

## **Cabinet Secretary for Energy, Planning and Rural Affairs**

### **Climate Change, Environment and Rural Affairs Committee**

#### **Brexit Scrutiny**

##### **Introduction**

1. This paper is submitted ahead of my appearance before the Committee on 18 July.
2. This paper covers the areas the Committee identified in advance for particular inclusion, alongside some of my priorities and recent actions, to address the challenges and embrace the opportunities of Brexit. It should also be read alongside my evidence paper to the Finance Committee of 27 June regarding replacing EU funding streams.
3. Brexit brings with it major challenges and changes and it is true this has created some feelings of uncertainty across the country. As a Government, it is our duty to ensure that we address the issues head on and exploit every opportunity for the good of Wales and to ensure Prosperity for All. Even before Brexit, the case for change was strong, after Brexit, reform is unavoidable.
4. My priority from the outset has been early and effective engagement with stakeholders to ensure we identify the implications and opportunities of exiting the EU on our sectors. We engaged early with stakeholders by establishing the Brexit Roundtable. Our cross-sectorial approach has enabled us to consider the issues in an integrated way, for example, on all parts of the supply chain and recognising the inextricable links between agriculture, communities and the environment. It has added significant value. It is a real strength in Wales to have such engaged and experienced people collaborating to make as great a success of Brexit as possible.
5. We have defined five distinct priority areas, enabling us to continue building momentum as we approach Brexit and for the future beyond:
  - Contribute to UK negotiations. We have been clear from the outset that Wales needs a seat at the table.
  - Legislation. We are preparing for both UK and Welsh legislation to ensure continuity of the legal framework.
  - Post Brexit operation systems. We are working with Defra and other UK Government Departments on the necessary joint preparations, as well as developing the necessary Wales-only solutions.
  - Design new policies for food, agriculture and fisheries. We are working with stakeholders and others to ensure our policies are right for now and for the future.
  - Establish post Brexit ways of working between Devolved Administrations and UK Government. We are working on frameworks and systems within the UK, Wales and beyond.

## **Negotiations**

6. I am continuing to have regular quadrilateral meetings with UK Government, Scottish Government and Northern Ireland.
7. The meetings provide an opportunity for us to discuss key issues such as operational readiness, common frameworks and funding. This is essential to ensure our sectors are prepared, building on the work we have already done in Wales. It is also important that we work collectively to put in place the necessary frameworks to enable the UK to function in future.
8. We now have a formalised joint programme with Defra and the other administrations, which is a positive step forward, especially given the importance of Environment, Fisheries and Rural Affairs to Wales.
9. Discussions about the UK position for negotiations on the future relationship with the EU also take place in a cross-UK Ministerial forum which met for the first time in May. Rebecca Evans AM, Minister for Housing and Regeneration, is the lead Minister for the Welsh Government. Energy, Planning and Rural Affairs will be represented when the agenda reflects relevant items within the portfolio.
10. These Ministerial meetings will be informed by official level discussions under 24 different headings. Some of these, like agriculture, food and fisheries products, fall squarely in my portfolio and my officials have already participated in discussions with Whitehall and Devolved Administration counterparts, to discuss areas such as fisheries, energy, sanitary and phytosanitary measures. We have a strong interest and will play an active role in other cross-cutting discussions such as on goods, transport and customs.
11. My regular Roundtable meeting allows me to hear what stakeholders need from a future relationship with the EU and they continue to emphasise the importance of free and unfettered trade to their industries. For my part, I will continue to press the Secretary of State for Environment, Farming and Rural Affairs on this at our regular Quadrilateral meetings.

## **Legislation**

### Brexit Correcting Legislation

12. My portfolio has the largest volume of EU derived legislation, which will need to be corrected by exit day to ensure a functioning statute book. The task cannot be underestimated as there has never been a time before when so much legislation has had to be considered in such a short timeframe.
13. To provide some context to the scale of the task, there are nearly 900 pieces of directly applicable EU legislation within my portfolio and nearly 400 pieces of domestic legislation. Not all of these will need any amendment but the vast majority, over 800, will.

