

## Agenda Supplement – Legislation, Justice and Constitution Committee

---

Meeting Venue:

Committee Room 2, Senedd

Meeting date: 21 October 2024

Meeting time: 12.00

For further information contact:

P Gareth Williams

Committee Clerk

0300 200 6565

[SeneddLJC@senedd.wales](mailto:SeneddLJC@senedd.wales)

## Hybrid – Supplementary Pack

---

Please note the documents below are in addition to those published in the main Agenda and Reports pack for this Meeting

---

### 2 Legislative Consent Memorandum on the Water (Special Measures)

#### Bill: Evidence Session

(12.00 – 12.30)

(Pages 1 – 22)

Huw Irranca-Davies MS, Deputy First Minister and Cabinet Secretary for  
Climate Change and Rural Affairs

Clare Fernandes, Deputy Director, Water and Flood – Welsh Government

James Mugleston, Legal Services, Welsh Government

Attached Documents:

LJC(6)-30-24 – Paper 1 – Legal Advice Note

LJC(6)-30-24 – Paper 2 – Briefing paper

LJC(6)-30-24 – Paper 17 – Submission by the Consumer Council for Water to  
the Climate Change, Environment, and Infrastructure Committee

### 3 The Welsh Language and Education (Wales) Bill: Evidence Session

(13.30 – 14.30)

(Pages 23 – 44)

Mark Drakeford MS, Cabinet Secretary for Finance and Welsh Language

Bethan Webb, Deputy Director, Cymraeg 2050, Welsh Government

Iwan Roberts, Senior Lawyer, Welsh Government

[Welsh Language and Education \(Wales\) Bill, as introduced](#)



[Explanatory Memorandum](#)

[Statement of Policy Intent for Subordinate Legislation to be made under the Bill](#)

Attached Documents:

LJC(6)–30–24 – Paper 3 – Legal Advice Note

**5 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – previously considered**

**Affirmative Resolution Instruments**

**5.3 SL(6)534 – The Historic Environment (Wales) Act 2023 (Consequential Provision) (Primary Legislation) Regulations 2024**

(Pages 45 – 48)

Attached Documents:

LJC(6)–30–24 – Paper 18 – Report

LJC(6)–30–24 – Paper 19 – Welsh Government response

**7 Papers to note**

**7.2 Correspondence with the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs: The Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022**

(Pages 49 – 52)

Attached Documents:

LJC(6)–30–24 – Paper 20 – Letter from the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 18 October 2024

LJC(6)–30–24 – Paper 21 – Letter to the Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs, 24 September 2024

Document is Restricted

By virtue of paragraph(s) vii of Standing Order 17.42

Document is Restricted



## **CCW submission to Senedd Climate Change, Environment, and Infrastructure Committee deliberations on the *Water (Special Measures) Bill***

### **CCW – who we are**

The Consumer Council for Water (CCW) is the independent statutory consumer organisation representing household and non-household water and sewerage consumers in England and Wales. CCW was set up in 2005 explicitly to represent water consumers under the *Water Industry Act 1991*<sup>1</sup>.

### ***Water (Special Measures) Bill* and CCW's consumer panels position**

We support the Bill's provisions and its enactment in Wales. The most meaningful contribution we can make is on Welsh consumer representation in Clause 1.

We support the Rules and Remuneration Clause 1 (6) of the Bill that suggests the Rules may include a requirement for persons representing the views of consumers to be members of a board, committee and panel of each water company in Wales and England.

Because customers cannot choose their water provider, it's especially important that their voices are heard in key issues that affect water consumers.

CCW asks for the Committee's support for our proposal for a CCW-led independent consumer panel for each water company in Wales to enhance consumer representation.

### **Why consumer panels are a good idea**

Wales needs independent consumer panels, funded and run by CCW, to get stronger and more meaningful input from a truly diverse and representative set of consumers on an ongoing basis. We want to see citizens of Wales getting as big a voice on the issues that matter to them as water consumers in England.

Consumer panels would help the water industry access informative, dynamic, on-the-ground consumer views. These panels can call meetings with companies each year to scrutinise their annual performance data. They can also call Dŵr Cymru and Hafren Dyfrdwy to account at other times, such as if there was a major water supply or water quality incident, and service or environmental performance disruptions due

---

<sup>1</sup> [Water Industry Act 1991 \(legislation.gov.uk\)](https://legislation.gov.uk)

to flooding. Plus the companies should be required, at least annually, to explain how they have taken consumers' views into account in their decision-making processes.

