

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Video Conference via Zoom	P Gareth Williams
Meeting date: 28 February 2022	Committee Clerk
Meeting time: 13.30	0300 200 6565
	SeneddLJC@senedd.wales

1 Introductions, apologies and substitutions

13.30

2 Scrutiny session with the Counsel General and Minister for the Constitution – Postponed to 14 March 2022

(Pages 1 – 40)

Mick Antoniw MS, Counsel General and Minister for the Constitution

Attached Documents:

LJC(6)-07-22 – Paper 1 – Briefing

LJC(6)-07-22 – Paper 2 – Senedd Research briefing – Legislative consent

LJC(6)-02-22 – Paper 3 – Letter from the Counsel General and Minister for
Constitution, 22 February 2022

LJC(6)-07-22 – Paper 4 – Letter to the First Minister, 10 December 2021

3 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3

13.30 – 13.35

(Pages 41 – 42)

Attached Documents:

LJC(6)-07-22 – Paper 5 – Statutory instruments with clear reports

Made Negative Resolution Instruments



3.1 SL(6)154 – The National Health Service (Performers Lists) (Wales) (Amendment) (EU Exit) Regulations 2022

3.2 SL(6)156 – The Council Tax (Administration and Enforcement) (Amendment) (Wales) Regulations 2022

4 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3

13.35 – 13.45

Made Negative Resolution Instruments

4.1 SL(6)157 – The Food (Withdrawal of Recognition) (Miscellaneous Amendments and Transitional Provisions) (Wales) (EU Exit) Regulations 2022

(Pages 43 – 44)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-07-22 – Paper 6 – Draft report

4.2 SL(6)158 – The Curriculum and Assessment (Wales) Act 2021 (Transitional and Saving Provision) Regulations 2022

(Pages 45 – 46)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-07-22 – Paper 7 – Draft report

4.3 SL(6)159 – The Health Protection (Coronavirus, International Travel) (Wales) Regulations 2022

(Pages 47 – 52)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-07-22 – Paper 8 – Draft report

LJC(6)-07-22 – Paper 9 – Letter from the Minister for Health and Social Services to the Llywydd, 10 February 2022

4.4 SL(6)160 – The Milk and Milk Products (Pupils in Educational Establishments) Aid Applications (Wales) Regulations 2022

(Pages 53 – 54)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-07-22 – Paper 10 – Draft report

4.5 SL(6)162 – The Health Protection (Coronavirus, Public Health Information to Travellers and Operator Liability) (Wales) (Amendment) Regulations 2022

(Pages 55 – 59)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-07-22 – Paper 11 – Draft report

LJC(6)-07-22 – Paper 12 – Letter from the Minister for Health and Social Services to the Llywydd, 17 February 2022

Affirmative Resolution Instruments

4.6 SL(6)155 – The Local Elections (Miscellaneous and Consequential Amendments) (Wales) Regulations 2022

(Pages 60 – 61)

Attached Documents:

LJC(6)-07-22 – Paper 13 – Draft report

Made Affirmative Resolution Instruments

4.7 SL(6)161 – The Health Protection (Coronavirus Restrictions) (No.5) (Wales) (Amendment) (No.5) Regulations 2022

(Pages 62 – 65)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-07-22 – Paper 14 – Draft report

LJC(6)-07-22 – Paper 15 – Letter from the First Minister to the Llywydd, 16 February 2022

5 Instruments that raises no reporting issues under Standing Order 21.7

13.45 – 13.50

(Pages 66 – 68)

Attached Documents:

LJC(6)-07-22– Paper 16 – Statutory instruments with clear reports

5.1 SL(6)153 – Code of practice on the exercise of social services functions in relation to Part 4 (direct payments and choice of accommodation) and Part 5 (charging and financial assessment) of the Social Services and Well-being (Wales) Act 2014

6 Instruments that raise issues to be reported to the Senedd under Standing Order 21.2 or 21.3 – Previously considered

13.50 – 13.55

6.1 SL(6)148 – The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2022

(Pages 69 – 73)

Attached Documents:

LJC(6)-07-22 – Paper 17 – Report

LJC(6)-07-22 – Paper 18 – Welsh Government response

7 Inter-Institutional Relations Agreement

13.55 – 14.00

7.1 Correspondence from the Minister for Climate Change: The Phytosanitary Conditions (Amendment) Regulations 2022

(Pages 74 – 75)

Attached Documents:

LJC(6)-07-22 – Paper 19 – Letter from the Minister for Climate Change, 11 February 2022

7.2 Correspondence from the Counsel General and Minister for the Constitution: Inter-Ministerial Group for Elections and Registration

(Page 76)

Attached Documents:

LJC(6)-07-22 – Paper 20 – Letter from the Counsel General and Minister for the Constitution, 23 February 2022

8 Papers to note

14.00 – 14.10

8.1 Correspondence from the Minister for Education and Welsh Language to the Economy, Trade and Rural Affairs Committee: Welsh Government response to the Committee's report on the Supplementary Legislative Consent Memorandum (Memorandum No. 2) on the Professional Qualifications Bill

(Pages 77 – 78)

Attached Documents:

LJC(6)-07-22 – Paper 21 – Letter from the Minister for Education and Welsh Language to the Economy, Trade and Rural Affairs Committee, 14 February 2022

8.2 Correspondence from the Minister for Social Justice: Welsh Government response to the Committee's report on the Legislative Consent Memoranda on the Nationality and Borders Bill

(Pages 79 – 81)

Attached Documents:

LJC(6)-07-22 – Paper 22 – Letter from the Minister for Social Justice, 14 February 2022

8.3 Correspondence from the Minister for Health and Social Services: Welsh Government response to the Committee's report on the Legislative Consent Memoranda on the Health and Care Bill

(Pages 82 – 87)

Attached Documents:

LJC(6)-07-22 – Paper 23 – Letter from the Minister for Health and Social Services, 15 February 2022

LJC(6)-07-22 – Paper 24 – Letter to the Minister for Health and Social Services, 21 February 2022

8.4 Written Statement by the First Minister of Wales: Report on the implementation of Law Commission proposals

(Page 88)

Attached Documents:

LJC(6)-07-22 – Paper 25 – Written Statement, 15 February 2022

8.5 Correspondence from the Counsel General and Minister for the Constitution: Welsh Government response to the Committee's report on the Legislative Consent Memoranda on the Elections Bill

(Pages 89 – 90)

Attached Documents:

LJC(6)-07-22 – Paper 26 – Letter from the Counsel General and Minister for the Constitution, 16 February 2022

8.6 Correspondence from the Delegated Powers and Law Reform Committee, Scottish Parliament: Inquiry into the use of the made affirmative procedure during the coronavirus pandemic

(Page 91)

Attached Documents:

LJC(6)-07-22 – Paper 27 – Letter from the Convener of the Delegated Power and Law Reform Committee, 18 February 2022

8.7 Correspondence from the Children, Young People and Education Committee: Findings of our 6th Senedd priorities engagement with children and young people

(Pages 92 – 121)

Attached Documents:

LJC(6)-07-22 – Paper 28 – Letter from the Children, Young People and Education Committee, 18 February 2022

8.8 Correspondence from the Minister for Social Justice: Supplementary Legislative Consent Memorandum (Memorandum No. 5) on the Policing, Crime, Sentencing and Courts Bill

(Pages 122 – 123)

Attached Documents:

LJC(6)-07-22 – Paper 29 – Letter from the Minister for Social Justice, 24 February 2022

9 Motion under Standing Order 17.42 to resolve to exclude the public from the remainder of the meeting

14.10

10 Scrutiny session with the Counsel General and Minister for the Constitution – consideration of evidence – Postponed to 14 March 2022

**11 International agreements considered on 14 February 2022 –
Consideration of draft report**

14.10 – 14.20

(Pages 124 – 127)

Attached Documents:

LJC(6)-07-22 – Paper 30 – Draft report

**12 Legislative Consent Memorandum: The Cultural Objects
(Protection from Seizure) Bill**

14.20 – 14.30

(Pages 128 – 133)

[Legislative Consent Memorandum: The Cultural Objects \(Protection from Seizure\) Bill](#)

Attached Documents:

LJC(6)-07-22 – Paper 31 – Draft report

Document is Restricted

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

Document is Restricted



Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

seneddLJC@senedd.wales

22 February 2022

Dear Huw,

Further to your letter of 10 December addressed to the First Minister and my appearance at Committee on 17 January, I am writing to provide further information in relation to the legislative capacity of the Welsh Government.

There continues to be pressure on our capacity to legislate but we take steps to meet that demand. We regularly review our processes for developing legislation and Ministers closely monitor the delivery of the legislative programme, taking action where needed to redeploy resources in line with legislative priorities, such as the large amount of legislation that has been required to respond to the coronavirus pandemic.

On the question of whether there are resources in the Welsh Government's draft budget to increase legislative capacity, our work to deliver the legislative programme is an element of the work of the Government as a whole. Consequently, there is not a separate budget allocation for that activity: it is allocated on a portfolio basis.

In relation to the programme for improving the accessibility of Welsh law, during the passage of the Legislation Bill the Explanatory Memorandum set out the indicative costs of the additional staffing that were required to increase drafting and translation capacity, as well as other staff to work on the non-legislative projects.

Since work has begun on preparing the first consolidation Bills and rolling out other accessibility projects, we have established the Legislative Codes Office. Staffing within that team comprises some newly funded posts as well as a redeployment of existing posts.

In terms of Welsh Government's Legal Services' capacity to develop legislation, the rolling recruitment of lawyers has been undertaken over the last two years to seek to minimise risk that vacancies have the potential to cause. Legal Services have also sought secondees to expand their resources when required to support delivery.

We have had extensive learning and development activity for staff working on legislation for many years. Since the beginning of the pandemic, we have needed to redesign these learning activities to offer opportunities through virtual, rather than face-to-face, delivery.

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Correspondence.Mick.Antoniw@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.

This has, however, made it easier to access training on legislation across Welsh Government regardless, for example, of where in Wales staff are based.

We are proud of our delivery of a significant amount of primary and secondary legislation and we are moving forward with an ambitious Sixth Senedd legislative programme, committing to legislate in areas including Welsh taxes, social partnership and public procurement, agriculture and single use plastics.

I look forward to appearing at the Committee again on 28 February.

Yours sincerely,

A handwritten signature in blue ink that reads "Mick Antoniw". The signature is written in a cursive style. Below the signature, there is a short horizontal blue line.

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

Rt Hon Mark Drakeford MS

First Minister of Wales

10 December 2021

Dear Mark

Welsh Government's draft budget proposals for 2022-23

As part of our work to scrutinise the Welsh Government's justice policy and legislative activities, we would be grateful if you could provide us with the following information, to aid our scrutiny of the Welsh Government's draft budget proposals for 2022-23.

Justice

We note that the Welsh Government has re-established the Cabinet Sub-committee on Justice and is pursuing a programme of work on the recommendations of the Commission on Justice in Wales which are within our devolved competence. The Counsel General has indicated to us that a justice work programme will be published in the near future. You also shared a work programme with our predecessor Committee last year, setting out priorities across five workstreams.

Whilst the Counsel General chairs the Cabinet Sub-committee, we are aware that he is not a budget holder and that funding for the delivery of the Welsh Government's justice programme appears to be divided across several government departments. We are therefore seeking information on funding from you.

