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Chair, External Affairs & Additional
Legislation Committee
The Senedd
Cardiff
CF99 1NA

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Dear David

Preparations for the end of Brexit transition

I published my report on '[Preparations in Wales for a 'no-deal' Brexit](#)' in February 2019. That report summarised the results of my audit work across Welsh public bodies to assess their preparedness. I subsequently wrote to you in September 2019 updating the position with regards to preparations for a no-deal Brexit. That [letter](#) set out some of the key challenges for public services who were, at that point, facing the prospect of the UK leaving the EU without a Withdrawal Agreement on 31 October 2019.

Since then, much has changed although many of the challenges and issues remain familiar. As we know, the EU and UK agreed to extend the 31 October 2019 deadline. Following the general election, the UK and EU ratified a revised Withdrawal Agreement and on 31 January 2020 the UK left the European Union. The UK entered an eleven month 'transition period' provided for in the Withdrawal Agreement. At the same time, negotiations started on a new relationship with the EU, with the intention that a new agreement would be in place by the end of the transition period.

At the time of drafting this letter, there remains a prospect that the UK will leave the transition period on 31 December without an agreement on the future relationship. The UK Prime Minister had set a deadline of 15 October, but that date has passed. Negotiations are continuing although there remain differences between the EU and UK in some key areas.

Even with an agreement, there will be consequences for Welsh public services and the wider Welsh economy and society. Since I last reported, the UK Government's ambitions for the future relationship have changed considerably. The UK Government is seeking a free trade agreement along the lines of that which the EU has with Canada. If agreed, this would probably involve removing most or all customs tariffs between the UK and EU. But there will also be new non-tariff barriers, including new checks on goods coming in and out of the country. There will also be a new migration regime, impacting on the rights of EU citizens to work in the UK and vice versa.

Welsh public services are now facing the challenge of preparing themselves and the wider society for these changes while also dealing with the impact of the COVID-19 pandemic. In some ways, the previous work to prepare for Brexit has helped with the response to COVID-19. When I wrote to you in September 2019, I said:

“Brexit planning constitutes the most comprehensive example of cross-government working that we have seen the Welsh Government undertake to date. There will undoubtedly be valuable lessons for the Welsh Government to draw from this experience and how its approach could perhaps be adapted for use in tackling other cross-cutting public service delivery challenges.”

Those we spoke to in preparing this update told us that the structures, planning and relationships developed to prepare for Brexit had all helped as part of the response to the pandemic. There were also specific practical benefits, for example the Welsh NHS reports that it drew on Brexit buffer stock as part of the COVID-19 response. In many respects, the work to prepare for the end of transition and to respond to COVID-19 is being integrated and co-ordinated together.

Despite the additional pressures, Welsh public services have continued to keep arrangements in place to prepare for the end of transition. The Welsh Government has updated its structures, with a new Assurance Board. The collective pan-public service arrangements have remained in place. Lead bodies for the main sectors of the Welsh public service told us that, as of October, activity was again ramping up on collective efforts as well as within individual bodies.

When I wrote in September 2019, I noted the Welsh Government's concerns about engagement with the UK Government. The Welsh Government reports that the relationship deteriorated in the first half of 2020 but has improved more recently, with increased sharing of information and engagement. As an example, last year, the Welsh Government and UK Government were working to a shared plan for civil contingencies, Operation Yellowhammer. At the time we did our fieldwork, there was no such common plan. The Welsh Government has since told us that after a period of having limited access, it is now more sighted of UK Government scenario planning documents and that joint working is strengthening.

The Welsh Government has its own plan in place setting out the actions that need to be delivered. It published its End of Transition Action Plan on 11 November. The difficulty is getting that work done in the timescale and providing the necessary human and financial resources while also responding to a pandemic that has been occupying all parts of government since March. Many of those previously involved in work preparing for Brexit have been heavily involved in the response to COVID-19 with little opportunity for a refresh over the summer. I also note that the end of the transition period could coincide with the period of peak deaths in Wales from the second wave, according to the modelling used by the Welsh Government COVID-19 Technical Advisory Cell.

