

Lesley Griffiths AM  
Minister for Environment, Energy and Rural Affairs

19 July 2019

Dear Lesley

### **Environmental principles and governance post-Brexit**

As you know, the Climate Change, Environment and Rural Affairs Committee ('the Committee') has taken a keen interest in the impact of the UK's departure from the EU on environmental standards in Wales. Our report, *Environmental governance arrangements and environmental principles post-Brexit* (June 2018), set out our preliminary views on these matters. A year on, we have revisited this work in light of emerging proposals from the UK and Welsh Governments to address the environmental principles and governance gaps arising from Brexit.

We have taken evidence from a range of stakeholders to inform our work and will be publishing our report early in the autumn term. However, given that the UK is due to leave the EU on 31 October, the Committee agreed I should write to you to highlight issues that we believe you should address as a matter of urgency. Your response will be used to inform the conclusions and recommendations in our upcoming report.

#### **1. Transitional arrangements in relation to environmental governance**

In our first report, we asked you to provide details of any work you were undertaking to explore potential transitional arrangements for environmental governance, if a new governance body was not in place on exit day. In response, you told us that you would be considering the need for transitional arrangements and would continue to engage with stakeholders to consider how best to address the governance gaps until legislation can be introduced. We are concerned that, a year on from our report, limited progress has been made in this regard.

We acknowledge the ongoing uncertainty around the terms of the UK's exit, and the nature of the future relationship between the UK and the EU. Although this undoubtedly adds to the complexity of the Welsh Government's task in determining suitable transitional arrangements, it should not be used as an excuse for inaction.

We would expect the Welsh Government to have taken full advantage of the extended Brexit deadline to explore potential transitional arrangements with stakeholders. However, it appears from the evidence we received that this is not the case. Indeed, stakeholders reported a continuing lack of clarity about transitional arrangements in Wales and called for the Welsh Government to set out its intentions.

Your recent consultation, *Environmental Principles and Governance in Wales Post European Union Exit*, acknowledges that unless there are changes to the current governance structure in Wales, exiting the EU could mean potential gaps in 'independent accountability', 'a simple and inexpensive mechanism to raise complaints', and 'enforcement mechanisms'. The stark reality is that these gaps will occur on 31 October under a no deal scenario unless suitable transitional arrangements are in place. Despite this, the consultation fails to provide details of these arrangements. We believe this is a significant omission which has done little to allay concerns about governance gaps in the immediate post-Brexit period.

Furthermore, we note from the First Minister's recent Legislative Statement that the Welsh Government does not plan to legislate on these matters during the next Assembly year. This serves only to reinforce the need for suitable transitional arrangements.

In highlighting the lack of proposed transitional arrangements for Wales, stakeholders noted the UK Government's proposals for an interim 'shadow body' to receive complaints about breaches of environmental law until such time as the proposed OEP is established. These proposals are not without weaknesses and there is limited detail available about the scope of the body or how it would operate in practice. While acknowledging this, stakeholders expressed support for establishing a comparable arrangement in Wales as a means of providing a clear route for complaints during transition to a new governance system.

We would like you to set out what transitional arrangements you intend to put in place to address the environmental governance gaps that will occur under a no deal scenario, and when. We would also like you to explain how these arrangements have been shaped by your on-going engagement with stakeholders.

We would welcome your views on the UK Government's proposed 'shadow body' to receive complaints about breaches of environmental law until such time as the proposed

OEP is established. We would also like you to clarify whether you have considered establishing a comparable body for Wales.

## **2. A UK-wide approach**

Despite your views on the UK Government's draft Environment (Principles and Governance) Bill, and the proposed OEP, you previously told us that you remained "ready to work collaboratively on potential UK-wide approaches [to address the gaps arising from Brexit]". You also told us that you were continuing "to proactively engage with the UK Government" in this regard.

Your recent consultation seeks views on the advantages of environmental principles and structures for collaboration and collective decision making between the UK administrations. While we welcome this, we are concerned about the practicalities of co-designing UK-wide proposals. The UK Government has previously indicated its intention to introduce an Environment Bill, which will incorporate the provisions of the draft Environment (Principles and Governance) Bill, in September 2019. That being the case, we question the feasibility of co-designing proposals. It is clear that allowances would need to be made in relation to the Bill's timetable to allow for co-design. It is not clear, however, whether the UK Government is willing to commit to this.

While the UK Government's draft Bill has been widely criticised by the sector, the evidence we received suggests there is support for UK-wide proposals, including a joint governance body, with comprehensive coverage across the UK. The Welsh Government must take the necessary steps to ensure that this option remains on the table.

We would like details of recent discussions with the UK Government and other devolved administrations on the potential to co-design UK-wide proposals, including a joint governance body and timetabling of any future proposals.

We seek further assurance that there will be sufficient time available, following the outcome of your recent consultation, to co-design proposals, including those for a joint governance body.

## **3. Monitoring and reporting**

We note that, following Brexit, the UK will still be required to report under a range of international agreements. Where this is currently done through the EU, the UK will need to do this independently. The UK will no longer have access to the wider expertise, systems and data of the EU; or the economy of scale for information gathering through the European Environment Agency (EEA) and European Chemicals Agency (ECHA).

There was strong support in evidence for Wales to remain a member of the EEA post-Brexit to enable continued access to a larger pool of scientific expertise and data.

We would like you to outline your position on continuing participation in the EEA following the UK's exit from the EU. We would also like you to clarify what discussions you have had with the UK Government in relation to this.

I should be grateful if you would respond to the above as soon as possible and by **Friday 16 August** at the latest.

Yours sincerely,



Mike Hedges AM

Chair of Climate Change, Environment and Rural Affairs Committee



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