Could you please provide us with information on:

Any resources within the draft budget proposals for delivery of the planned justice work programme, in which departmental Main Expenditure Groups (MEG) they reside and the related Spending Programme Area (SPA) and Budget Expenditure Line (BEL) figures.

Any other resources within the draft budget proposals associated with the Welsh Government's justice priorities, including on access to justice; civil and administrative justice; criminal justice (including policing); family justice; and the legal sector. In relation to this information, please could you provide information on within which departmental MEG they reside and the related SPA and BEL figures.

Legislative capacity

In evidence to us, the Counsel General has drawn to our attention the current 'scale of the legislative demands' on the Welsh Government in relation to: its own-legislative work programme, including its programme for improving the accessibility of Welsh law; legislating for Brexit; legislating for Covid; and responding to the UK Government's legislative programme. The Counsel General also drew our attention to the high skilled nature of expertise needed to deliver on these demands. We would therefore welcome information on:

Any resources within the draft budget to increase capacity within the Welsh Government to meet these legislative demands, including recruiting new staff, increasing expertise and retaining existing staff, and potentially buying-in, seconding or otherwise acquiring additional expertise.

Any resources within the draft budget for delivery of the Welsh Government's programme for improving the accessibility of Welsh law.

We would welcome a response from you by 10 January 2022 to ensure we have time to consider the information, and raise any relevant issues, ahead of the planned Plenary debate on the draft budget.

Yours sincerely,

A handwritten signature in dark ink that reads "Huw Irranca-Davies". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Huw Irranca-Davies
Chair

Statutory Instruments with Clear Reports 28 February 2022

SL(6)154 – The National Health Service (Performers Lists) (Wales) (Amendment) (EU Exit) Regulations 2022

Procedure: Made Negative

These [Regulations](#) amend Regulation 31 of the National Health Service (Performers Lists) (Wales) Regulations 2004 (“the Principal Regulations”) in relation to Dental Performers Lists in consequence of the repeal of section 15(1)(b) of the Dentists Act 1984.

The Dental Performers List ensures that dentists are suitable to undertake primary dental services and protect patients from any performers who are not suitable, or whose efficiency to perform those services may be impaired. These Regulations ensure dentists holding an appropriate European diploma remain exempt from the requirements to undertake foundation training before being eligible for inclusion on a Dental Performers List.

These Regulations amend an error made by the the European Qualifications (Health and Social Care Professions) (Amendment etc.) (EU Exit) Regulations 2019), which amended the Dentists Act 1984, so that the exemption no longer covered those with EU qualifications. Applicants with EU qualifications were included in the group of applicants having to undergo dental foundation training in order to apply to the Dental Performers’ List, which was not the policy intention. The policy intention was to ensure applicants with EU qualifications continued to be able to register in the UK under similar conditions as they could previously, including holding an exemption from dental foundation training.

These Regulations are only made now, as the issue has only recently been brought to the Welsh Government’s attention by the UK Government.

Parent Act: National Health Service (Wales) Act 2006

Date Made: 4 February 2022

Date Laid: 8 February 2022

Coming into force date: 7 March 2022



SL(6)156 – The Council Tax (Administration and Enforcement) (Amendment) (Wales) Regulations 2022

Procedure: Made Negative

An Attachment of Earnings Order (AEO) is a council tax enforcement and recovery tool for local authorities. It enables an authority to recover money directly from an employee's earnings via their employer in order to pay outstanding council tax.

The Council Tax (Administration and Enforcement) Regulations 1992 ("the 1992 Regulations") specify the deductions to be made under an AEO that can be directed by a billing authority (county or county borough council) to the employer of a person who has received the order from a magistrates' court.

These [Regulations](#) make amendments to the 1992 Regulations by updating the tables used to calculate the amount deductible by local authorities via the employer.

Parent Act: Local Government Finance Act 1992

Date Made: 7 February 2022

Date Laid: 9 February 2022

Coming into force date: 1 April 2022



SL(6)157 – The Food (Withdrawal of Recognition) (Miscellaneous Amendments and Transitional Provisions) (Wales) (EU Exit) Regulations 2022

Background and Purpose

These [Regulations](#) amend a number of statutory instruments in relation to food composition following the UK's withdrawal from the EU, in order to ensure compliance with the World Trade Organization's (WTO) Most Favoured Nation rules.

These Regulations remove mutual recognition clauses that allow certain food products that are lawfully marketed in EU Member States, the EEA or the Republic of Turkey to be sold in the UK, even though they may be non-compliant with legal requirements in the UK.

They also amend the Bread and Flour Regulations 1998 to provide exemptions, in relation to those regulations, for bread or unfortified flour produced in Wales that is to be exported to a third country, and for unfortified flour to be produced in Wales or imported into Wales, provided that it is only used in food that is to be exported to a third country.

The Regulations provide for a transitional adjustment period ending at the end of 30 September 2022, during which the removed exemptions will continue to apply.

Procedure

Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

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

Merits Scrutiny

One point is 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**

Despite the removal of exemptions relating to certain foods brought into Wales from other parts of the United Kingdom, these Regulations will be subject to the overriding provisions of the United Kingdom Internal Market Act 2020 ("UKIMA"), including the mutual recognition



principle for goods. As the Explanatory Memorandum is silent as to the effects of the UKIMA on food composition in Wales, the Welsh Government is asked to explain whether it has considered the effects of the UKIMA and if the requirements of that Act could raise any issues in relation to this subject area.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

22 February 2022



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament **Pack Page 44**

Legislation, Justice and Constitution Committee

SL(6)158 – The Curriculum and Assessment (Wales) Act 2021 (Transitional and Saving Provision) Regulations 2022

Background and Purpose

The [Regulations](#) make saving and transitional provision in respect of the minor consequential amendments and repeals set out in Schedule 2 to the Curriculum and Assessment (Wales) Act 2021 (“the 2021 Act”).

It is the Welsh Government’s intention that the new Curriculum for Wales under the 2021 Act will be rolled out in a phased manner. The Regulations include the saving and transitional provision required to allow for that phased roll out.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

- 1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.**

Regulation 2(1) contains the definition of “child” by reference to “section 579(1) of the 1996 Act”. Section 579(1) of the Education Act 1996 contains a definition of “child” and it is presumed that this is the 1996 Act to which the provision refers. However, there is no definition of “1996 Act” within these Regulations.

Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

- 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.**



The Explanatory Notes to the Regulations state the Welsh Government's intention to roll out the new Curriculum for Wales in a phased manner between 1 September 2022 and 1 September 2026. It is noted that this is consistent with the implementation plan published by the Welsh Government but there are currently no provisions to commence the 2021 Act in this way.

It is not clear to the Committee why the Explanatory Notes set out the planned phased roll out without providing for this phased roll out within the Regulations. It would be helpful for the Committee to understand the reasons for this approach.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

22 February 2022



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament **Pack Page 46**

Legislation, Justice and Constitution Committee

SL(6)159 – The Health Protection (Coronavirus, International Travel) (Wales) Regulations 2022

Background and Purpose

With effect from 04:00 hours on Friday 11 February 2022, these [Regulations](#) revoked the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 and replaced the requirements in them, changing and consolidating them. The key changes are that these Regulations:

- Add 16 countries to the list of recognised vaccination programmes and make transitional provision for persons isolating in Wales who have been vaccinated in those countries (such persons can cease isolating);
- Change the testing and isolation requirements for arriving travellers so that:
 - o “eligible travellers” (which includes fully vaccinated persons and those under 18) are not required to undertake any testing (and, in line with the extant position, are not required to isolate on arrival);
 - o non-eligible travellers who began their journey outside the common travel area will not be required to isolate on arrival in Wales. They will still be required to take a pre-departure test and a day 2 test;
 - o positive cases will have to isolate in accordance with the requirements in the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020;
- Change the time for completion of a passenger locator form to not more than 3 days before a person arrives in Wales;
- Change the information required in a passenger locator form;
- Change exemptions for arriving travellers to requirements to complete a passenger locator form and undertake testing.

These Regulations also revoke Part 3 of the Health Protection (Coronavirus, International Travel and Notification) (Wales) (Miscellaneous Amendments) Regulations 2021. This returns the Health Protection (Notification) (Wales) Regulations 2010 to their position as it was prior to the amendments in Part 3 being made. As such, private laboratories must report results of COVID-19 (including genomic sequencing) and influenza to the proper officer of the local authority.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.



Technical Scrutiny

The following four points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 8(5) (together with paragraph 1 of Schedule 4) sets out what is required for a “day 2 test” to comply with the Regulations. Regulation 8(5)(a) states that a day 2 test is not to be treated as complying with regulation 8 unless the test is taken no later than the end of the second day after the day on which the person in question arrived in Wales. However, it is not clear whether this means that the person can actually take a day 2 test before day 2, for example, immediately upon their arrival in Wales, or whether they must wait until the second day after the day of their arrival. It may be argued that it is implicit from the title of the test that it must be taken no earlier than the start of the second day after the day on which the person in question arrives in Wales, but we do not consider this to be a satisfactory position. The Welsh Government is therefore asked to clarify whether the day 2 test can in fact be taken any time after a person arrives in Wales or whether it must actually be taken on day 2.

2. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 8(7) provides that where an adult arrives in Wales without possessing the day 2 test required under regulation 8(3), they must as soon as is reasonably practicable obtain that test or those tests. However, regulation 8(3) does not require an adult to possess a day 2 test upon arrival in Wales, it requires the possession of a booking for a day 2 test with a test provider upon arrival in Wales. Further, the regulations seem to require a single day 2 test only, yet regulation 8(7) refers to “those tests”. The Welsh Government is therefore asked to provide further explanation as to the meaning of regulation 8(7).

3. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 16(2)(a)(iv) makes reference to a “sorted BAM file” relating to a sample taken in respect of a day 2 test that has been sequenced. Neither the Regulations nor the enabling Act provide a definition for the term “sorted BAM file”. The Welsh Government is asked further clarify or define this wording in regulation 16(2)(a)(iv).

4. Standing Order 21.2(v) – that for any particular reason its form or meaning needs further explanation

Regulation 18 provides that the Welsh Ministers must review the necessity and proportionality of these Regulations at least once every 28 days. However, the Explanatory Note to the Regulations states that such reviews must take place every 21 days. It is appreciated that the Explanatory Note does not form part of the Regulations but the Committee considers that it must give an accurate description of the law contained in the



Regulations. The Welsh Government is therefore asked to explain what it intends to do in order to rectify this discrepancy.

Merits Scrutiny

The following five 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

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Eluned Morgan MS, Minister for Health and Social Services, in a letter to the Llywydd dated 10 February 2022.

In particular, we note that the letter states that:

“Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.”

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

We note the Welsh Government’s justification for any potential interference with human rights. In particular, we note the following paragraph in the Explanatory Memorandum:

“The amendments contained in these Regulations do not change the engagement under the International Travel Regulations of individual rights under the Human Rights Act 1998 and the European Convention on Human Rights; the Government considers that they are justified for the purpose of preventing the spreading of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.”

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

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraphs in the Explanatory Memorandum:

“Given the changing threat arising from coronavirus and the need for the public health response to keep pace, there has been no public consultation in relation to these Regulations.”

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



We note that no regulatory impact assessment has been carried out in relation to these Regulations. The Explanatory Memorandum states that this is:

"due to the need to put them in place urgently to deal with a serious and imminent threat to public health".

5. 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 Committee notes that the necessity and proportionality of the Regulations is to be reviewed every 28 days and that the Regulations will expire on 31 May 2022.