The move to a new relationship with the EU is a critical issue for the well-being of the citizens and communities of Wales. Despite the competing priorities at present, that means putting significant resources in place to provide sufficient capacity to deliver the necessary actions and to bolster the resilience of public services both in the short and longer term.

I hope this letter and the accompanying detail supports the Committee in its consideration of the issues around preparing for the end of transition.

Yours sincerely,



ADRIAN CROMPTON
Auditor General for Wales

Preparations for the end of Brexit transition

About the work we carried out

We have conducted a very high-level review during September and October to inform this update. We have interviewed senior Welsh Government officials responsible for Brexit planning, as well as officials from the Welsh Local Government Association (WLGA) and the Welsh NHS Confederation. We also interviewed officials from Hybu Cig Cymru (Meat Promotion Wales) and Natural Resources Wales, two of the publicly funded bodies potentially most directly affected by Brexit.

We have reviewed documents held by the Welsh Government, including its over-arching action plan, which was published very recently, and other detailed planning documents. We have not carried out any work to test the plans reviewed and therefore have not sought to form a view on how effective they are likely to be. Nonetheless, the published plan clearly covers the main areas of risk and reflects the more detailed plans and underpinning activity.

The key risk areas arising from the end of the transition period

The Welsh Government has developed a new End of Transition Plan. We have drawn on the issues set out in the plan to identify the key areas of risk (**Figure 1**). Some of these cover areas that are not devolved or where action by Welsh public services is linked to UK-wide activities. In some instances, the issues are similar whether there is an agreement or not, in particular the requirement for checks at the ports and a new trading relationship for businesses. In other cases, the issues are specific to the scenario where the UK and EU are unable to reach agreement.

In summarising these issues, we focus below primarily on those areas that the Welsh Government's assessment shows are of greatest concern. In addition, there are specific issues within the plan, such as data adequacy¹, which are also of significant concern but are not seen as the highest risk. Other issues include operational preparedness across the environment and rural affairs, where there are around 70 projects including in areas such as regulation of ozone depleting substances, animal and plant health and pesticides and fisheries enforcement.

¹ The EU is yet to decide whether the UK has an 'adequate' level of data protection. If it is deemed 'adequate', data can be sent from the European Economic Area to the UK without the need for further safeguards.

Figure 1: Key issues covered in the Welsh Government’s End of Transition Plan

	<p>Operational activities: Issues relate in particular to preparations for the infrastructure, traffic management and service delivery issues around new hygiene and border control checks at Welsh ports.</p>
	<p>Business readiness and support: Issues relate in particular to general efforts to prepare businesses for a change in the nature of the trading relationship with the EU, with particular concerns about the red meat sector and fisheries in the event of there being no agreement with the EU.</p>
	<p>Supply of critical goods: Issues relate in particular to disruption to supply chains for critical goods required by the NHS and other public services, with the Welsh Government having particular concerns about the effectiveness of UK-wide mechanisms to manage these risks.</p>
	<p>Welsh Government resources and responsibilities: Issues relate to the lack of clarity over what will replace EU Structural Funds from 2021 onwards and concerns about staffing capacity to deliver on the 4,000 or so functions the Welsh Government will take over as a result of leaving the EU.</p>
	<p>Communities and public services: Issues relate in particular to supporting EU citizens and concerns related to recruiting and retaining EU workers in the health and care sectors.</p>

As part of its assessment, the Welsh Government has identified more than £50 million of activity to be delivered that is not yet funded. It is calling for the UK Government to provide additional funding, including funding to cover the bulk of this activity.

Operational Activities

Ports: regardless of whether there is a ‘deal’, new checks on goods will need to be carried out at UK ports, including those in Wales. The Welsh Government will be responsible for administering checks on animal and plant-based products in Wales². Her Majesty’s Revenue and Customs (HMRC) will be responsible for customs border checks. The UK Government has decided to phase in these border checks between January and July 2021. The phasing is set out in the UK Government’s Border Operating Model, which it published in October 2020.

