

Sophie Howe
Future Generations Commissioner for Wales

21 March 2019

Dear Sophie

Thank you for attending our meeting on 10 January to give evidence in connection with your work. Following the session, the Committee agreed I should write to you to set out our observations and to seek clarification and/or further detail from you on a number of issues.

Role and responsibilities of the Commissioner

We note that a significant part of your role to date has centred around supporting the cultural change necessary to embed the Well-being of Future Generations (Wales) Act 2015 ('the Act') across public sector bodies. Your role has also led you to publicly challenge the way in which some of these bodies are applying the Act in practice. For example, in the case of Natural Resources Wales ('NRW') to decisions on environmental permitting, and the Welsh Government's decision making process for the M4 relief road.

1. Can you explain how you approach balancing these different aspects of your role?

2. We would like you to explain:

- in what circumstances you would consider exercising your power to review public bodies under section 20 of the Act; and



- whether, in your view this power could be used to challenge misapplication of the Act or non-compliance with duties under that Act.

3. Welsh Ministers are not required to respond to recommendations you make in accordance with Section 21. Do you believe such a requirement should be included in the Act?

Welsh Government’s budget process

In December 2018 you published a report, ‘Advice to Welsh Government on taking account of the Well-being of Future Generations Act in the budget process’.

4. Has the Welsh Government provided a response to your report? Has the response been published?

Monitoring and assessment of public bodies

In your annual report for 2017–18, you said that one of the areas on which you would be focusing during 2019 would be “the process of monitoring and assessing public bodies as they produce their first set of annual reports.”

5. Can you describe how you will undertake this work and the timescales for its completion?

Decarbonisation

In your report ‘Advice to Welsh Government on taking account of the Well-being of Future Generations Act in the budget process’, you recommend that:

“Welsh Government clearly articulate how the actions set out in the Low Carbon Delivery Plan will be funded in order for us to meet our statutory emission reduction targets.”

6. What are your views on the Welsh Government’s first Decarbonisation Plan, that was published on 21 March 2019?



7. The first Decarbonisation Plan contains no detailed costs. Given that the Welsh Government has declined to take forward your recommendation, what action do you intend to take?

8. Are you satisfied with the approach taken by the Welsh Government?

Environmental Permitting

We note your on-going concern about the way in which Natural Resources Wales ('NRW') has been applying the Act to environmental permitting decisions. We also note the steps you have taken to seek to address this issue, including working with NRW to develop a matrix.

In your evidence to us, you raised concern that the Welsh Government's recently published statutory guidance on environmental permitting was "[not as] comprehensive as it should be in terms of applying the [Act]". You also told us that NRW had expressed concern that the guidance and the matrix may be contradictory.

In evidence to the Committee in February 2019, NRW informed us that it was "restarting discussions" on the matrix and that work "was now reconvening". This suggests that your concerns in relation to the development of the matrix have been resolved since your appearance before the Committee.

9. We would like you to clarify whether you were involved in the development of the guidance, as suggested by NRW in its evidence to us.

10. What further action do you intend to take to ensure that your concerns about the robustness of the guidance are addressed?

11. We would like you to provide an update on discussions you have had with NRW and the Welsh Government on the suggested contradictions between the guidance and the matrix. In particular, are you satisfied that this issue has now been resolved?



12. We would also like you to clarify whether work on the matrix has now resumed. If so, when is it likely to be completed?

M4 relief road

In your evidence to us, you made clear that you do not consider the decision making process for the proposed M4 relief road has “reflected the requirements of [the 2015 Act]”. We are concerned about this. We are equally concerned that legal representatives in your Office and within the Welsh Government are interpreting the Act in considerably different ways. This does not bode well for the successful implementation of the Act.

13. We would like you to set out any action you intend to take to seek to ensure that these differences in interpretation are addressed.

14. Given the significance of this decision and your concerns that any misapplication of the Act could set an unhelpful precedent, we would also like you to clarify what action you intend to take if, in your view, the Welsh Government’s decision on the M4 relief road is unfavourable.

Transport

In reference to WelTAG 2017, you said in your annual report 2017–18 that you were:

“in the process of agreeing an approach with Welsh Government to monitor and assess the effectiveness of new guidance and have committed to supporting them to look at how is being applied on a small number of projects, to assess its impact and record how it is leading to different decisions.”

15. Can you provide an update to the Committee on this matter?

16. How will you measure the impact of your intervention?



Housing

We note the work you have undertaken to date to ensure that the seven well-being goals are embedded into the Welsh Government's Affordable Housing Review, and Innovative Housing Programme ('IHP').

We are encouraged to hear that the Housing Review Panel is engaging positively with your Office in taking forward its work, and we hope that the outcomes of the review reflect this.

In evidence, you told us that advice provided by your Office to the Welsh Government in relation to the IHP has not been taken on board fully. Moreover, you raised concern about the application criteria the Welsh Government developed for the IHP, in particular its stipulation that "applications should demonstrate that they contribute to at least one, but no more than three of the well-being goals, which is completely at odds with what the legislation requires".

17. Can you provide an update on the outcome of discussions with the Welsh Government in relation to your concerns about the current application criteria for the IHP?

18. Can you set out how you intend to influence the development of future application criteria for the IHP?

19. In terms of the extent to which you have been able to influence the IHP, what do you believe would constitute a success?

Milestones under the Act

The Welsh Government is currently consulting on national milestones, required under the Act. The Government's intention is to identify a small set of the national indicators against which national milestones will be developed.

20. We would like your views on the extent to which this approach is in keeping with the Welsh Government's duties under the Act.



Governance and transparency

Section 26 of the Act provides for an “advisory panel” to provide advice to you on the exercise of your functions. In your annual report 2017–18, you say that:

“Other Commissioners sit, among others, on my advisory panel and my preferred approach to working with my advisory panel is to concentrate on areas of joint interest and concern.”

21. Can you provide the Committee with further information about the operation of the advisory panel, in particular, how often the panel meets and where other relevant information, such as notes of meetings, are published?

The Committee notes that much of your work is in its early stages. This provides an ideal opportunity to ensure that appropriate governance structures and approaches in place. The Committee is particularly interested in any mechanisms you may have developed to assess and monitor performance.

22. Can you explain the processes that are in place to assess your impact and that of your Office on the exercise of your functions?

Land use planning

In your evidence to us, you stated that the majority of the correspondence you have received over the past year relates to concerns regarding planning decisions. As such, you have worked closely with the Welsh Government to ensure that the revised Planning Policy Wales (‘PPW’) (Edition 10) aligns with the Act. We note your comments that the revised policy is an “excellent example” of embedding the Act into Welsh Government policy.

23. Can you explain how the Act is successfully embedded into the revised PPW?

24. Can you provide examples of revisions that have been made to PPW as a result of your work and that of your Office?



Once again, we are grateful to you for attending the meeting. We have agreed to invite you to give evidence on matters relating to our remit on an annual basis.

I should be grateful if you would respond as soon as possible and by 23 April at the latest.

I am copying this letter to the Chair of Equality, Local Government and Communities Committee, and the Chair of Economy, Infrastructure and Skills Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style with a large initial 'M'.

Mike Hedges AM

Chair of Climate Change, Environment and Rural Affairs Committee

cc John Griffiths AM, Chair of Equality, Local Government and Communities Committee

Russell George AM, Chair of Economy, Infrastructure and Skills Committee