Welsh Government response

A Welsh Government response is required in relation to the technical reporting points only.

Legal Advisers

Legislation, Justice and Constitution Committee

16 February 2022





Elin Jones, MS
Llywydd
Senedd Cymru
Cardiff Bay
CF99 1SN

10 February 2022

Dear Elin

The Health Protection (Coronavirus, International Travel) (Wales) Regulations 2022

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this statutory instrument has not adhered to the 21 day convention and will come into force at 04:00 hours on Friday 11 February.

I attach a copy of the statutory instrument and I intend to lay this and an accompanying Explanatory Memorandum once the instrument has been registered.

This statutory instrument revokes the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 (“the 2020 regulations”). The statutory instrument changes and consolidates the requirements set out in the 2020 regulations. The key differences in the statutory instrument when compared to the 2020 regulations are:

- 16 countries have been added to the list of recognised vaccination programmes and transitional arrangements are implemented for persons isolating in Wales who have been vaccinated in those countries (such persons can cease isolating);
- the testing and isolation requirements for arriving travellers have been changed significantly so that;
 - “eligible travellers” (which includes fully vaccinated persons and those under 18) are not required to undertake any testing (and, in line with the extant position, are not required to isolate on arrival);
 - Non-eligible travellers who began their journey outside the common travel area will not be required to isolate on arrival in Wales. They will still be required to take a pre-departure test and a day 2 test;

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Correspondence.Eluned.Morgan@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.

- Positive cases will have to isolate in accordance the requirements in the Health Protection (Coronavirus Restrictions (No. 5) (Wales) Regulations 2020;
- the time at which a passenger locator form can be completed has been changed to not more than 3 days before a person arrives in Wales;
- the information required in a passenger locator form has been changed;
- the requirements for isolation following positive day 2 test have been changed, so that a person who tests positive must follow the isolation requirements of the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020;
- exemptions for arriving travellers to requirements to complete a passenger locator form and undertake testing have been changed.

The statutory instrument also revokes Part 3 of the Health Protection (Coronavirus, International Travel and Notification) (Wales) (Miscellaneous Amendments) Regulations 2021. This returns the Health Protection (Notification) (Wales) Regulations 2010 to their position as it was prior to the amendments in Part 3 being made. As such, private laboratories must report results of COVID-19 (including genomic sequencing) and influenza to the proper officer of the local authority.

Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.

I am copying this letter to the Minister for Rural Affairs and North Wales, and Trefnydd, Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely



Eluned Morgan AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

SL(6)160 – The Milk and Milk Products (Pupils in Educational Establishments) Aid Applications (Wales) Regulations 2022

Background and Purpose

[The Milk and Milk Products \(Pupils in Educational Establishments\) Aid Applications \(Wales\) Regulations 2022](#) (“the Regulations”) are made under the power contained in Article 25(b) of Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products (“the CMO Regulation”), as read with Article 3(5)(c)(i)(bb) of that Regulation. They apply only in Wales.

The domestic School Milk Scheme (previously EU) provides aid toward the cost of milk in schools. Policy on school milk is devolved, though the Scheme and is administered on behalf of the Welsh Government by the Rural Payments Agency (RPA) under an agency agreements with the Welsh Government.

The Regulations amend Articles 4 and 9 of Commission Implementing Regulation (EU) 2017/39, and amend provisions relating to documentary evidence supporting applications for aid under the scheme established by Articles 22 to 25 of the CMO Regulation. From inception these documentary evidence requirements were identified as disproportionate to the risk they were designed to address. As such, the pre 2017 control requirements were applied across the UK, and the present changes are to put this scheme on a statutory footing.

As a result of these amendments, applicants must only hold such documentary evidence available for the relevant authority. Previously, they had to submit supporting documentary evidence with the application for aid.

The Regulations will ensure a proportionate approach to document retention for participants in the School Milk Scheme in Wales. It will ask them to undertake to retain documents which support any application for aid they submit, and to make these documents available for inspection. This technical change will ensure that spot checks may continue with legal certainty.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.



Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Article 9 of Regulation (EC) No 178/2002 of the European Parliament and of the Council laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, requires:

There shall be open and transparent public consultation, directly or through representative bodies, during the preparation, evaluation and revision of food law, except where the urgency of the matter does not allow it.

The preamble to the Regulations under consideration states:

"There has been consultation as required by Article 9 of Regulation (EC) No 178/2002..."

Further, this wording is repeated in paragraph 3.2 of the Explanatory Memorandum.

However, it is noted that paragraph 5.1 of the Explanatory Memorandum states:

"As there is no policy change, no public consultation was undertaken. The purpose of the instrument is solely to put the current audit arrangements on a legal footing. A limited stakeholder engagement exercise was held with current participants in the School Milk Scheme in Wales between 28 January 2022 and 7 February 2022. No responses or comments were received from participants during the consultation process."

In view of this apparent contradiction, clarification is sought on how the action taken as set out in paragraph 5.1 of the Explanatory Memorandum satisfies the statutory requirement to conduct a "transparent public consultation" as required by Article 9.

Merits Scrutiny

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Welsh Government response

A Welsh Government response is required.

Legal Advisers

Legislation, Justice and Constitution Committee

22 February 2022



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament **Pack Page 54**

Legislation, Justice and Constitution Committee

SL(6)162 – The Health Protection (Coronavirus, Public Health Information to Travellers and Operator Liability) (Wales) (Amendment) Regulations 2022

Background and Purpose

In consequence of the revocation and replacement of the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020¹ by the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2022² (“the International Travel Regulations”), these [Regulations](#) make amendments to:

- (i) the Health Protection (Coronavirus, Public Health Information for Persons Travelling to Wales etc.) Regulations 2020³ (“the Public Health Information Regulations”); and
- (ii) the Health Protection (Coronavirus, International Travel, Pre-Departure Testing and Operator Liability) (Wales) (Amendment) Regulations 2021⁴ (“the Operator Liability Regulations”).

The Public Health Information Regulations are also amended to provide that operators need only provide specified information to passengers pre-departure and on-board an international passenger service.

In addition, the Operator Liability Regulations are also amended to replace the current suite of obligations on operators with an obligation to maintain adequate processes and systems to ensure that passengers possess certain information or evidence.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

¹ (S.I. 2020/574 (W. 132))

² (S.I. 2022/126 (W. 41))

³ (S.I. 2020/595 (W. 136))

⁴ (S.I. 2021/48 (W. 11))



Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument:

1. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements

Regulation 11(3)(c) inserts a definition of “eligible traveller” into regulation 4 of the Operator Liability Regulations.

The English version reads as follows:

“(c) in the appropriate place insert “eligible traveller has the meaning given in regulation 3 of the International Travel Regulations;”

The Welsh version reads as follows:

“(c) yn y lle priodol mewnosoder “mae i “teithiwr cymwys” (“eligible traveller”) yr ystyr a roddir yn rheoliad 3 o’r Rheoliadau Teithio Rhyngwladol;”

The English version of the Regulations does not contain a Welsh translation of the term “eligible traveller”, whereas the Welsh version does contain an English translation.

Merits Scrutiny

The following 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

We note the breach of the 21-day rule (i.e. the rule that 21 days should pass between the date a “made negative” instrument is laid before the Senedd and the date the instrument comes into force), and the explanation for the breach provided by Eluned Morgan MS, Minister for Health and Social Services, in a letter to the Llywydd dated 17 February 2022.

In particular, we note that the letter states that:

“Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.”

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



We note the Welsh Government's justification for any potential interference with human rights. In particular, we note the following paragraph in the Explanatory Memorandum:

"The amendments contained in these Regulations simplify existing requirements placed on operators. To the extent that any rights may be engaged, any interference is justified and proportionate, for the purpose of preventing the spread of COVID-19 and the protection of public health."

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

We note there has been no formal consultation on these Regulations. In particular, we note the following paragraphs in the Explanatory Memorandum:

"Given the changing threat arising from coronavirus and the need for the public health response to keep pace, there has been no public consultation in relation to these Regulations."

Welsh Government response

A Welsh Government response is required in relation to the technical reporting point.

Legal Advisers

Legislation, Justice and Constitution Committee

22 February 2022



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—
Welsh Parliament

Legislation, Justice and Constitution Committee

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Elin Jones, MS
Llywydd
Senedd Cymru
Cardiff Bay
CF99 1SN

17 February 2022

Dear Elin

The Health Protection (Coronavirus, Public Health Information to Travellers and Operator Liability) (Wales) (Amendment) Regulations 2022

In accordance with section 11A(4) of the Statutory Instruments Act 1946 I am notifying you that this statutory instrument has not adhered to the 21 day convention and will come into force on Friday 18 February 2022.

I attach a copy of the statutory instrument and I intend to lay this and an accompanying Explanatory Memorandum once the instrument has been registered.

This statutory instrument makes consequential amendments to the Public Health Information Regulations and Operator Liability Regulations in consequence of the revocation and replacement of the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2020 by the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2022 which came into force at 04:00 on 11 February 2022. The Public Health Information Regulations and the Operator Liability Regulations impose requirements on persons operating international passenger services arriving into Wales from outside the common travel area ("operators").

The Public Health Information Regulations are also to be amended to provide that operators now need only provide specified information to passengers pre-departure and on-board an international passenger service.

Further amendments are also made so that the provision of information prior to departure is simplified and provided only once prior to departure. The information must be issued at least 24 hours prior to departure if the booking was made more than 24 hours before travel, or anytime in the 24 hours before travel if the booking was made within 24 hours of departure.

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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.

In addition, the Operator Liability Regulations are amended to replace the current suite of obligations on operators with an obligation to maintain adequate processes and systems to ensure that passengers possess certain information or evidence. Operators are also required to retain such records and information and are required to show that they have maintained adequate systems and processes.

Not adhering to the 21 day convention allows these Regulations to come into force at the earliest opportunity and continue the four nation approach to international travel; in view of the changing evidence on risk in relation to this disease this is considered necessary and justifiable in this case.

I am copying this letter to the Minister for Rural Affairs and North Wales, and Trefnydd, Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

Eluned Morgan AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Agenda Item 4.6

SL(6)155 – The Local Elections (Miscellaneous and Consequential Amendments) (Wales) Regulations 2022

Background and Purpose

On 14 December 2021 Senedd Cymru approved the Local Elections (Principal Areas) (Wales) Rules 2021 and the Local Elections (Communities) Rules 2021 (referred to collectively as the 2021 Rules).

The 2021 Rules provide the rules of conduct by which the election of councillors to principal councils and to community councils in Wales is to take place. The 2021 Rules are Wales-specific and aim to provide an updated and modernised set of conduct rules.

These [Regulations](#) make miscellaneous and consequential amendments to the 2021 Rules and various other pieces of local elections legislation. For example:

- the 2021 Rules are amended to add to the list of grounds on which the returning officer may hold a nomination paper to be invalid, i.e. that the nomination paper does not include the declarations the candidate is required to include in their nomination paper, signed by the candidate.;
- the rule governing procedure on the close of the poll in the 2021 Rules is amended, so that marked copies of the registration records and the list of proxies and the marked corresponding number list may be placed into packets and sealed at a place other than the polling station;
- sections 67, 69 and 70 of the Representation of the People Act 1983 are amended, in order to be consistent with the policy of allowing candidates to keep their home address private, including when the candidate is acting as their own election agent;
- the Local Elections (Principal Areas) (England and Wales) Rules 2006 and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006 are amended, so that they apply only in relation to England;
- the National Assembly for Wales (Representation of the People) Order 2007 is amended, setting out how the 2021 Rules are modified where the poll at a principal area election or a community election is combined with a poll at a Senedd Cymru election;



- the Regulations make transitional provisions, so that the Regulations do not affect the conduct of local elections in Wales where the poll takes place before 5 May 2022.