To prepare for these changes, the Welsh Government will be involved in the construction of two new inland sites; one in North Wales and one in South-West Wales. The site in North Wales, which is being led by HMRC, will have joint operations conducted by HMRC and Welsh Government. The Welsh Government told us that the UK Government had only recently confirmed that the site in South West Wales will not run joint operations. Therefore, the Welsh Government will need to appoint its own contractors.

Delivering these new sites on time looks challenging. The need for a site in South-West Wales was identified later than for North Wales, and planning is at the very early stages. Progress in North Wales has been delayed for a variety of reasons, including initial sites not proving feasible.

The costs of the new infrastructure are uncertain as it is still unclear what the design, construction, operation and staffing level of the sites will look like. The Welsh Government expects that, once up and running, the border and hygiene checks will become largely self-financing as charged services.

There are possible challenges in finding enough people to operate the systems and do the checks. In particular, the environmental health staff needed for hygiene checks are currently in high demand to support the response to the COVID-19 pandemic, including supporting Test, Trace and Protect and enforcing COVID-19 regulations, for example in the hospitality sector. In addition, Welsh Government employed official veterinarians and technicians will also be required to conduct certain checks at borders.

² In technical terms these are ‘sanitary’ checks which protect human and animal health and ‘phytosanitary’ checks which protect plant health.

Ports – traffic management: the Welsh Government has identified the risk of significant traffic disruption in North Wales as a result of congestion at Holyhead. At the time of our fieldwork the Welsh Government was awaiting updated ‘flow analysis’ from the UK Government Department of Transport and the Border and Protocol Delivery Group. We understand it has now received that analysis. The Welsh Government expects that the costs of increased traffic management could be anything from £300,000 to £5 million over a six-month period. The Welsh Government does not expect major delays and traffic management issues around the ports in South-West Wales.

Business Readiness and Support

Red meat: The Welsh Government has identified that the red meat sector has an increased vulnerability as a result of COVID-19, and in particular the sheep sector given its high reliance on exports³. If there is no trading agreement and the sector faces high tariffs, a loss of the export market, combined with the food service sector not being back up to capacity (due to COVID-19), is likely to have a severe financial impact on farming businesses. This could have knock-on consequences for individual well-being and animal welfare. The Welsh Government has draft plans for a support package for the sector but is calling for the UK Government to make funding available for delivery.

Fisheries: During the winter months export levels tend to increase and the industry is expected to be vulnerable to a no-deal scenario. The Welsh Government recognises the need for financial support for the industry and is trying to convince the UK Government to develop a UK-wide support package for the sector.

Business preparedness: Many Welsh business will face new rules and checks when trading with the EU, regardless of whether there is an agreement. The EU Transition portal⁴ and Business Wales are central to business support. The Welsh Government reports that the extended period of uncertainty is causing increased pressures among businesses and a lack of capacity to prepare given the impacts of COVID-19.

It recognises that it will therefore need to reprioritise and stop other work currently being carried out by Business Wales. The Welsh Government’s work to prepare and support business is increasingly linked in with the wider work to manage the economic impacts of the COVID-19 pandemic. An example of this is the latest phase of its Economic Resilience Fund, which was initially introduced to help businesses through the COVID-19 pandemic. The Welsh Government told us that

³ In 2019, the export market for sheep and beef was worth £198.5 million to Wales, over 90% was exported to the European Union.

⁴ A page within the Business Wales webpages which acts as a landing page for business to access EU transition information in order for them to ‘stay informed and stay prepared’.

it has adapted the latest round of funding to make £100 million available to support businesses both through the pandemic and the end of the EU transition period.

The supply of critical goods

There are widespread concerns about significant disruption at the ports in the south of England impacting on supply chains for critical goods⁵. Previously, both the UK and EU had set out some temporary arrangements to ease some of the potential delays. While the UK Government intends to phase in some checks on goods entering the UK, we understand that the EU currently intends to apply the full range of checks to UK goods entering the EU.

