

Our ref: NB/mm

Ask for: Nick Bennett



Date: 3 June 2019



Mike Hedges AM  
Chair, Climate Change, Environment & Rural Affairs Committee

**Via Email Only:**  
**SeneddCCERA@assembly.wales**

Dear Mike

## **Environmental Principles and Governance in Wales Post European Union Exit**

Thank you for your letter of May 8<sup>th</sup>.

Having appraised myself of the Welsh Government's consultation I am sure that any steps to protect and enhance environmental governance in Wales post Brexit are to be welcomed. I am also glad that the consultation refers to established governance structures, including my office.

In principle, I agree that there is a regulatory gap resulting from Brexit. However, in respect of individual complaints about personal injustice affecting a citizen of Wales, my office will remain the appropriate body to consider complaints about Natural Resources Wales (NRW), local authorities or the Welsh Government.

Should Welsh Government establish a new body in this field then our vires will also be affected as Welsh Government is in our jurisdiction and I would expect any new body to be listed in Schedule 3 of the PSOW Act, as the NRW and Welsh Government currently are. I am aware that the proposed Office for Environmental Protection (OEP) in England includes provisions for the new body to be in the Parliamentary Commissioner's jurisdiction and that there has been ongoing dialogue between DEFRA and the PHSO.

The broader issue relating to Brexit and governance arrangements in policy fields, which currently have a split competence between the EU commission and Member States/ Devolved Governments, is something that is discussed regularly with the all Public Service Ombudsman Group in the UK, and also with the European Ombudsman. Whilst post Brexit accountability mechanisms are a matter for

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government/s, we have a joint interest in ensuring that whatever mechanisms that are in place post Brexit are as clear as possible to the citizen.

I do have regular meetings with Welsh Government officials regarding complaint matters, however we have not discussed this matter directly. I have asked the European Ombudsman for any data emanating from Wales on environmental matters and will happily share any data that might be of use to your committee.

I think it is important that any reforms in this area fill any emergent environmental regulation gap, but do not duplicate existing complaint systems or create confusion for the citizen. I note that the consultation paper suggests (p59) that my office is not specifically focused on environmental issues (which is correct) and that we may not have the technical expertise for complex environmental issues. My office considers complaints about a wide range of complex issues, including health and environmental issues, and my staff are absolutely able to deal with such technical complex cases. However, I do not have a regulatory role, and consider individual complaints about personal injustice arising from maladministration or service failure. I would add that whilst I can question professional judgement in health and social care matters, I am not able to do so in environmental matters. This, coupled with the fact that my role is to consider personal injustice, perhaps reinforces the need for a regulator in this area to deal with wider environmental concerns – eg by a lobbying group.

I will respond along these lines to the Welsh Government and will also happily collaborate with Welsh government so that any complaints system in this policy area is as citizen focused as possible. Thank you again for seeking my views.

Best wishes.

Yours sincerely

**Nick Bennett**  
Ombudsman