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

One point is 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

Both the Explanatory Note and the Explanatory Memorandum provide very clear summaries and explanations of the Regulations. Given the detailed and intricate nature of the Regulations, we are particularly grateful for such helpful summaries and explanations, which have been invaluable in helping us scrutinise the Regulations.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

22 February 2022



Agenda Item 4.7

SL(6)161 – The Health Protection (Coronavirus Restrictions) (No.5) (Wales) (Amendment) (No.5) Regulations 2022

Background and Purpose

These [Regulations](#) amend the Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020/1609 (“the principal Regulations”), with effect from 18 February 2022. These Regulations provide that the principal Regulations and the Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020 will expire on 28 March 2022, rather than 25 February 2022.

These Regulations:

- omit regulation 16A of the principal Regulations, which requires any person responsible for certain premises to take reasonable measures to ensure that adults are on the premises only if they have what is commonly referred to as a “COVID pass” (and to make consequential amendments), as that requirement no longer remains proportionate in light of the current health position.
- amend the principal Regulations to extend the exemption for fully vaccinated close contacts of persons who test positive for coronavirus so that close contacts no longer have to self-isolate if they have completed a course of doses of any vaccine that is authorised for the purposes of the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2022 or under the United Kingdom vaccine roll-out overseas (prior to the amendment, close contacts were only exempt if they had completed a course of doses of a vaccine authorised in the United Kingdom).
- insert a transitional provision relating to the amendment to the exemption for fully vaccinated close contacts and revoke a spent transitional provision.

The effect of these Regulations is that:

- all venues previously covered by the domestic COVID pass requirements – large indoor and outdoor events, nightclubs, cinemas, theatres and concert halls – will no longer need to restrict entry to vaccinated individuals or those who have a negative test (or are medically exempt) as shown on a COVID pass.
- anyone identified in Wales as a close contact is exempt from the legal requirement to self-isolate for 10 days, if they have been fully vaccinated with an approved vaccine as defined in the Health Protection (Coronavirus, International Travel) (Wales) Regulations 2022.



Procedure

Made Affirmative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd must approve the Regulations within 28 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were made for them to continue to have effect.

Technical Scrutiny

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

Merits Scrutiny

The following two 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

We note the Welsh Government's justification for any potential interference with human rights. In particular, we note the following in the Explanatory Memorandum:

Whilst the principal Regulations, as amended by these Regulations, engage individual rights under the Human Rights Act 1998 and the European Convention on Human Rights, the Government considers that they are justified for the purpose of preventing the spread of infectious diseases and/or the interference is permitted on the basis that it is in pursuit of a legitimate aim, namely of protecting public health, and are proportionate.

Article 5 (right to liberty), Article 8 (right to respect for private and family life), Article 9 (freedom of thought, conscience and religion), Article 11 (freedom of assembly and association) and Article 1 of the First Protocol (protection of property) are engaged by the principal Regulations.

Each of these is a qualified right, which permits the Welsh Ministers to interfere with the exercise of the rights if necessary in a democratic society in the interests of public safety or for the protection of health. All such restrictions and requirements must be justified on the basis that they are in pursuit of a legitimate aim, namely of protecting public health, and are proportionate to that aim. Any interference with these rights also needs to be balanced with the state's positive obligations under Article 2 (right to life). The adjustment of the restrictions and requirements under the principal Regulations by these Regulations is a proportionate response to the spread of coronavirus. It balances the need to maintain an appropriate response to the threat posed by coronavirus against the rights of individuals and businesses, in a manner which remains



proportionate to the need to control the rate of transmission of the coronavirus, taking into account the scientific evidence.

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

We note that there has been no formal consultation on these Regulations. In particular, we note the following paragraph in the Explanatory Memorandum:

Given the ongoing threat arising from coronavirus and the need for a proportionate and prompt public health response, there has been no public consultation in relation to these Regulations. However, engagement has taken place with various stakeholders.

Welsh Government response

A Welsh Government response is not required.

Legal Advisers

Legislation, Justice and Constitution Committee

22 February 2022



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament **Pack Page 64**

Legislation, Justice and Constitution Committee



Elin Jones MS
Llywydd
Senedd Cymru
Cardiff Bay
CARDIFF
CF99 1SN

16 February 2022

Dear Elin,

The Health Protection (Coronavirus Restrictions) (No. 5) (Wales) (Amendment) (No. 5) Regulations 2022

I have today made these Regulations under sections 45C(1) and (3)(c) and 45F(2) and 45P(2) of the Public Health (Control of Disease) Act 1984, which come into force at 6.00 a.m. on 18 February 2022. I attach a copy of the statutory instrument and I intend to lay this and an accompanying Explanatory Memorandum once the statutory instrument has been registered.

In accordance with the procedure set out in section 45R of the Public Health (Control of Disease) Act 1984, this instrument must be approved by the Senedd by 23 March 2022 in order for it to remain in effect. In these circumstances I understand Standing Order 21.4A is relevant and the Business Committee may establish and publish a timetable for the responsible committee or committees to report. It may be helpful to know that I intend to hold the plenary debate for this item of subordinate legislation on 1 March 2022.

I am copying this letter to the Minister for Rural Affairs and North Wales, and Trefnydd, Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, Siwan Davies, Director of Senedd Business, Sian Wilkins, Head of Chamber and Committee Services and Julian Luke, Head of Policy and Legislation Committee Service.

Yours sincerely

MARK DRAKEFORD

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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.

Agenda Item 5

Statutory Instruments with Clear Reports 28 February 2022

SL(6)153 – Code of practice on the exercise of social services functions in relation to Part 4 (direct payments and choice of accommodation) and Part 5 (charging and financial assessment) of the Social Services and Well-being (Wales) Act 2014

Procedure: Made Negative

This [Code of Practice](#) is issued under section 145 of the Social Services and Well-being (Wales) Act 2014. Local authorities, when exercising their social services functions, must act in accordance with the requirements contained in this Code.

This revised Code has been amended to reflect a number of compensation schemes by making an addition to the lists of forms of capital and income that should be fully disregarded in the financial assessment for charging for all forms of social care and support. Schemes are typically new pieces of legislation introduced by governments in the United Kingdom that make monetary awards to individuals who have suffered harm, abuse or injury and are to receive payments in recognition of their suffering.

The schemes to be added to the Code are the:

- Historical Institutional Abuse (Northern Ireland) Act 2019;
- Redress for Survivors (Historical Child Abuse in Care) (Scotland) Act 2021;
- Victims Payment Regulations 2020;
- Any payments made under the payment scheme for former British child migrants established by the Secretary of State.

In addition, there are a number of infected blood and blood products compensation schemes applied to a person infected by contaminated blood products. They are the:

- Wales Infected Blood Support Scheme;
- Northern Ireland Infected Blood Support Scheme.

Producing a revised Code also presents an opportunity to add a reference to amending charging and financial assessment regulations that have come into effect since the previous revision. To this effect the Care and Support (Charging) (Wales) (Amendment) Regulations 2021 have been referenced on the revised Code as appropriate and the Care and Support



(Charging) and (Financial Assessment) (Wales) (Miscellaneous Amendments) Regulations 2022.

Parent Act: The Social Services and Well-being (Wales) Act 2014

Date Made: Not stated

Date Laid: 4 February 2022

Coming into force date: Not stated



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

—
Welsh Parliament

Legislation, Justice and Constitution Committee



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Legislation, Justice and Constitution Committee

SL(6)148 – The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2022

Background and Purpose

These [Regulations](#) amend the following student support regulations:

- the Education (Fees and Awards) (Wales) Regulations 2007;
- the Education (European University Institute) (Wales) Regulations 2014;
- the Higher Education (Qualifying Courses, Qualifying Persons and Supplementary Provisions) (Wales) Regulations 2015;
- the Education (Student Support) (Wales) Regulations 2017; and
- the Education (Student Support) (Wales) Regulations 2018.

Specifically, the amendments made by these Regulations:

- make individuals granted leave to enter or remain as a relevant Afghan citizen and certain family members under the immigration rules, the Afghan Relocations and Assistance Policy Scheme and the Afghan Citizens Relocation Scheme eligible for student support, home fee status and the tuition fee cap;
- extend eligibility to home fee status and the tuition fee cap to students from the Crown Dependencies studying higher education courses in Wales;
- increase the amount of undergraduate support (disabled student's grant, grants for dependents (including childcare grant) and maintenance loan);
- decrease the amount of tuition fee grant whilst increasing the amount of tuition fee loan for students who began their courses on or after 1 September 2012 but before 1 August 2018 so that overall tuition fee support is unchanged;
- ensure that students on the International Learning and Exchange programme will receive the same support as those on the Erasmus+ scheme and the Turing Scheme established by the Secretary of State for Education;
- remove references to the 'grace period' in relation to the EU Settlement Scheme in the undergraduate student support regulations; and
- make postgraduate social work students in receipt of a social work bursary eligible to apply for disabled student's grant where a course begins on or after 1 August 2022.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd



is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following point is identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2 – that its drafting appears to be defective or it fails to fulfil statutory requirements.

Regulation 18(b) attempts to amend regulation 27(9)(a) of the Education (Student Support) (Wales) Regulations 2017 by substituting the maximum amount of weekly childcare charges used to calculate the amount of childcare grant paid to an eligible student. The figure that these Regulations state should be substituted is “£138.31”, but the figure included in the Education (Student Support) (Wales) Regulations 2017 is “£138.81”.

Merits Scrutiny

The following 3 points are identified for reporting under Standing Order 21.3 in respect of this instrument.

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.

Chapter 2 of Parts 2 and 4 amend student support regulations to provide for Afghan citizens granted leave to enter or remain in the United Kingdom to be treated as home students for the purpose of fees charged by higher education institutions. Chapter 2 of Parts 3 and 6 amend student support regulations to provide for the same Afghan citizens to be eligible for student support. The amendments also apply in relation to the partners and dependent children of those Afghan citizens.

The following definition of “partner” of a relevant Afghan citizen is included in the immigration rules:

“276BK1. For the purposes of rules 276BA1-276BS5 a partner of a relevant Afghan citizen, including where the relevant Afghan citizen has already been granted entry clearance, leave to enter or remain or indefinite leave to enter or remain, is a person who:

(i) is the relevant Afghan citizen’s spouse; or

(ii) is the relevant Afghan citizen’s civil partner; or

(iii) has been living together with the relevant Afghan citizen in a relationship akin to a marriage or civil partnership for at least two years prior to the date of application.



This definition applies in relation to the relevant provisions of the immigration rules (paragraph 276BA2, 276BS2, 276BJ2 and 276BO2) referred to in the amendments made by these Regulations.

Regulations 4(b), 7, 11(b) and 38(b) introduce four categories of relevant Afghan citizen that are within the scope of the relevant provisions. The fourth of these is a person granted:

"indefinite leave to enter or remain in the United Kingdom outside the immigration rules as the spouse, civil partner or dependent child of a person falling into paragraph (g) or dependent child of such a spouse or civil partner;"*

* "paragraph (g)" is replaced with "paragraph (c)" in regulation 7 and "paragraph (iii)" in relation to regulation 38(b).