The supply chain issues impact a range of public bodies and there has been learning from the experience of UK supply chains during the COVID-19 pandemic. As was the case with previous arrangements for a no-deal Brexit, NHS Wales (including the Welsh Government Department for Health and Social Services) is working with colleagues from around the UK to ensure continuity of supply for medicines and medical devices. NHS Wales is separately building a buffer stock of medical supplies and drugs, where necessary.

Other supply chain issues include veterinary medicines and some chemicals. We understand that the Welsh Government has contributed to a UK-wide contingency plan to manage these risks around the availability of chemicals required for the treatment of drinking water. As part of this approach, Natural Resources Wales is working with the Environment Agency in England and the chemical industry.

On a positive note, the Welsh Government considers that the experience gained from the COVID-19 pandemic has shown that the food supply chain contingency planning is robust. It considers that the operational links between Welsh Government, Defra, other devolved administrations, and businesses largely worked well in this respect. Nonetheless, the Welsh Government remains concerned about the potential impact of a reduction in choice and increases in costs, especially on the most vulnerable households. It also remains concerned about the potential public response to any shortages of certain food products and reports that it is working with the UK Government and the main supermarkets on communication to consumers.

⁵ On 6 November 2020, the National Audit Office reported that there are likely to be significant disruptions at the UK border, that there are still operational issues to resolve to reduce the risks of disruption around the short Channel crossings and that COVID-19 was making contingency plans for the supply of critical goods and medicines more difficult to enact.

Welsh Government resources and responsibilities

Current and Future Regional Funding: the Welsh European Funding Office (WEFO) reports that the current round of funding is going well. It has committed all available EU Structural funding to projects, with approximately £1 billion still to be spent up to 2023. Under the terms of the Withdrawal Agreement, the EU will continue to provide funding for projects under the current funding round even after the end of the transition period. In the event of breakdown in relations between the EU and UK and parties not observing the terms of the Withdrawal Agreement, WEFO considers that HM Treasury's guarantee to replace EU funding would protect it⁶.

The Welsh Government has expressed concerns about the lack of engagement with the UK Government regarding the future of the UK Shared Prosperity Fund, which will replace EU Structural Funds. The Welsh Affairs Select Committee also produced a critical report highlighting the lack of progress⁷. The Welsh Government has developed a draft Framework for Regional Investment. It is planning the implementation of a successor programme from April 2021 and has some projects in the pipeline. However, the programme is dependent on confirmation of funding and it remains uncertain whether the Welsh Government will have the autonomy to set its own priorities.

Delivery Functions: as a result of no longer being part of the EU, the Welsh Government expects to take on responsibility for around 4,000 legal functions previously exercised at EU level. The Welsh Government is currently completing an exercise to better understand the implications of these functions and identify options for delivering them. The Welsh Government currently sees taking on so many responsibilities as a significant risk due to staffing constraints (see below). In addition, the Welsh Government will need to consider what resources it needs to respond to the policy choices that will be available once it is no longer subject to EU rules and frameworks.

⁶ More information on how Brexit impacts structural funds and the HM Treasury guarantee can be found in our August 2018 report on [Managing the Impact of Brexit on EU Structural Funds](#).

⁷ Select Committee on Welsh Affairs, [Wales and the Shared Prosperity Fund: Priorities for the replacement of EU structural funding](#), October 2020

Legislation: The Welsh Government will need to pass new laws as it takes on new powers and fills in gaps in legislation previously filled by EU law. The Welsh Government had passed 51 laws (statutory instruments) before the UK formally left the EU on 31 January 2020. Since then, as at 6 November 2020, it had laid eight out of 21 new statutory instruments in the Senedd. Of the remaining 13, five had been drafted and translated, four were being translated and the Welsh Government had confirmed or projected dates for all to be laid. Some less critical laws will be laid in 2021. The Welsh Government had also given consent to 214 UK statutory instruments in devolved areas and expected to have to give consent to nine more by 31 December 2020. The Welsh Government is, however, concerned about the capacity to respond effectively to UK legislation implementing any new UK-EU agreement, if one is in place, which will require scrutiny and consideration of consent from the devolved legislatures. It is pressing the UK Government for early sight of draft legislation.