## What CCW thinks consumer panels should look like

CCW has long believed that consumer panels are a good idea. In 2021, we published our paper *Future Consumer Representation Models*<sup>2</sup>. Although our thinking has moved on a little since then, many of the principles remain true.

**Appendix A** outlines our current thinking on what consumer panels should look like. CCW should run panels as we are independent and have experience of running a consumer panel - our Watervoice community.<sup>3</sup>

## Governance for consumer panels

The basis for the governance of the consumer panels by CCW is already in the Water Industry Act 1991.

CCW already has the remit to set up committees/groups/panels<sup>27A</sup> for each water company under the *Water Industry Act*, with the approval of Welsh Government & Defra. [Schedule 3A](#) outlines this more. The purposes of those groups are to:

- a. *Provide advice and information to the Council [CCW] on consumer matters that affect the areas of the water companies that the group is allocated to*
- b. *Other purposes that CCW may determine (which could include holding the Boards/Exec Board members to account)*

## Consumer panels and existing public scrutiny

Our consumer panel proposal would complement and enhance existing public scrutiny of the water industry in Wales.

CCW recognises that Dŵr Cymru's holding company, Glas Cymru, has non-paid Members whose *"duty is to promote the good running of the company, in the best interests of its customers"*<sup>4</sup>. However, Glas Cymru Members are not a replacement for our proposed consumer panel as they carry out a company governance role. Members are not all customers. The role of a Member is different to an ongoing panel representing a diverse set of consumers who can provide a meaningful, real-time view on important issues.

The work of the Members and the panels will be complementary. The panels will provide independent information and intelligence from customers to Glas Cymru Members to inform their decision-making and advice to Dŵr Cymru. Members can

---

<sup>2</sup> [Future consumer representation models - CCW](#)

<sup>3</sup> [WaterVoice: Views of current customers on water resources - CCW](#)

<sup>4</sup> [Glas Cymru | Dŵr Cymru Welsh Water \(dwrcymru.com\)](#)

also provide CCW with questions to include to be answered by the panel and get an independent consumer view back.

Hafren Dyfrdwy customers will also benefit greatly from the consumer panel proposal. It would allow the company to engage with people affected by issues specific to the many rural locations of Wales.

## **Conclusion**

We are keen to support effective Welsh parliamentary scrutiny in a way that does not delay enactment of the Bill to the detriment of Welsh consumers.

CCW encourages the Climate Change, Environment, and Infrastructure Committee Committee to support Clause 1 (6) of the Bill and agree that CCW should run the panels.

If you would like to discuss our views on other clauses as per your outline in your 4 October letter, such as Clause 3 on emergency overflows and Clause 2 on Pollution Incident Reduction Plans (currently not applicable to Wales), we are happy to arrange a meeting.

Contact:  
Jenny Suggate  
[Jennifer.suggate@ccwater.org.uk](mailto:Jennifer.suggate@ccwater.org.uk)

## Appendix A

### An overview of what consumer panels could look like

The way the panels are set up need to achieve two aims:

- To achieve the required outcome of ensuring consumer views on consumer matters via consumer panels are available to companies; and
- Creating the mechanism for those views to be delivered to company bosses in a credible and transparent way

(Note: it is the job of Ofwat's Rules to make sure companies take those views into account)

#### Consumer panels

Online Panels of water consumers provide meaningful ongoing conversation between water companies and their consumers. Consumer panels present a barometer of how consumers are feeling, based on their lived experience of water and sewerage services.

- Consumer panels are made up of consumers not experts.
- Consumer panels should run all the time – not just when price reviews take place.

The Panels:

- would participate in a number of research/engagement activities a month – eg questions to answer.
  - The questions could be ones that all the Panels get asked to get a sector view or company-specific.
  - Welsh Government (WG)/ water companies/ Drinking Water Inspectorate (DWI)/ Natural Resources Wales (NRW)/ Independent Challenge Groups (ICGs)/ Glas Cymru members/ Future Generations Commissioner could request to use the panels to ask questions.
  - For some tasks the Panels would be part of an iterative process, receiving feedback and being asked about next steps.
- The Panels should be required to call meetings with companies at least once a year to review the companies' Annual Performance Data, and then as needed at other times. For example if there was a major incident, such as the South West Water Brixham boil water notice.
  - A CCW-funded independent chair would provide necessary separation from companies.
  - The Consumer Panels would be run and funded by CCW and not funded by the companies.
  - CCW should publish the Panels' views, meeting meetings, notices of meetings etc on its website.