The provision only applies to a spouse or civil partner and there is no reference to a person having similar status to paragraph 276BK1(iii) of the immigration rules (i.e., living together with the relevant Afghan citizen in a relationship akin to a marriage or civil partnership for at least two years prior to the date of application). It is not clear from the Afghan Citizens Resettlement Scheme whether such a person would be eligible for indefinite leave to enter or remain in the United Kingdom.

Is it the policy intention that a person living together with a relevant Afghan citizen in a relationship akin to marriage or civil partnership for at least two years prior to the date of an application is outside of the scope where their partner has indefinite leave to enter or remain in the United Kingdom, outside the immigration rules on the basis of the Afghan Citizens Resettlement Scheme?

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.

Regulation 39 amends Schedule 4 to the Education (Student Support) (Wales) Regulations 2018 by inserting a new paragraph 13F. Within new paragraph 13F(2) there is reference to "eligible student", whereas all other references within paragraph 13F(1) are to "eligible postgraduate student". Both defined terms are used in different contexts within the 2018 Regulations.

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.

The Committee notes that it previously reported on amendments to the Education (European University Institute) (Wales) Regulations 2014 made by the Education (European University Institute) (Wales) (Amendment) (EU Exit) Regulations 2021.

The Committee's report on those 2021 Regulations identified a merits point in relation to the definition of "*person granted leave to remain as a protected partner*". A Government response was received in relation to that merits point on 3 December 2021. The response stated:



“The first sub-paragraph of the definition of “person granted leave to remain as a protected partner” should have included reference to paragraph 289D of the immigration rules. The Government will look to schedule an amendment in an appropriate future instrument.”

As these Regulations amend the Education (European University Institute) (Wales) Regulations 2014, they may have been an “appropriate future instrument” in which to bring forward the correction.

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 14 February 2022 and reports to the Senedd in line with the reporting points above.



Government Response: *The Education (Student Finance) (Miscellaneous Amendments) (Wales) Regulations 2022*

Technical Scrutiny point _ : *Response*

In respect of the technical scrutiny point, there is a typographical error as noted in the report. We are seeking to correct this with the SI Registrar through a correction slip to the instrument.

Merit Scrutiny points _ : *Response*

The first merits reporting point is concerned with eligibility for persons living together with a relevant Afghan citizen in a relationship akin to marriage or civil partnership.

The Regulations correctly give effect to current Welsh Government policy following dialogue with the UK Government who are responsible for the Afghan Citizens Resettlement Scheme. That dialogue is ongoing and eligibility for Afghan citizens to receive student support will be reviewed, where necessary, as a result of that discussion.

The second merits point relates to the reference to “eligible student” in new paragraph 13F of Schedule 4 to the Regulations. That is a typographical error. Reference should be to “eligible postgraduate student”. This will be corrected in the next appropriate set of amending Regulations, which are anticipated to be made in June or July this year.

The final merits point is concerned with a point previously reported on in respect of the definition of a “person granted leave to remain as a protected partner” in the Education (European University Institute) (Wales) (Amendment) (EU Exit) Regulations 2021. An amendment to address that point was made in the Education (Eligibility for Student Support) (Amendment) (Wales) Regulations 2022 (S.I. 2022/49 (W. 18)). Those Regulations were laid in the Senedd on 19 January.

Agenda Item 7.1

Y Gweinidog Newid Hinsawdd
Minister for Climate Change



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair,
Legislation, Justice and Constitution Committee
Senedd Cymru
SeneddLJC@senedd.wales

11 February 2022

Dear Huw,

I refer to my letter to you of 4 February 2022. I am writing to inform the Committee I have given my consent to the Secretary of State to lay The Phytosanitary Conditions (Amendment) Regulations 2022 in relation to Wales. I have laid a Written Statement which can be found at <https://senedd.wales/media/45fbk4zx/ws-ld14943-e.pdf>.

The Regulations intersect with devolved policy and will apply to Wales. The provisions could be made by Welsh Ministers in exercise of our own powers. The Regulations extend to England, Scotland and Wales.

The Regulations were made in exercise of the powers conferred by Articles 5(3), 30(1), 32(3), 37(5), 41(3), 42(3), 54(3), 72(3) and 105(6) of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants. The Statutory Instrument (SI) is subject to the negative procedure and was laid before Parliament on 8 February 2022 with a commencement date of 2 March 2022.

Although the Welsh Government's general principle is that the law relating to devolved matters should be made and amended in Wales, on this occasion, it is considered appropriate for the substance of the amendments to apply to Wales as there is no policy divergence between the Welsh and UK Government in this matter. This ensures a coherent and consistent statute book with the regulations being accessible in a single instrument. I consider that legislating separately for Wales would be neither the most appropriate way to give effect to the necessary changes nor a prudent use of Welsh Government resources given other important priorities.

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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 have written similarly to Llyr Gruffydd MS, the Chair of the Climate Change, Environment, and Infrastructure Committee.

Yours sincerely

A handwritten signature in blue ink that reads "Julie James". The signature is written in a cursive, flowing style.

Julie James AS/MS
Y Gweinidog Newid Hinsawdd
Minister for Climate Change

Agenda Item 7.2

Mick Antoniw AS/MS
Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref 2022/02/10 IGR

Huw Irranca-Davies MS,
Chair
Legislation, Justice and Constitution Committee
Senedd Cymru

SeneddLJC@senedd.wales

23 February 2022

Dear Huw,

I am writing in accordance with the inter-institutional relations agreement to let you know that I will be representing the Welsh Government at an Inter-Ministerial Group for Elections and Registration on 8 March. The agenda is yet to be confirmed but is likely to focus on electoral reform.

The meeting will be held virtually and on this occasion chaired by George Adam MSP, Minister for Parliamentary Business, Scottish Government. Other attendees will be Kemi Badenoch MP, Minister of State, Department for Levelling up, Housing and Communities and Conor Burns MP, Minister of State at the UK Government's Northern Ireland Office (to be confirmed).

I will write again following the meeting.

Yours sincerely,

Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution

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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.

Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

Agenda Item 8.1



Llywodraeth Cymru
Welsh Government

Chair of the Economy, Trade and Rural Affairs Committee
SeneddEconomy@senedd.wales

14 February 2022

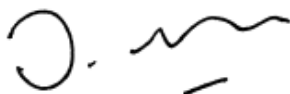
Dear Paul,

Thank you for your letter of 8 February, and for the Committee report on the Supplementary Legislative Consent Memorandum (Memorandum No 2) on the Professional Qualifications Bill.

Once again, I thank the Committee for their valued observations. I am pleased to provide additional information as requested below in Annex A.

I am coping this letter to Huw Irranca-Davies MS, Chair of the Legislation, Justice and Constitution Committee, and all Members of the Senedd.

Yours sincerely,



Jeremy Miles AS/MS
Gweinidog y Gymraeg ac Addysg
Minister for Education and Welsh Language

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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.

Annex A

1. *How the UK Government has made its position clear in relation to clause 16(5) of the Bill (Paragraphs 25-26 of the Committee's report), and that copies of any correspondence in relation to this point be provided;*

In paragraph 6 of my [letter of 10 September 2021](#) to the Legislation, Justice and Constitution Committee, I set out the UK Government's explanation of clause 14(5) (now 16(5)).

We were concerned an assumption had been made by the UK Government that UK Bills which confer regulation making powers on the Welsh Ministers should always be drafted in a way which ensures that the legislative competence of the Senedd and the executive competence of the Welsh Ministers align.

On 29 September the UK Government wrote to confirm their position that there are instances where executive and legislative competence do not align.

Whilst I am satisfied with this outcome, my concern overall remains that the concurrent powers in the Bill fail to respect the devolution settlement, and are unacceptable.

I have attached copies of relevant correspondence as requested.

2. *A further update from the Minister regarding the policy concerns as set out in the original LCM and in the Minister's letter of 4 October.*

The UK Government has now published a list of [professions regulated by law in the UK and their regulators](#). Whilst this has helped to clarify scope, for example, it confirms our assertion that Further Education teachers in Wales are within scope of the Bill, it also demonstrates the number of professions and regulators that fall within devolved competence and that are at risk of having their professional standards undermined if the UK Government uses the concurrent powers in the Bill.

Whilst the UK Government has assured us they will not do this, and have attempted to appease regulators by adding additional clauses to the Bill to protect regulator autonomy, the fact remains that there is nothing in the Bill that prevents the UK Government from making regulations in devolved areas which are contrary to the policy aims of Welsh regulators or the Welsh Ministers.

We remain concerned that this Bill could be used to facilitate trade deals that in future could undermine the role of our workforce regulators because of the desire to secure trade deals.

Huw Irranca-Davies MS
Chair, Legislation, Justice and Constitution Committee
SeneddHealth@senedd.wales

14 February 2022

Dear Huw

Legislative Consent Memorandum on the Nationality and Borders Bill (“the Bill”)

I am grateful to you and your fellow members of the Legislation, Justice and Constitution Committee for taking the time to consider the Legislative Consent Memorandum (LCM) laid on the Nationality and Borders Bill (“the Bill”).

I was pleased to see members agreed with the position I set out in the LCM; that the consent of the Senedd is required for the clauses highlighted.

Your report includes one recommendation, and you have sought a response ahead of the debate tomorrow. My response to your questions are as follows:

Provide an update on her discussions with the UK Government as to whether the provisions of the Bill fall within the legislative competence of the Senedd

We repeatedly raised concerns with the UK Government about the impact of this Bill on Wales and sought details of the clauses relating to age assessment from May onwards, without success. The UK Government has provided no satisfactory assurances and no amendments have been tabled to address the concerns which we have raised.

Most recently, correspondence received from Home Office officials on 8 February conveyed the UK Government position remained unchanged. That is, that all the Bill’s clauses were within reserved competence and no Legislative Consent Memorandum is required for the clauses related to age assessment.

I have written to UK Government Ministers on three occasions to express my concerns about the Bill. As early as 26 July 2021, soon after the Bill was introduced, I wrote to the Home Secretary to explain our position regarding age assessments:

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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.

“Your letter states that ‘almost all of [the Bill’s] provisions deal with matters that are reserved to the UK Parliament’ and, consequently, there is no intention to seek Legislative Consent Motions. However, the placeholder clause relating to unaccompanied children (clause 58) is, as yet, undefined and I seek further information from you about the drafting, purpose and effect of this clause. Welsh local authorities have duties under the Social Services and Well-being (Wales) Act 2014 which may require them to undertake age assessments to ensure appropriate support is being put in place, irrespective of any Home Office-arranged age assessment which may have already taken place. We have our own ‘Unaccompanied Asylum Seeking Children: Age Assessment Toolkit’ which explicitly states that age assessment is not a scientific process. Radiological methods have been thoroughly and repeatedly discredited over many years. It appears likely that the current proposals could lead to one Government department considering an asylum seeker to be an adult, whereas a Welsh local authority considers that person to be a child. Should this happen, there would be significant safeguarding concerns for that child if they are placed in a House of Multiple Occupation, hotels, or in detention with adult asylum seekers.”

My letter to the Home Secretary of 9 December 2021 was a joint letter with Shona Robison MSP, Cabinet Secretary for Social Justice, Housing and Local Government, Scottish Government. A reply was received from the Minister for Safe and Legal Migration, Kevin Foster, MP on 18 January 2022.