Communities and Public Services

The Welsh Government has concerns around the issues under this heading, which covers advice for EU citizens, especially around settled status, and issues with international transport, but responsibility for delivery generally rests with the UK Government. The WLGA and Welsh NHS Confederation told us that the issue of immigration and retention and recruitment of EU citizens in the health and social care sectors remained an area of high concern for them. The NHS Confederation told us that it had been working with UK colleagues to try to influence UK Government thinking on its future immigration plans. This work included commissioning the Wales Centre for Public Policy to research how future immigration proposals under a points-based system could impact the Welsh health and social care sector.

Resources for preparing for the end of transition

Staffing resources

The COVID-19 pandemic has had a significant impact on the staffing resource available to prepare for the end of transition. Many officials working in the EU Transition Team and many of the officials working on specific policy areas have been redeployed or had roles in the COVID-19 response. Senior staff from across the Welsh Government, who would be involved in any civil contingency response to the end of transition, have been involved in the COVID-19 response.

The Welsh Government is reviewing its staffing needs and gaps. An early analysis of the demand has identified a short-term resourcing gap of several dozen additional roles specifically for EU Exit essential activity with several hundred also potentially needed over time for critical statutory, policy or delivery functions, services and programmes or critical business activity, many of which are related to EU activities. The Welsh Government is recruiting some new senior civil servants at Deputy Director grade. It is also seeking to move some existing staff to work on EU transition and recruit additional staff on temporary contracts to backfill posts. At this stage, we have not been able to confirm how many staff have been moved nor how many have been recruited.

We have not done any detailed work looking specifically at the workforce in wider public services. However, we are aware from our engagement with NHS bodies, local government and other sectors that staff are being stretched by the response to COVID-19. We understand from our engagement with the WLGA and NHS Confederation that many organisations are combining their work to prepare for the end of transition with their work on COVID-19, as it often involves the same group of staff. Nonetheless, there is a strong possibility that public services have significantly less staffing capacity to put towards the end of transition than they did when previously preparing for a no-deal Brexit.

Financial resources

The Welsh Government has continued to run its Transition Fund. The Transition Fund aims to help businesses, public services, communities and individuals to prepare for the short and longer-term implications, risks and opportunities of the UK's new relationship with the EU and the rest of the world. When we last wrote in September 2019, the Welsh Government had committed £34.5 million through the Fund. As at June 2020 the Welsh Government had committed £47.5 million, of which £21.1 million had been spent, leaving £26.4 million to be spent. In Figure 2, we set out the 10 largest projects by spend.

Figure 2: Ten largest European Transition Fund projects by spend, as at June 2020

Projects	£ millions spent
Airbus Skills assistance	2.5
Global Wales II (support for universities)	2.4
Tackling food poverty and insecurity	2.0
Meeting Welsh Government fisheries evidence requirements for EU Exit	1.8
Red Meat Benchmarking	1.7
Local authorities preparing for a 'no-deal' Brexit	1.2
Reinforcing Wales' International Reputation and Relations	1.0
Strengthening Community Cohesion	1.0
EU Citizens Rights	0.9
Towards a Global Food Nation Wales	0.7

Note: The projects in this table are presented at a more detailed level than in our September 2019 letter, and therefore this table cannot be compared with the table in that letter.

Source: Audit Wales analysis

While the Transition Fund represents a significant source of support, the amounts are vastly exceeded by the programme of funding and initiatives that have been introduced to support business and communities to manage the economic and social impacts of COVID-19.

