusions 1 and 2, it is extremely difficult for individual Members to provide accurate costs on every element of the Bill without assistance from the Welsh Government. The same principle applies to the potential benefits, as much would depend on the implementation of the Act. I believe that the information I provided on the cost benefits was as full as it could be at that time.

This also links through to Recommendation 4, where the Committee has called for a full impact assessment of the National Food Strategy. The full costs and benefits will be best assessed alongside the National Food Strategy and the impact assessment produced.

It is also likely that the Bill will be amended at Stages 2 and 3, which would have an impact on the potential costs and benefits. So again, these would be best re-assessed once the amending stages are complete.

Recommendation 6. The Committee recommends that the Member in Charge provides details of the public bodies that are already undertaking work to implement local food plans, and uses this information to calculate a potential range of costs arising from the Bill. This information should be included in a revised Regulatory Impact Assessment.

Response: Accept in part

The Explanatory Memorandum that accompanied the Bill on introduction provides examples of public bodies that already undertake work on local food plans / community food strategies, etc. However, I can see the benefit in expanding this information so will update the RIA with further details and publish as part of the revised RIA after Stage 2 of the process.

However, as set out in the RIA (para 326) it was not possible to quantify the cost of **implementing** local food plans without knowing the full detail of what is required in those plans. The detail of local food plans:

- (a) must set out how the 'food targets' would be achieved, but those targets would be set by Regulation later in the process, and
- (b) must also have regard to the National Food Strategy.

To provide accurate costs – or even an accurate range of costs – for the implementation of local food plans would therefore not be possible as those required details are not yet known.

This part of the recommendation is therefore rejected. This links back to the issues raised in Recommendation 4 where costs link back to the Strategy.

Recommendation 7. The Committee recommends that the Member in Charge updates the costing of the Regulatory Impact Assessment over a ten-year appraisal period to allow the inclusion of more complete costs relating to local food plans.

Response: Reject

As set out in the report, the Committee is concerned 'that the costs in relation to the five-year review of food plans will fall outside the timeframe of costing of this impact assessment'.

In relation to the five-year review of local food plans, these would be required before the end of a period of 5 years beginning with the day the first plan is published. The plans themselves must be made within 2 years of the Act coming into force. Therefore within a ten-year appraisal period, there would be only one review of local food plans.

As the Committee will be aware, providing costs over a 5 year period was consistent with previous Member Bills. While I knew that the five-year review period would be outside this, the RIA did set out an estimate for the review of local food plans. Para 381 of the EM states:

"The strategy must be reviewed every 5 years. This would fall outside the 5 year timeframe for estimating costs. However, the costs would not be significant. For example, the Good Food Nation Bill estimated that their 5 year update and consultation around their strategy would cost between £12,549 and £17,549."

Including this information within a ten-year appraisal period would not provide any additional detail on the potential estimate for the review of local food plans.