14. Much of this, is of course UK legislation and we are actively engaging with the UK Government on how to best deliver the volume of corrections to ensure that there is a coherent statute book for all who will be under obligations to continue to comply with the legislation on and post day one of exit.
15. Much of our Welsh specific legislation is also interdependent on the directly applicable and the corrections made to these may also need to be reflected in any connected Welsh statutory instruments.
16. Due to these connections and dependencies we are working with the UK Government to identify key dependencies, which need to be reflected in the UK and Welsh programmes of laying correcting instruments.
17. Whilst there remains a lack of certainty as to the UK's future relationship with the EU and any transition period, we are currently working to introduce correcting SIs at the end of 2018 to be in place for March 2019.
18. We will, however, be proactively engaging with the UK Government to assess whether any changes may be needed to this timeframe in light of the on-going negotiations between the UK and the EU.

#### Primary Legislation

19. In addition to a programme of secondary correcting legislation, we are also considering where we will require primary legislation to address the impacts of Brexit.
20. We have already given a commitment to close the environmental governance gaps caused by leaving the EU at the first proper legislative opportunity.
21. The UK Government has published its consultation document outlining its proposals for an Environmental Principles and Governance Bill. It has indicated it intends to publish a draft Bill sometime in the autumn. I should stress, the consultation does state the geographical scope of its proposals are for England only and for matters which are reserved.
22. Whilst, I have had on-going discussions with the Secretary of State on this matter, we had little advance notice of the publication. Input from the Welsh Government would have been particularly important on this consultation given the shared England and Wales jurisdiction and wider judicial implications, including on issues which are not devolved.
23. We are in a different position to the UK Government in respect to the role of environmental principles. We have placed sustainable development at the heart of our governance in Wales through the Well-being of Future Generations Act and enshrined key environmental principles within our Environment Act.
24. However, I have always stated my willingness to engage in discussions on how best to address these gaps, particularly as we have considerable experience in Wales on sustainable development and environmental principles and have

achieved international recognition through our Well-being of Future Generations and Environment Acts.

25. We will continue discussions with the UK on its proposals to assess what would provide the most appropriate response to addressing the environmental governance gaps including its geographical scope. The UK Government has indicated in its consultation, a willingness to discuss possible co-design of proposals with the devolved administrations and my officials and I will continue to engage with the UK Government to consider the best possible solution for Wales, including ensuring our internationally recognised legislation is not negatively affected.
26. We are, of course, developing our own proposals to respond to these governance gaps and we have already given a commitment to close the environmental governance gap caused by leaving the EU at the first proper legislative opportunity.
27. I welcome the Committee's report on 'Environmental governance arrangements and environmental principles post-Brexit' and note its particular queries around the establishment of a UK-level governance body and enshrining environment principles in law.
28. Work is on-going in this area and we will be providing further information on our proposals in due course, alongside responding to each of the Committee's recommendations.

#### UK Government's Agriculture Bill

29. A sub-group of UK-wide officials has been set up to explore devolution issues relating to the UK Agriculture Bill.
30. Defra has clarified that the Agriculture Bill is expected to be introduced in mid-July and we are discussing draft clauses with Defra as this becomes available. Officials are working with Defra who will be doing all they can to enable a July introduction date for the bill.
31. I am considering a Welsh Agriculture Bill as well as including temporary provisions for transition in the UK's planned Agriculture Bill to ensure we can continue to issue payments to 2020 and develop new systems.
32. Anything Defra shares will be highly confidential as clauses are still in draft form. The Welsh Government will respect confidentiality and hope that this will allow for open and constructive discussion in line with the Inter Governmental Agreement and information sharing between the administrations.

#### Fisheries Bill

33. The fishing industry and our marine environment are heavily regulated by European legislation, much of this legislation will become retained EU law as amended through the Statutory Instruments under the Withdrawal Bill.

34. However, we will need to introduce a Welsh Fisheries Bill following exit from the EU to replace legacy European legislation, most of which will be saved by minimal amendments which make its 'operable' rather than optimal, when any implementation period ends. In particular we will need to take action in relation to the setting of fishing opportunities in Wales, control and enforcement and science and evidence.
35. We stand ready to work with Defra on their proposals for English fisheries and to ensure any proposals do not adversely impact on devolved priorities.