In the reply from Minister Foster, he noted the Welsh Government had tabled a legislative consent memorandum before the Senedd in respect of age assessment provisions but restated clearly their position was the legislative consent of the devolved legislatures was not required. The Minister stated that his officials would write to the Welsh Government with further detail however the letter has not been received.

Explain whether, as part of her discussions, she has sought amendments to the Bill relevant to paragraphs 19 and 20 above

The Home Office did not engage with our concerns regarding age assessment due to their stance of this being a reserved matter. As a result, no opportunity was available to us to pursue amendments. After the LCM was laid, Minister Foster stated his officials would be in touch to discuss further but to date, no letter has been received. We will write again to the Home Office following the debate to advise them of the outcome.

Indicate whether she will be engaging the dispute resolution procedures in line with the final package of reforms announced following the recently published Review of Intergovernmental Relations

The Welsh Government, along with the UK Government, the Scottish Government, and the Northern Ireland Executive, have agreed to use the package of reforms which has emerged from the joint Review as the basis for the conduct of intergovernmental relations. We will now begin to implement this new approach, including through the new disputes mechanism as necessary and appropriate.

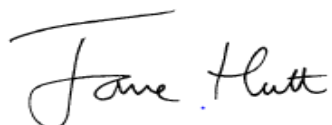
The proposed mechanism around dispute avoidance and resolution outlines each government’s right to refer and escalate a dispute, and requires independent chairing and independent secretariat arrangements. It includes a presumption of independent input, through either advice or mediation, and increased transparency to aid legislatures’ scrutiny and stakeholder engagement.

The Welsh Ministers will give further thought to managing this through the new IGR machinery.

I am copying this letter to Russell George MS, Chair of the Health and Social Care Committee, and Jayne Bryant MS, Chair of the Children, Young People and Education Committee.

I hope my reply is helpful.

Yours sincerely,

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a horizontal line above the first few letters.

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair, Legislation, Justice and Constitution Committee
Senedd Cymru
Cardiff Bay, Cardiff, CF99 1SN

By email: SeneddHealth@senedd.wales

15 February 2022

Dear Huw

Thank you for the Legislation, Justice and Constitution Committee's report laid on 14 February on the Supplementary Legislative Consent Memoranda (Memoranda No. 2 and No. 3) (the SLCMs) on the Health and Care Bill (the Bill).

I note the Committee's comments on the Bill and the SLCMs laid on 17 December 2021 and 28 January 2022 respectively.

Please find my responses to your specific recommendations below.

Recommendation 1 - Clause 87 (formerly Clause 85) (Medicines information systems)

Recommendation 1

The Minister should, before or during the debate on the relevant consent motion, provide an update to the Senedd on progress being made by the Welsh and UK Governments to finalise the Memorandum of Understanding concerning Medicines Information Systems, and confirm whether it will be in place before the relevant provisions in the Bill (if and once enacted) come into force.

Response

The Committee can be assured that the Memorandum of Understanding in relation to Medicines Information Systems is being progressed. The UK Government has stated that it will do its best to have the Memorandum in place before the provisions come into effect, but at the very latest in advance of drafting of regulations.

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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.

Recommendations 2 and 3 - Clauses 149, 144 and 91 (formerly clauses 89, 125 and 130): Consequential Amendments to Senedd Legislation

Recommendation 2

The Minister, should in advance of the Senedd's debate on the relevant legislative consent motion, explain and quantify the risk she describes in paragraph 33 of Memorandum No 3.

Response

These clauses provide the Secretary of State with the power, by regulations, to make provision which is consequential on the Bill. This includes provision that amends, repeals, revokes or otherwise modifies provision made by, or under, an Act or Measure of the Senedd.

As set out in my letter to the Committee of 3 February, and the SLCM (No. 3), I and my officials have met with Edward Argar MP, the Minister of State for Health, and his officials on a number of occasions to discuss these provisions. The UK Government is of the view that these are standard clauses and I reiterate it is the case that Wales similarly takes powers in Senedd Acts to make consequential amendments to UK Government legislation.

UK Government officials have provided examples of how these powers may be used – the amendments likely would be of a minor nature, for example the changing of the name of an English organisation which is referred to in Senedd legislation where a transfer of functions has occurred. They have also specifically confirmed that they do not plan to use the powers in clause 149 to amend the Government of Wales Act 2006. The Minister of State for Health has, through Lord Kamall, also now made the Dispatch Box Statement in relation to clauses 91 and 149, on how these powers might be used. The Statement was made in the House of Lords on 9 February. As advised in my previous response, the UK Government has not identified clause 144 as requiring the legislative consent of the Senedd and therefore would not have been included in the Dispatch Box Statement.

On the basis of all the assurances given by the UK Government and the Statement, I am of the view that the risk to Senedd legislation presented by the provisions is minor and recommend Senedd consent to clauses 91, 144 and 149 should be given.

Recommendation 3

The Minister should seek an amendment to the Bill to the effect that the powers in the Bill cannot be used by UK Ministers to make regulations that amend the Government of Wales Act 2006. The Minister should, in advance of the Senedd's debate on the relevant consent motion, confirm that she has sought such an amendment and provide an update to the Senedd on the latest position

Response

As I have set out above in my response to the Committee's Recommendation No 2, I have discussed these provisions with UK Government at length and am satisfied with all the assurances provided by the UK Government. Consequently I have not approached the UK Government to request that such an amendment be made.

Recommendation 4 - Clauses 135 and 153 – Community Pharmacies

Recommendation 4

The Minister should, in advance of the Senedd's debate on the relevant consent motion, explain in full why she is not seeking the Senedd's consent for clause 153 of the Bill.

Response

I would assure the Committee that Senedd consent is being sought to all the clauses in the Bill that impact on devolved competence. In SLCM (No. 2), I included a section on the clause about Reimbursement to Community Pharmacies and within that section the amendments to clause 153 (now clause 169) which provide the Welsh Ministers with the regulation making powers on commencement of the clause were referred to (paragraph 47). In paragraph 53 of the SLCM (No 2), I stated that the amendments referred to in the preceding paragraphs fell within the legislative competence of the Senedd as the purpose of the amendments related to devolved matters.

The relevant provisions in clause 153 (now clause 169) do not do anything substantive other than allow the Welsh Ministers to commence provisions which Senedd consent is already sought on in the SLCM (No 2). Therefore whilst the wording could possibly have been clearer, the relevant provision within that clause is linked to the substantive provision in the clause on Reimbursement to Community Pharmacies.

In SLCM (No. 2) I stated that I was content with clause 135. The Committee will be aware that the consent of the Senedd is being sought to the Bill in its entirety and not on a clause by clause basis. I consider therefore that clause 153 (now clause 169) has been included and that the consent of the Senedd is being sought for it.

With regard to the Committee's point in the report about the regulations to commence the clause on Reimbursement to Community Pharmacies being subject to no legislative procedure, I would advise that this is standard practice for commencement orders and the regulation making power only enables the Welsh Ministers to commence substantive provisions (or make related transitional or saving provision in connection with commencement).

Recommendations 5, 6, 7 and 8 – Clause 136 – International Healthcare Agreements

Recommendation 5

In the absence of amendments being tabled to the face of the Bill in line with recommendation 5 in our first report, we believe that the Secretary of State should make information publicly available regarding the broad tests and criteria that will be used in determining what is an 'exceptional circumstance' for the purpose of clause 136. The Minister should pursue this matter directly with the Secretary of State

Response

As set out in my letter to the Committee of 3 February, it is my view that it is not appropriate to put a clear and proportionate test on the face of the Bill for what would qualify as an 'exceptional circumstance' for the purposes of the amount or type of healthcare that can be funded outside of an international healthcare agreement as this could have a detrimental or limiting impact to provide support when needed.

I note the request of Committee that the Secretary of State should make information publicly available regarding the broad tests and criteria that will be used in determining

what is an 'exceptional circumstance' for the purpose of clause 136. I will explore this with UK Government.

Recommendation 6

The Minister should work proactively with the UK Government and other devolved governments to ensure that the Memorandum of Understanding in respect of the consultation process for international healthcare agreements and their implementation is updated as soon as possible to reflect the new intergovernmental relations arrangements (including dispute resolution processes) agreed and announced on 13 January 2022.

Response

My officials have already advised their counterparts in the Department of Health and Social Care of the need to do this and there is full acceptance and commitment to do so.

Recommendation 7

Further to recommendation 6, the Minister must provide to the Senedd the updated version of the Memorandum of Understanding in respect of the consultation process for international healthcare agreements and their implementation as soon as it is agreed and finalised.

Response

I will provide the Senedd with the updated version of the reciprocal healthcare Memorandum of Understanding as soon as it is amended and agreed by all four nations.

Recommendation 8

As the Committee responsible for the scrutiny of non-trade international agreements, the Minister should commit to notify us of any forthcoming international agreements which will fall within the remit of the Memorandum of Understanding in respect of the consultation process for international healthcare agreements and their implementation.

Response

I am happy to notify Committee of any such agreements at such point in the negotiation process when this information can be made public.

I am copying this letter to Russell George MS, Chair of the Health and Social Care Committee.

Yours sincerely



Eluned Morgan AS/MS

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Eluned Morgan MS

Minister for Health and Social Services

21 February 2022

Dear Eluned

Welsh Government's Supplementary Legislative Consent Memoranda (Memorandum No. 2 and Memorandum No. 3) on the Health and Care Bill – response to Committee's report

Thank you again for providing a formal written response to our report on the Welsh Government's Supplementary Legislative Consent Memoranda (Memorandum No. 2 and Memorandum No. 3) on the Health and Care Bill on the morning of Tuesday 15 February, in advance of the Senedd's consideration of a legislative consent motion for the Bill that same afternoon.

There is one matter of particular importance raised in your written response which requires urgent attention. In your response to recommendation 4 in our report on Memoranda No's 2 and 3 (which asked you to explain why you were not seeking the Senedd's consent for clause 153 of the Bill), you said:

"The Committee will be aware that the consent of the Senedd is being sought to the Bill in its entirety and not on a clause by clause basis."

This is not the position as set out in the three memoranda you have laid before the Senedd in relation to the Bill, and on which basis the consent of the Senedd was sought – and granted – on 15 February.

The vast majority of the Bill – a Bill which spans over 170 clauses and almost 20 Schedules – does not make provision within a devolved purpose (or include provision which modifies the competence of the Senedd).

I note that the wording of the motion agreed by the Senedd referred to “provisions in the Health and Care Bill in so far as they fall within the legislative competence of the Senedd”. The motion also references the three memoranda which you have laid for this Bill.

The Senedd must be made fully aware of what a Welsh Government Minister is asking it to consent to. Given that the correspondence to my Committee is at odds with the memoranda, on this occasion, there is now a worrying and unwelcome ambiguity as to what you have asked of, and recommended to, the Senedd. This is a serious matter, which requires urgent clarification.

Therefore, I would be grateful to receive a response from you which addresses and clarifies your position by Monday 28 February. Given the potential significance of the matter, I am copying the letter to the Llywydd.

I also take the opportunity to remind you of the request I made during the Plenary debate on the consent motion for the Bill, that you write to us to provide a fuller explanation of the “minor constitutional risk” of which you spoke in Memorandum No. 3. We would also be grateful to understand more regarding your decision not to pursue an amendment to the Bill so that its powers cannot be used by UK Ministers to make regulations that amend the *Government of Wales Act 2006*.