#### What can consumer panels do?

Consumer panels should be as diverse as possible (given panel size) of the company's customer base. CCW recommends people from households on low incomes and with vulnerabilities should be over-represented as they are less likely to engage. CCW would then contextualise the outputs accordingly.

Panels will allow for a huge range of topics to be explored:

- 
- A live temperature check on company and sector performance. This could tie into the cycle of annual data publications eg the release of the [Environmental Performance Assessment](#) or CCW [complaints reports](#).
- An annual online Q&A session with the water company's executive team and board members would hold them directly to account. Panels would also have the power to

request more frequent sessions with the company's executive team and board if circumstances deemed this necessary. CCW would facilitate these sessions to empower consumers to challenge water company bosses, as we so successfully did with [Your Water Your Say](#) sessions during the price review. These sessions would be open for members of the public to attend in addition to panel members.

- A current view of key topics to understand consumers' lived experiences. For example, affordability, vulnerability pressures, and the level and availability of support are important live issues in the water sector.
- Views on priorities, trade-offs and bill levels during the price review processes
- Experiences of company communications, eg how clear is your bill to understand? How well does your water company explain what your money is being spent on?
- Snap views on new and emerging issues
- A view on how companies deal with any excess profits, windfalls and outperformance. Companies could be obliged to consult with their panels on these issues.
- A sounding board to test new policies, approaches and proposals from Welsh Government, Ofwat, ICGs, water companies, DWI, Future Generations Commissioner, Glas Cymru members and CCW
- A source of intelligence for consumers' views about other sectors, eg energy, for comparison and learning
- The bill payers' perspective on bonus levels, executive pay etc.
- When incidents occur, it is unlikely that many members of the panel will find themselves in the middle of that incident. However, companies should be conducting research on large-scale incidents to learn lessons and this may allow the panel the opportunity to meet the company about the findings of that research. The wider panel could be engaged on topics like approach to compensation levels, or how well the incident was communicated to the wider customers base (this is particularly important for water quality incidents).

#### How do consumer panels work?

- Consumer panels carry out their activities online. In-person meetings are not necessary. This is a good solution for the water sector as many companies cover very large geographical areas.
- Panel members would carry out most research/engagement activities in their own time.
- Panel members can be brought together in various groupings for quantitative and/or qualitative research as well as deliberative inquiry, these would be facilitated sessions. This would be done the research agency.
- Only the formal convened meetings need a chair. This is likely to happen 3-4 times a year.
- Consumer panels are designed to comprise a cross-section of consumers, so they reflect the people who use water and sewage services. The extent to which they are fully representative is determined by the size of the panels - the larger the panel, the more representative they will be.
- The membership of consumer panels evolves over time. This allows greater participation from more members of society. It means any money spent on incentivisation is spread as widely – and fairly - as possible. It also means the members do not become water sector experts as they gain knowledge through participation. It is vital that consumer panels give the person-on-the-street's view.

- To be a true “finger on the pulse”, panels must be kept engaged, so activities must happen frequently. Typically a panel will have at least two to three activities per month to do.
- The online platform used for panel members to answer questions would also be used as an open channel for them to proactively raise any issues or questions they have.

CCW would put together the schedule of research/engagement activities for the panels. This would look at least six months ahead. The schedule would be flexible to allow for emerging issues and incidents to be considered at short notice. The schedule would be shared with Welsh Government, DWI, Natural Resources Wales and Ofwat, giving them an opportunity to input.

Each month, CCW would publish a report on the activities and findings of each panel. This report would be publicly available and sent to water companies’ CEOs. Water companies’ CEOs would be obliged to respond publicly to the panel’s findings, increasing their overall accountability to their consumers.

In addition, CCW would use the material in our direct liaison with water companies to inform and challenge them.

CCW is experienced in running and publishing qualitative and quantitative research and the GDPR requirements involved.

### Funding

Consumer panels must be – and be seen to be - independent of water companies. So they must not rely on them for funding. A simple funding route is through CCW - a levy on water bills. To accommodate this level of funding, it would add c12-15p per year to each water bill in Wales and England via CCW’s licence fee.