Governance arrangements for managing the end of transition

Preparedness for the changes in the relationship with the EU

Previously Welsh Government officials came together to prepare for Brexit at its EU Exit Committee⁸. This has been replaced by a Post EU Exit Assurance Board. The Assurance Board is supported by two sub-groups: The Implementation Board, which considers issues related to preparations for the end of transition in Wales and the Negotiations Board, which covers the negotiations between the UK and the EU and UK trade negotiations with the rest of the world. The Welsh Government Cabinet Sub-Committee on European Transition and Trade has continued to meet throughout the year to and oversee the progress of preparedness activity for the end of transition.

The Welsh Government and local government have continued to meet to share information, plan and assess readiness through the Local Government (EU) Preparedness Panel. That Panel includes some council Chief Executives, each representing a wider region of Wales, supported by a number of Directors who lead on key service areas. The WLGA reports that the Panel has continued to meet through the COVID-19 pandemic. Councils have continued to employ at least one officer with responsibility for planning for Brexit/end of transition funded through the European Transition Fund.

Collaboration between health and social care has continued, with health and social care representatives continuing to be part of the Brexit planning groups established by Welsh Government.⁹ The Welsh NHS Confederation continues to employ a dedicated staff member, who support collective planning and sharing of information across NHS Wales. It told us that while work had been ongoing, it was being accelerated with meetings and communications increasing in frequency towards the end of the transition period.

Managing civil contingencies

In my previous update, I set out some of the arrangements in place for an emergency response to a no-deal Brexit. Many of those arrangements were put to the test by the COVID-19 pandemic. The Welsh Government told us that the no-deal planning had put Welsh public services in a stronger position to respond to COVID-19, because public services had built strong networks and worked together on practice runs leading up to December 2019.

⁸ The EU Exit Committee was the senior civil servants in the Executive Committee (plus a limited number of other officials) meeting specifically to consider Brexit.

⁹ These groups include the Brexit Ministerial Stakeholder Advisory Forum, EU Transition Leadership Group and the Brexit Senior Responsible Owners' Group.

COVID-19 has shown that public services can work together and run the emergency response over an extended period. Public services went from a standing start and worked up to seven days a week (two long shifts a day). The events of COVID-19 have also provided valuable intelligence on what was previously a very uncertain area – namely the risk of the public making individually rational decisions around stockpiling that have significant potential consequences for the wider society. The Welsh Government and partners have learnt lessons from this work and factored this into their plans.

Nevertheless, significant challenges remain for any emergency response to an end of transition with no deal. It is clear from our wider engagement that while it was delivered, staffing up the response for long periods has been a significant drain organisationally and for individual staff. At the time of drafting, the Welsh Government and partners have stepped up their emergency response, combining work on the response to the second wave of COVID-19 cases with planning for the end of transition. Alongside the formal emergency planning, elected Leaders in local government have been meeting regularly, including with Ministers, to respond to the political aspects of the response to the end of transition.

A further challenge has been the engagement with the UK Government. When we wrote in 2019, there was a UK-wide plan for the key emergency issues related to a no-deal Brexit: Operation Yellowhammer. The UK Government has made clear its intention that it will not restart or replace those arrangements. It has produced a Reasonable Worst Case scenario document. However, at the time of our fieldwork, we understand that the UK Government had limited access to the full set of assumptions to a small number of individuals from the Welsh Government. Only limited sharing of small subsets of these assumptions was permitted with other colleagues in the Welsh Government, and it was not permitted to share these with partners in the wider public services. The Welsh Government told us that this created challenges in enabling a common understanding of what the risks were and how they were being managed at a UK level.

We understand that more recently these restrictions have been relaxed to an extent and joint working with the UK Government has increased. The UK Government has issued a summarised version of the Reasonable Worst Case scenario. This summary was shared with the Local Resilience Forums, which lead on local civil contingency planning. In addition, the Welsh Government is now participating in a civil contingencies board with the UK Government and the other devolved administrations. This board focuses on UK wide emergency preparations for the end of transition as well as other potential winter pressures that could have a UK-wide impact.