

**Y Pwyllgor Deddfwriaeth,
Cyfiawnder a'r Cyfansoddiad**

**Legislation, Justice and
Constitution Committee**

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Julie James MS
Minister for Climate Change

25 May 2023

Dear Julie

The Environment (Air Quality and Soundscapes) (Wales) Bill

Thank you for appearing before the Committee on 15 May for an evidence session on the Environment (Air Quality and Soundscapes) (Wales) Bill.

In order to inform fully our consideration of the Bill before we report to the Senedd, I would be grateful if you would respond to the questions in the Annex to this letter by 15 June.

Yours sincerely,

Huw Irranca-Davies

Huw Irranca-Davies
Chair

ANNEX

Accessibility

Question 1: In September 2021, we recommended in our report on the Welsh Government's Legislative Consent Memorandum for the Environment Bill that a future environmental Bill introduced by the Welsh Government should address devolved issues contained within the UK Government's Environment Bill, following appropriate consultation with stakeholders. You accepted this recommendation in principle. Please can you advise if the Bill contains matters relevant to that UK Bill and if so, how it addresses the recommendation in our report?

Question 2: In the evidence session the following comments were made by you and your officials:

"it's a Bill that's intended to fit into other legislation—the attempt to do that in this Bill would have caused ripples across the other legislation in a way that was less than helpful and might actually make the Bill less accessible. So, I understand the sentiment of what you're saying entirely, but, as I understand it, you'd then have to look at the interaction between this and various environment Acts and so on, and then the ripples of that would start to go out and you'd start to be looking at a very different Bill." [RoP 37].

"in this case, the Bill has got a particular focus, and to carve out parts of the body of environmental law and put them elsewhere—our view is that that results in a partial retelling of the story about air quality, for legislation about air quality. You mentioned the Clean Air Act 1993; taking out Part 3 of that takes it out of its context with other Parts of that Act that are about air quality. So, yes, overall, the view was that it wouldn't improve accessibility of law in this instance to just take those bits out." [RoP 38]

"the environment Act ... is replete with Secretary of State for England things, which also then apply to Wales. So, it's quite complicated. I defer to the lawyers, and, actually, I'm in awe of who on earth worked their way through this." [RoP 46]

"It didn't seem necessary or optimal in any way to transfer the entire framework, only to say, 'It's exactly the same, apart from these little bits', really. So, it's part of the same conversation. We've been trying to limit the Bill that this committee is now scrutinising, and, obviously, the policy committees have scrutinised as well, to its own parameters. We've been very clear that it's not an all-encompassing Bill, and a lot of what you're talking about would stretch it back out into starting to take in a whole pile of other things. So, I'm afraid it's part of the same issue, isn't it?"

And then, for me, there's a big issue about implementation, so do we have to spend the next two years doing consequential amendments before the thing is implementable? I didn't want to get into that. And also, you start to have what should be a fairly straightforward Bill taking up two thirds of the legal resource of the Welsh Government." [RoP 54]

- a. How are the comments about accessibility consistent with the fact that legislation on air quality will now be set out in one Welsh Act and two Acts covering England and Wales?
- b. We are unclear why the opportunity was not taken to use the Bill to update, improve and simplify elements of the *Environment Act 1995* related to air quality in order to make the legislation more accessible. For example, air quality is covered in the *Environment Act 1995* in 11 sections (Part 4 of the Bill). Why couldn't these self-contained provisions be transposed into this Bill and updated where necessary?
- c. Was the decision not to consolidate air quality law into one Bill influenced by the capacity and resource constraints you refer to?

Question 3: Given that regulations under sections 1 and 2 of the Bill may not be laid until the Seventh Senedd, why was a more all-encompassing, comprehensive environmental Bill on air quality not introduced until later in the Sixth Senedd, which could potentially have delivered better outcomes through primary legislation and be consistent with the Welsh Government's objective to improve the accessibility of Welsh law?

Air quality – national targets

Question 4: Please can you summarise the existing air quality legislative framework, including by providing information about existing air quality targets and the basis on which they have been set?

Question 5: What does this Bill enable you to achieve on air quality targets that you cannot achieve within the existing air quality legislative framework?

Question 6: How will Part IV, Air Quality of the *Environment Act 1995* interact and work with Part 1 of the Bill? Specifically how will sections 1 and 2 of the Bill interact with section 87 of the 1995 Act (Regulations for the purposes of Part IV)?

Question 7: Section 1 gives the Welsh Ministers a general regulation-making power to set long-term targets in respect of *any matter* relating to air quality in Wales. Why is such a broad power needed?

Question 8: Why is there no definition of air quality on the face of the Bill?

Question 9: If air quality is to have its ordinary meaning, what do you understand that ordinary meaning to be?

Question 10: In order to understand how the regulation-making power in section 1 *could* be used, we would be grateful if you could address the following:

- a. Are there any matters in the Clean Air Plan for Wales that would not be covered by the regulation-making power?
- b. What matters, if any, outside of the Clean Air Plan for Wales could be addressed by the regulation-making power?
- c. Are there any industries, bodies or premises that could not be subject to regulations made under section 1?
- d. Could regulations under section 1 be used to control matters related to air quality such as, for example, public nuisance or odours?

Question 11: When will regulations under section 1 be first laid, and why is there no end period by which the first set of regulations must be laid (as there is for regulations under section 2)?

Question 12: Section 2(4) says that regulations setting a PM2.5 air quality target may make provision defining "ambient air". Why is this definition only relevant to PM2.5 air quality targets and why is it to be defined in regulations rather than appearing on the face of the Bill?

Data quality

Question 13: In the Explanatory Memorandum you state the Welsh Government will be developing a delivery plan with stakeholders which could cover improving air quality data (paragraph 3.82).

- a. What delivery plans are you referring to and what is their statutory basis?
- b. Why is there no statutory duty to collect data and / or improve its quality? How will data collection and quality be improved under the Bill as drafted?