#### Post EU Exit

36. Legislating for day one of exiting the EU helps to retain the status quo but we recognised in the introduction of our Environment Act, there was still a large legislative reform programme required to ensure our legislation framework was fully effective and efficient.
37. We will of course be looking to continue to deliver legislation, which delivers on the Programme of Government for the interests of the people of Wales as well as how we can take forward our legislative reform programme to further deliver our Well-being of Future Generations and Environment Acts.

#### **Post Brexit Operational Systems**

38. The Internal Readiness Programme has been established within a wider Energy, Planning and Rural Affairs Brexit Programme to monitor the tasks and actions required to ensure operational readiness on day 1 (and transition) following exit from the European Union.
39. My officials have been working closely with UK Government Departments and Devolved Administrations for over a year, to establish where new processes or systems will be required to be in place, from as early as 30 March 2019, based on a "no deal" scenario. Most of the projects will also be required if an implementation period to the end of 2020 is adopted but timings may differ. Many of these projects are dependent on an agreement on funding mechanisms, legislation and governance/delivery frameworks.
40. There are currently 64 operational readiness projects under consideration, broadly aligned with Defra parallel responsibilities, which can be divided into the following categories.

<b>Categories</b>	<b>Number of Projects</b>
Animal and Plant Health	19
Food	2
Environment	13
Farming	13
Fisheries	7

Science	4
Trade and Border Issues	6

41. In addition to the two food projects, other projects also have direct or indirect links with the food sector, for example, farming and fisheries as primary producers etc.
42. To date, much of the work on the projects has been around legislative requirements and frameworks. It is now time to start to move into the next phase of delivery.
43. Many of the projects benefit from a collaborative approach with UK Government Departments and other Devolved Administrations. Others are best delivered at a Wales only level, however, projects considered to be reserved or carried out individually by each administration will still benefit from exchange of information and joint working. My officials have categorised the level of collaborative working for each project, which is now being formally agreed with other Administrations.

#### EU Transition Fund

44. On 18 June the First Minister announced some of the first projects which will receive part of the £50m EU Transition Fund. The fund is part of our Brexit plans to directly help businesses and public services for the significant changes on the way.
45. Funding has been secured from the fund to invest, initially, in four project proposals from the Energy, Planning and Rural Affairs portfolio:
- Benchmarking for the red meat sector (£2.15 million), which will replicate the successful work, we carried out with the Dairy sector in Wales, through the Dairy Conditional Aid project. It will support 2,000 beef and sheep farmers to benchmark their financial and technical performance in order for them to identify areas of their business which could be improved.
  - Work around import substitution (£100,000). We know there will be opportunities for import substitution to secure more of our food and food ingredient supply chains within Wales and the UK.
  - Transforming Government Fisheries Management Systems for EU Exit, (£390,000) will support internal readiness work, to develop new fisheries export certification systems and provide the science which will underpin our future fisheries management.
  - Work around supporting Welsh Fisheries and Aquaculture Sectors (£440,000) will allow Welsh Government to support fisheries and aquaculture businesses to adapt to the significant changes ahead.
34. Further proposals are currently being progressed to address the challenges of Brexit which face businesses across many sectors.

## Taking forward Welsh Government policy

### Future Farming & Land Management

46. I have announced the five principles to underpin future land management support. These are;

- We must keep land managers on the land. To produce maximum benefit, land must be actively managed by those who know it best. This is what is best for our environment and communities.
- Food production remains vital for our nation.
- Future support will centre on the provision of public goods which deliver for all the people of Wales. The richness and diversity of the Welsh landscape means there is no paucity of public goods to procure, from clean air, to flood management, to better habitats.
- All land managers should have the opportunity to benefit from new schemes. However, land managers may need to do things differently in return for support.
- We need a prosperous and resilient agricultural sector in Wales, whatever the nature of Brexit. To make this a reality, we need to change the way we support farmers.

47. We intend, therefore, to have two elements of support: one for economic activities and one for public goods production. Many land managers will be able to produce both, but support for food production must not undermine our natural environment.