The Committee will fully consider your response to our report at our next meeting, and we may write to you further at that point should we wish to follow-up on any other matters.

I am also copying the letter to the First Minister, and to the Counsel General and Minister for the Constitution.

Yours sincerely,

A handwritten signature in black ink that reads "Huw Irranca-Davies". The signature is written in a cursive style and is underlined with a single horizontal stroke.

Huw Irranca-Davies

Chair



WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE Report on the implementation of Law Commission proposals
DATE 15 February 2022
BY Mark Drakeford MS, First Minister of Wales

I am pleased to lay before the Senedd today, [the seventh annual report on the Welsh Government's implementation of Law Commission proposals](#).

Under Section 3C of the Law Commissions Act 1965, as inserted by Section 25 of the Wales Act 2014, the Welsh Ministers are required to report annually on the extent to which Law Commission proposals relating to Welsh devolved matters have been implemented.

This report covers the period from 15 February 2021 to 14 February 2022, and provides Members with an update about a number of areas that relate to Law Commission proposals as well as information on current and future Law Commission projects.

Progress has been made over the last twelve months on a range of issues that have been the subject of Law Commission recommendations. We have formally committed to deliver a Planning Consolidation Bill during this Senedd term, working closely with the Law Commission on the production of the Bill. We have published a set of principles for electoral reform in Wales and have made further progress in taking forward Law Commission proposals in relation to taxi and private hire services, leasehold and commonhold reform, wildlife law and devolved Welsh tribunals.

This report also provides information about how we are engaging with the Law Commission on its current and future projects. This includes important work relating to coal tip safety legislation and automated vehicles.

This update and the progress noted demonstrates the importance the Welsh Government places on Law Commission proposals.



Ein cyf/Our ref: MA/CG/4516/21

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee

John Griffiths MS
Chair
Local Government and Housing Committee

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16 February 2022

Dear Huw and John,

I note that both the Legislation, Justice and Constitution Committee, and the Local Government and Housing Committee published reports on the Welsh Government's Legislative Consent Memorandum (LCM) on the Elections Bill in early December 2021. I would like to thank the Committees for providing their views on the matters raised in the LCM. The Legislation, Justice and Constitution Committee report contained recommendations for the Welsh Government, which I respond to below.

Recommendation 1

Following the completion of the Bill's passage through the UK Parliament, the Counsel General should issue a statement on the implications of the legislation for devolved elections in Wales.

Response: Accept. The UK Government has not confirmed with the Welsh Government when the Bill will complete its passage through the UK Parliament, therefore I am unable to provide a firm indication as to the timing of the statement at this time.

Recommendation 2

The Counsel General should confirm at the earliest opportunity his intention to bring forward a Welsh Bill on electoral law in time for the next Senedd general election in 2026.

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Correspondence.Mick.Antoniw@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.

Response: Accept. As set out in the LCM, it is my preference to consider some of the issues covered by the Bill in separate Senedd legislation in due course. As you will be aware, our legislative plans are set out on an annual basis through our Legislative Programme. It is my intention to bring forward a Bill in time for the next Senedd election, but this will of course need to be considered alongside other demands on the Legislative Programme.

Recommendation 3

The Counsel General should at the earliest opportunity:

- *confirm the outcome of his discussions with the UK Government about amending the Bill including in relation to clauses 12 and 13 relating to the Electoral Commission;*
- *explain the nature of the amendments being sought, including the extent to which they relate to a devolved purpose;*
- *advise when, if appropriate, he intends to bring forward a Supplementary Legislative Consent Memorandum related to the tabling of amendments in accordance with Standing Orders 29.2*

Response: Accept.

Discussions are ongoing with the UK Government. We are seeking amendments to remove devolved Welsh elections from the scope of the Bill, and I will update the Committee following the conclusion of those discussions.

Recommendation 4

The Welsh Government should include a commentary on the extent of co-operation and engagement with the UK Government in all Legislative Consent Memoranda that are required by virtue of Standing Order 29.

Response: Accept in principle. We will consider the amendment of the formal guidance for completing Legislative Consent Memoranda as part of our engagement with the Business Committee's review of the LCM process to make this a requirement. In the meantime, when preparing Legislative Consent Memoranda, we will ensure they inform Members of the extent of co-operation and engagement with the UK Government. However, as you will appreciate, there is a need to respect confidentiality, and we may not always be in a position to share all the information we receive.

Amendments tabled by UK Government

I also wanted to make you aware that the UK Government has tabled a number of amendments to the Bill during January, relating to online absent voting applications voter identification provisions and digital imprints. I am giving further consideration to these amendments alongside the approach to the wider Bill, and I will update you in due course.

I hope both the above responses to the recommendations and the update on amendments are helpful. I will continue to keep both Committees updated as the Bill progresses.

Yours sincerely,



Mick Antoniw AS/MS

Y Cwnsler Cyffredinol a Gweinidog y Cyfansoddiad
Counsel General and Minister for the Constitution



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution
Committee
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18 February 2022

Dear Mr Irranca-Davies

Thank you for your letter in December in relation to the Delegated Powers and Law Reform Committee's inquiry into the use of the made affirmative procedure during the coronavirus pandemic.

I am delighted to say that the Committee has now [published its report on the inquiry](#).

The report makes a number of recommendations relating to how the Scottish Government brings forward made affirmative instruments using current available powers. It also outlines a set of principles that should underpin the Scottish Government's approach when it is contemplating inclusion of provision for the made affirmative procedure in future legislation.

If you would like to discuss any aspect of the Committee's work I would be delighted to speak with you.

Yours sincerely

Stuart McMillan MSP
Convener of the Delegated Powers and Law Reform Committee

Senedd Committee Chairs

18 February 2022

Findings of our 6th Senedd priorities engagement with children and young people

Dear Committee Chairs,

As part of the consultation that we carried out to inform our priorities for the 6th Senedd, the Senedd's citizen engagement team undertook a series of engagement activities with children and young people on our behalf. The purpose of that engagement was to find out more about what matters most to children and young people.

The citizen engagement team heard directly from 127 children across seven sessions. They engaged with children and young people across Wales, in a diverse range of locations and settings. They targeted children that we as a Committee find difficult to reach, such as children under 12 and children from low income families. The team reported their findings back to us during our meeting on 27 January.

I and my fellow Committee members were struck by the clarity with which the children and young people communicated their concerns and priorities. Clear themes emerged from the engagement work, with nuances that reflect the diversity of the children who contributed and their different experiences of the world around them. They spoke about deforestation, littering, social isolation, mental health, poverty, hospital waiting times, infrastructure, diversity, social media and much more. They shared their views - and their visions for a better Wales – clearly and articulately.

After considering the report, we felt strongly that we should share it with you. Everything that the children and young people raised with us is directly relevant to at least one other Senedd Committee. Much of it is relevant to various Committees, and some of it should resonate with us all.

I have therefore attached the citizen engagement team's report to this letter. I hope that you are able to find the time to consider it and incorporate its findings into your work.

I appreciate that there is so much work for Senedd committees to do, and it can seem as if there is never enough time to do it all. The Children, Young People and Education Committee therefore warmly welcomes any opportunities for joint working where it is in our mutual interests – or more importantly, in the mutual interests of children and young people in Wales - to do so.

Yours,



Jayne Bryant MS

Chair of the Children, Young People and Education Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

Young People's Priorities for the Committee in the 6th Senedd

Children, Young People and Education Committee

January 2022

Over the summer of 2021 the Children, Young People and Education Committee (*Committee* hereafter) conducted an open consultation aiming to understand stakeholders priorities for the Committee during the length of 6th Senedd term. A summary of the responses was prepared by Senedd Research.

In October 2021, the committee agreed to seek the views of children and young people to further understand the issues that they care about and to inform the Committee's strategic plan.

Due to a breadth of consultation data available in the public domain from engagement conducted with 12 year olds and older (*young people* hereafter), a focused consultation was conducted with 11 year olds and under (*children* hereafter) to fulfil a knowledge gap and therefore have the biggest impact on informing the committee.

To ensure the voices of all ages were heard, the Committee also agreed to speak with one group of young people.



Methodology

The approach conducted for this piece of work facilitated conversations to enable the gathering of information about children's lives and their perspectives. It was primarily a qualitative approach. Using the following principles from participatory frameworks, engagement was designed to:

- **Ensure a safe and communicative space**, where participants didn't feel there was a 'right' or 'wrong' answer to the questions they were being asked as they might be used to this from within a school setting.
- **Include groups that were less visible either generally within Committee consultation or from the research already undertaken**. This was achieved by targeting an under 12 age group and only involving one group of young people. Also, all three schools groups were from schools offering Free School Meals to over 40% of their pupils.
- **Offer a range of options for engagement** that suited individual participants, for example, this approach allowed participants to contribute visually, verbally, in writing or by drawing.

Sample

Seven sessions were held with **127** children and young people. Audiences included:

- **Home Educated children and young people**. A drop-in session was held in the National Botanical Garden of Wales and facilitated by Senedd staff.
- **Primary school educated children**. Three classroom based environment led sessions were conducted by Senedd staff or school staff. Participants came from the following schools; Ysgol Ffordd Dyffryn, Llandudno; Trinant Primary School, Caerphilly and; Ringland Primary, Newport.
- **Nursery school children**. Two nursery based sessions were conducted by nursery staff within the setting and in their local area. Participants came from Thornhill Playgroup, Cwmbran.
- **Young people**. A virtual session was conducted by two Members of the Senedd and supported by Senedd staff. Participants came from The Wales Federation of Young Farmers Clubs (YFC hereafter).

For the style of this approach this sample size should provide enough data to address the aims of this work and complement existing all Wales based research.

Approach

Each group was invited to take part face to face. In total three sessions were delivered by Senedd staff face to face. Two were delivered digitally by Senedd staff and two were delivered by the setting. The two sessions delivered by the setting occurred in the

nursery setting, an approach recommended for this age group as introducing a new person to very young participants can be distracting and affect the collection of genuine results.

Each group session plan was developed around the following overarching questions:

1. If you could make a “perfect vision of Wales” what would you include?
2. What are your favourite things about Wales? And why do you like them?
3. What don't you like about Wales and why would you want to see less of this?
4. What would you change about Wales if you could?

In advance of the session, each group was invited to answer these questions with photography. At each session, other than the virtual event with YFC, A0 maps of Wales and paper people were used as a resource to promote the sharing of their thoughts on these questions. You can see images of some of the maps in Appendix A.

During each session staff would explore the reasoning around what the young people were creating asking non-leading questions. Verbatim quotes were collected to add context to their picture making, mark marking and map making. This allowed the young people to analyse their thoughts and opinions and then verbalise them.

Member involvement and attendance at face to face sessions was limited by the ongoing Covid regulations. However, Jayne Brant MS (Chair of the Committee) and James Evans MS (A member of the Committee) were able to attend the virtual session held with YFC.