### Inclusion

Deploying online-only panels risks some people being digitally excluded. In our wider research we already deploy techniques to ensure that certain groups’ views are represented.

Document is Restricted

## **SL(6)534 – The Historic Environment (Wales) Act 2023 (Consequential Provision) (Primary Legislation) Regulations 2024**

### **Background and Purpose**

The Historic Environment (Wales) Act 2023 (“the 2023 Act”) consolidates legislation relating to the historic environment in Wales. The 2023 Act forms part of a code of law relating to the historic environment in Wales.

These Regulations amend Schedule 13 and Schedule 14 to the 2023 Act.

Schedule 13 to the 2023 Act makes minor and consequential amendments and repeals.

Regulation 3 inserts in Schedule 13 a consequential change to the Harbours Act 1964.

Regulation 4 omits paragraph 73 of Schedule 13.

Schedule 13 to the 2023 Act also makes changes to the Planning (Listed Buildings and Conservation Areas) Act 1990 (“the 1990 Act”). The 1990 Act has since been amended by the Levelling-Up and Regeneration Act 2023. These Regulations make changes to Schedule 13 to the 2023 Act in light of those amendments.

Schedule 14 to the 2023 Act makes transitional and saving provisions. Regulation 22 inserts a further saving provision in Schedule 14.

### **Procedure**

Draft Affirmative.

The Welsh Ministers have laid a draft of the Regulations before the Senedd. The Welsh Ministers cannot make the Regulations unless the Senedd approves the draft Regulations.

### **Technical Scrutiny**

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

### **Merits Scrutiny**

The following four points are identified for reporting under Standing Order 21.3 in respect of this instrument.

- 1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

The title of these Regulations is the Historic Environment (Wales) Act 2023 (**Consequential Provision**) (Primary Legislation) Regulations 2024 (emphasis added). These Regulations



amend Schedule 13 and Schedule 14 to the 2023 Act. Schedule 13 contains minor and consequential amendments and repeals, Schedule 14 contains transitional and saving provisions. The amendment made to Schedule 14 by these Regulations contains a saving provision. Can the Welsh Government confirm whether it considers 'Consequential Provision' to be the appropriate wording to use in the title of these Regulations, or should it also refer to the saving provision?

**2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

It is noted that these Regulations amend primary legislation. They are subject to the affirmative procedure, in accordance with section 209(5)(h) of the 2023 Act.

**3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

It is noted that Schedules 13 and 14 to the 2023 Act are not yet in force. In accordance with the Historic Environment (Wales) Act 2023 (Commencement) Order 2024, Schedules 13 and 14 will come into force on 4 November 2024. These Regulations, if approved by the Senedd, come into force on 3 November 2024.

**4. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

These Regulations were not subject to consultation and a regulatory impact assessment has not been prepared. We note the following paragraphs in the Explanatory Memorandum:

14. *No consultation has been undertaken on the regulations, as they reflect current policy and restate current procedures.*

15. *A Regulatory Impact Assessment has not been prepared for these regulations, as the regulations restate existing regulations. The regulations do not alter the policy (or its impact) in any significant way or how it is applied in a given situation. This is in line with the policy set out in the Welsh Ministers' code of practice for carrying out regulatory impact assessments for subordinate legislation.*

## Welsh Government response

A Welsh Government response is required for the first reporting point.

## Committee Consideration

The Committee considered the instrument at its meeting on 14 October 2024 and reports to the Senedd in line with the reporting points above.



**Government Response: The Historic Environment (Wales) Act 2023 (Consequential Provision) (Primary Legislation) Regulations 2024**

**Merits Scrutiny Point 1:** The title of an SI should give an accurate indication of the nature of the SI and distinguish it from all others. In preparing the SI, we carefully considered the point raised about whether the title should also refer to saving provision. We concluded that as all of the provision in the Historic Environment (Wales) Act 2023 (Consequential Provision) (Primary Legislation) Regulations 2024 is consequential on the Historic Environment (Wales) Act 2023, that it was appropriate to only refer to consequential provision. We note that it would have been a viable alternative to include reference to savings in the title but in this instance, we decided not to.