48. The environmental public goods under consideration for inclusion in future schemes are:

- Climate change adaptation and mitigation (through actions including increased tree planting)
- Reducing flood risk
- Habitat and ecosystem resilience
- Water quality
- Air quality
- Soil conservation
- Heritage / landscape

49. The list of activities that are being considered for economic resilience support are:

- Support for sustainable improvement (collaboration, precision agriculture)
- Support for diversification (renewables, tourism, value-add on food production)
- Increasing market potential (new markets, value add)
- Knowledge transfer and innovation
- Risk management

50. Officials are undertaking a new phase of intensive stakeholder engagement to work collaboratively on ideas for delivering these principles. These proposals will be included in a consultation document to be published in early July.
51. Our proposals are not just for farmers and agriculture. These will be proposals for land management, including farming and forestry.

### Fisheries

52. Fisheries Management is an area which is heavily regulated by EU legislation. It is currently managed through the Common Fisheries Policy which is a set of rules for managing European Fishing fleets and for conserving fish stocks. It is designed to manage a common resource and provides equal access to EU waters and fishing grounds and the opportunity for fishing fleets to compete fairly.
53. In Wales, for historic reasons, the fleet is primarily (approx. 95%) small, under 10m vessels. The fishing industry is reliant on non quota shellfish species, the vast majority of which (90%) is exported to the EU or other countries via EU trade deals. The Evidence and Scenarios Roundtable Sub-Working Group, and the Welsh Centre for Public Policy, have clearly highlighted the importance of ongoing barrier free market access. As mentioned earlier in the paper, the First Minister has recently announced funding to help the fisheries and aquaculture sectors prepare for EU exit.
54. Leaving the EU presents the first opportunity for a fisheries policy to be set in Wales with the best interest of Welsh fishermen and coastal communities at its heart. I will be setting out more detail during the Government Debate on Brexit and the Fishing Industry on 3 July.

### Food

55. The food and drink industry is one of our important manufacturing sectors connecting agriculture with consumers across Wales and selling across the UK and internationally. Its profile is growing. People are taking greater interest in what they eat and drink, where it comes from, how it's produced.
56. The current Food and Drink Action Plan for Wales is widely recognised as a success, providing clear focus and energising activity.
57. Provisional figures for Welsh food and drink exports were worth in excess of £500 million in 2017 and indicate a healthy 16% growth in value from the previous year. Export markets such as the European Union remain strategically important.
58. Brexit is a key consideration because of the disruption it could cause to how industry supply chains work and the threat of tariffs and other barriers. In addition, in 2015 over a quarter (27%) of those employed in food and drink manufacture in Wales were born in the EU.
59. Brexit also presents the opportunity to put in place new policies and programmes to help the food and drink industry adjust and thrive. As mentioned earlier in the



paper, my Department has a sector readiness programme underway including actions supplementing the food and drink action plan.

60. Six Food Clusters have been established of businesses with common interests. These have generated significant business interest and have demonstrated themselves to be a powerful engine for driving more growth, opening up new opportunities and adding value.
61. The Food & Drink Wales Industry Board and the Welsh Government are working closely and successfully with industry – for example the recent ‘Tuck In’ event in north Wales provided expert bespoke marketing and brand advice to food manufacturers and was widely applauded by delegate companies.
62. There has been considerable success in growing the perception and reputation associated with Welsh Food and Drink. There were 165 Great Taste winners in 2017 and there are now 15 registered EU protected food name products originating from Wales.
63. We have developed an award-winning brand which provides us with a strong platform for promoting Wales to the world. Visit Wales uses this brand to deliver an ambitious and successful programme of UK and international multi-channel marketing activity which includes television advertising with a campaign on St David’s Day, along with digital campaigns and events to promote Wales direct to potential visitors and tour operators
64. Whatever the trading arrangements, we will continue to promote Welsh food and drink as quality products, produced at excellent standards, with traceability and, in many cases notable provenance.
65. Our Prosperity for All: Economic Action Plan identifies food and tourism as new foundation sectors of the economy. They are the backbones of many local economies. We will develop cross-government enabling activities for the sectors to maximise impact. Effective cross-government working will maximise benefits.
66. The Welsh Government continues to support investment in food and drink businesses in Wales through the Food Business Investment Scheme and the Rural Business Investment Scheme. Support is provided for micro, small and medium sized food and drink companies, which are at the heart of innovation and growth of the industry now and in the future.
67. The Rural Development Programme is also investing £21million in Project Helix. This is an initiative led and managed by the three food technology centres in Wales which have a long standing and successful track record of working closely with the industry. This is being delivered under the umbrella of Food Innovation Wales brand. The project delivers advice and practical support helping businesses innovate, be more productive, develop new products, and improving skills.
68. Our £2,800,000 Fit for Market / Fit for Export programme is also enabling the industry to retain and grow existing markets post Brexit both domestically and

internationally. It will also prepare the industry to allow for the substitution of ingredients should the supply chain become disrupted post Brexit.

## **UK relationships and post-Brexit Ways of Working**

### Frameworks

69. My officials and I have continued to support and actively participate in framework discussions with the UK Government and devolved administrations to explore what frameworks might look like.
70. The Welsh Government was fully involved in the first tranche of detailed UK-wide discussions on common frameworks, which involved 22 'deep dive' discussions on areas including agriculture and food as well as environment, animal health and fisheries.
71. A second stage of UK-wide discussions on the development of these frameworks is now proposed. This will focus on the 24 potential legislative framework areas that were set out under the recent Inter-governmental Agreement, the majority of which are relevant to the Energy, Planning and Rural Affairs portfolio. The discussions will need to build on the initial series of meetings in order to explore further where frameworks may be needed in specific areas.

### **Finance**

72. As stated in my paper to Finance Committee of 27 June, I oversee nearly £340m a year of the £680m a year of EU funding that comes to Wales.
73. The main source of funding to my portfolio derives from the Common Agricultural Policy. In particular Pillar 1 - Direct Payments to Farmers which will run from 2015 – 2020 and Pillar 2 - the Rural Development Programme (RDP) 2014-2020. In relation to CAP Pillar 1 Direct payments, scheme year 2019 will be the last to be administered using EU funding and rules. In relation to CAP Pillar 2 schemes (RDP), commitments made up to the UK's exit will be honoured by the UK Government Guarantee for the lifetime of the agreement. New commitments beyond 2020 will be made in the context of the UK Government Guarantee to 2022.
74. The UK Government has so far failed to provide any detail or commitment beyond 2022. We will continue to insist Wales receives its current share (10%) and therefore based on need, rather than a population share through Barnett (6%). I will, therefore, continue to seek agreement with the UK Government on future funding arrangements. A new funding framework needs to be agreed between all four UK nations, and I am keen to ensure we have effective collaborative working between governments to consider joint proposals.
75. Further discussion is required to confirm the actual level of funding which will be available to Wales and the funding formulae to be adopted, mechanism for market support measures and replacement for other types of funding.

## **Wales TB Eradication Delivery Plan**

63. The Committee has separately also asked for an update of the progress of the Wales TB Eradication Delivery Plan which came into force in October 2017.
64. We are now nine months into our refreshed TB Eradication Programme, launched in October last year. The regionalised approach to TB eradication and policies, such as implementation of Post-Movement Testing in the Low TB Area and provision of Action Plans for persistent TB herd breakdowns are still bedding in and these actions will inevitably take time to work through to the statistics. It is important that we allow sufficient time for these measures to take effect before we draw any meaningful conclusions about the success of any single policy, although each policy is subject to ongoing review.
65. A report on the delivery of the badger intervention operations undertaken in 2017 is being finalised and will be published in the near future.
66. In terms of the disease statistics, the latest published data cover the 12 months to March 2018, due to the 2-3 month time lag in publication of these statistics. These figures show a 13 per cent increase in new TB herd incidents on the previous 12 month period. It should be noted that the trend in new TB herd incidents is often volatile. Short term changes should be interpreted with caution and in the context of long term trends. I am able to report the longer term trend in new TB incidents is downwards and, the latest statistics show, since 2009 there has been a 34% decrease in new herd incidents.
67. When it comes to reporting on progress with the TB Eradication Programme as a whole, we want to ensure we have the most meaningful disease statistics in order to provide the most complete disease picture. As such, I intend to make a statement on progress with the TB Eradication Programme in April 2019, when we have a complete calendar year (covering January-December 2018) picture of the disease. This will be consistent with the publication of the National disease statistics and will also coincide with the publication of the Quarter 4 2018 TB Dashboard.

**Lesley Griffiths AM**

Cabinet Secretary for Energy, Planning and Rural Affairs

July 2018