Huw Irranca-Davies AS/MS  
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros  
Newid Hinsawdd a Materion Gwledig  
Deputy First Minister and Cabinet Secretary for Climate  
Change and Rural Affairs

Ein cyf/Our ref: HIDCC/PO/0286/24

Mike Hedges MS  
Chair  
Legislation, Justice & Constitution Committee  
Welsh Parliament  
Cardiff Bay  
Cardiff  
CF99 1SN

18 October 2024

Dear Mike,

Thank you for your letter of 24 September in response to my update on the Trade in Animals and Related Products (Amendment and Legislative Functions) and Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022 (“the 2022 Regulations”).

You request a definitive timetable for introducing an amendment Statutory Instrument (SI) to resolve Reporting Point 25. My officials are working to introduce this within the next six months. I trust this commitment provides suitable reassurance, however should there be a situation such as an emergency outbreak response, this timeline would have to be revisited. I will inform the Committee should timings change.

With regards to Reporting Point 30, I note your suggestion about informing the Senedd if it becomes clear that this commitment is unlikely to be met. You will be aware that it was I, in my previous role as Chair of the LJCC, that sought a commitment from the then Minister for Rural Affairs and North Wales, and Trefnydd to change the procedure from negative to affirmative. You will therefore appreciate that I am keen for this change to be delivered.

However, you will be aware the Legislative Programme to the end of this Senedd has been announced and there is currently no legislative vehicle available to enable this change to be made. I also feel strongly it is not for this Cabinet to determine the will of future Cabinets by fixing a date by which opportunities to address this reporting point will stop being sought.

My officials will continue to routinely look for opportunities to enact this change and I will not be providing an update to the Senedd until such time as there is something to report.

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
0300 0604400

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Gohebiaeth.Huw.Irranca-Davies@llyw.cymru](mailto:Gohebiaeth.Huw.Irranca-Davies@llyw.cymru)  
[Correspondence.Huw.Irranca-Davies@gov.wales](mailto:Correspondence.Huw.Irranca-Davies@gov.wales)

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

I am copying this letter to the Counsel General and Minister for Delivery.

Yours sincerely,

A handwritten signature in black ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name 'Huw Irranca-Davies'.

**Huw Irranca-Davies AS/MS**

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd  
a Materion Gwledig

Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Huw Irranca-Davies MS  
Deputy First Minister and Cabinet Secretary for  
Climate Change and Rural Affairs

24 September 2024

Dear Huw

**The Trade in Animals and Related Products (Amendment and Legislative Functions) and  
Animal Health (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2022**

Thank you for your response of 9 September to my letter of 3 July 2024 in respect of the above Regulations, further to our previous exchange of correspondence.

My Committee considered your letter at its meeting of 16 September. We note your explanation for why the Welsh Government has not yet brought forward an amending statutory instrument to address reporting point 25 of the Committee's report on the Regulations, and your view that the error in question is of negligible impact "at present."

We also note the Welsh Government's commitment to introduce legislation to amend the Regulations at the earliest available opportunity.

However, you are undoubtedly aware that, by December, two years will have elapsed since the Senedd was asked to approve these Regulations. You will also no doubt be aware that, at the time, the Regulations were already known to be defective, and the Senedd subsequently approved them knowing that the Minister for Rural Affairs had committed during the debate to making the required corrections during the following year. With this in mind, we believe it is imperative that the Committee – and more importantly the Senedd – is provided with a more definitive timeline of when such an opportunity to amend the Regulations is likely to arise, and a firm deadline for the tabling of amending Regulations. Respectfully, we do not believe that it is satisfactory that defective regulations are left on the statute book until an unascertained point in the future which may or may not arise.

It is also unfortunate to hear that no suitable legislative vehicles are currently available to address reporting point 30 of the Committee's report, in line with the then Minister's commitment to change the scrutiny procedure applicable to the delegated powers in the Regulations. We note that you similarly cannot commit to a timeline to achieve this change. This again is disappointing, given that the Regulations were approved by the Senedd having heard the Minister's commitment. In light of this continued uncertainty, we are conscious that a point may arise where the Welsh Government may need to inform the Senedd that – unfortunately – this commitment will not be met. We would therefore be grateful if you could provide a date by which you will make the Senedd aware of this point having been reached.

We would welcome a response from you by 17 October 2024.

Yours sincerely,

A handwritten signature in black ink that reads "Mike Hedges". The signature is written in a cursive style and is underlined with a single horizontal line.

Mike Hedges

Chair