Key Findings

The data collected at each session has been analysed and the key findings illustrated below. Key themes were identified as most prevalent themes emerging from the data. Several of the themes link with Articles from the United Nations Convention on the Rights of the Child. Verbatim quotes are highlighted in grey boxes. Themes are displayed in order of the highest prevalence first:

Environmental Concerns

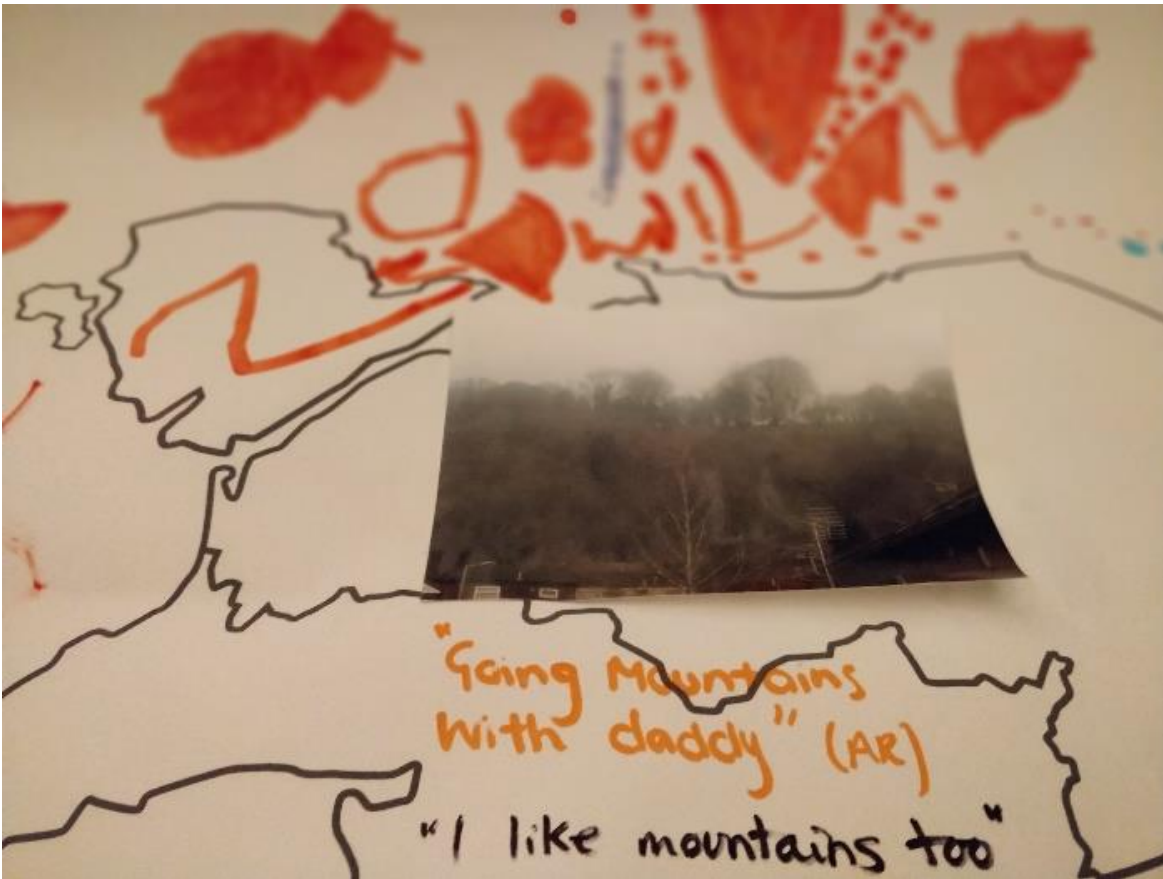
Article 12: Your right to say what you think should happen and be listened to.

Environmental concerns were the primary focus on almost all of the maps as well as raised at the virtual session with YFC and illustrated with photographic images.

Comments could be divided into:

- a) those that demonstrated awareness and appreciation of the environment, nature and wildlife;

Within the nursery setting two children liked the mountains nearby and commented 'going mountains with daddy' and 'I like mountains too'.



Participants from the schools took pictures in their local areas of natural beauty and mentioned beauty spots they liked to visit.



Wild and captive animals also featured within the images:



b) appeals for improvements to cleanliness in their local area;



Participants in the school drew pictures of litter and shared concerns about the amount in their areas. There was a particular focus on plastics.

Within the nursery setting several children were in agreement that they did not like rubbish and one child said 'rubbish go in bin'.

Dog waste was verbally mentioned several times and photographed once by the children. Only one photo was added to the map (nursery staff commented that 'the map would be covered in poo photos otherwise!') One child commented 'yuck poo!' 'Rubbish go in bin', 'rubbish don't go in there' and 'might tread in it' in reference to dog waste.



Comments to support concerns to the local environment from other children and young people were:

There's litter everywhere and we need more bins. – child aged 9-11

We went out to pick up litter on a litter hunt and picked up so many bags full of plastic. – child aged 9-11

Keep Seas / Beaches clean - Home schooled participant

(Facilitator asked: What don't you like about Wales?) The rubbish because it's effecting all the animals. – child aged 9-11

(Facilitator asked: What don't you like about Wales?) Firstly we have litter, if it goes into the sea it can make our planet more polluted. It can cause more fires, cause more storms that affect us. (Facilitator asked: Where is the litter?) We are one of the best for not littering but I do see when people come out of the shop they just drop their papers on the floor from their things. (Facilitator asked: What can we do about this, what are your ideas?) Maybe add a little bit less plastic to things so some things can come in cardboard or other things because there are lots of plastic things in the shops when you walk in. – child aged 9-11

Stop using plastic, give people a fine for littering and there could be cameras everywhere on every street. – child aged 9-11

We can't ban plastic, we probably still need to use it for different things don't we, but you can get rid of some of it but don't think all of it. We need to be first

in the world for recycling so there is like no litter in the streets anymore. – child aged 9-11

C) And; appeals for action against things that children and young people felt were damaging to the environment.

Comments collected from the maps or shared verbally included:

Stop killing animals and stop using plastic straws – child aged 9-11

Get rid of some plastics – child aged 9-11

Easier ways to recycle and less plastic packaging in Welsh supermarkets - Home school participant

More trees, we shouldn't cut down all the trees. – child aged 9-11

(Facilitator asked: What don't you like about Wales?) Deforestation (Facilitator asked: In Wales or in the world?) In the world (Facilitator asked: Does it affect us here in Wales?) Yes (Facilitator asked: What should we be doing?) Instead of cutting down trees we should be planting – child aged 9-11

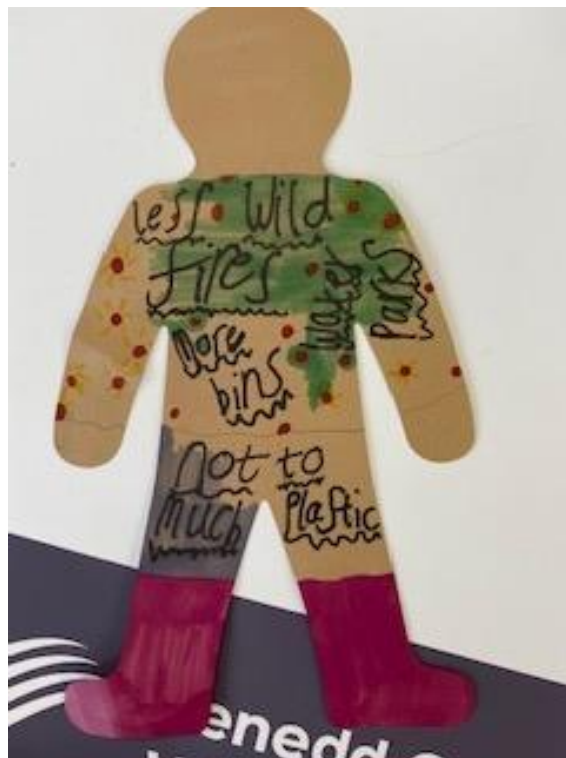
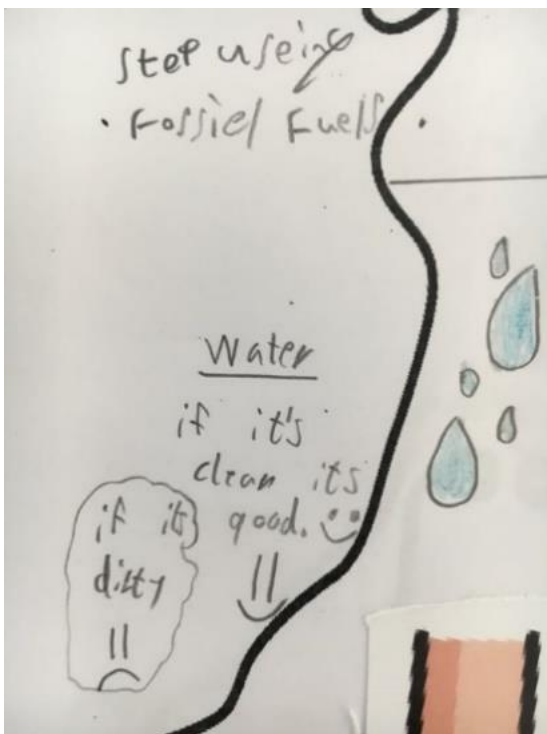
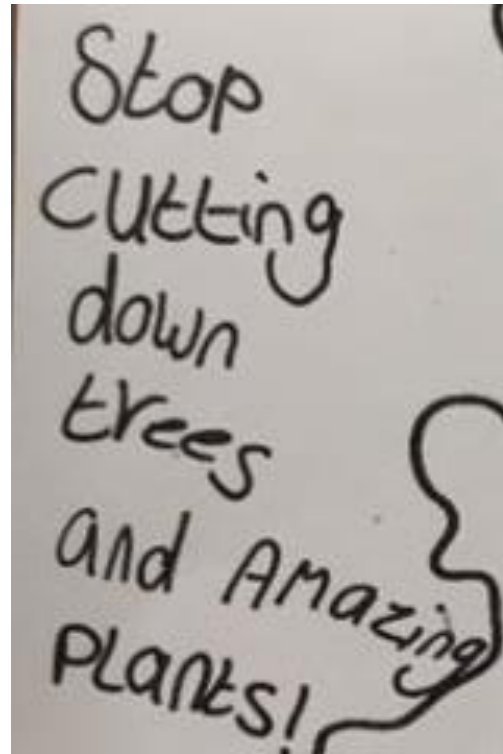
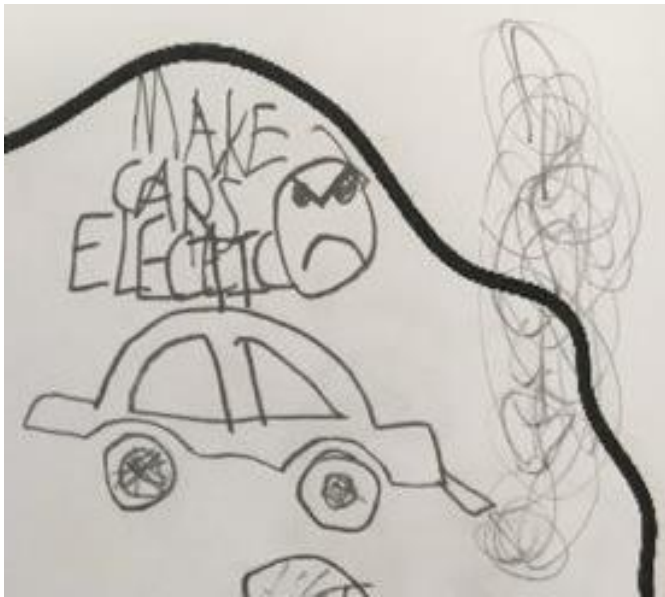
Less wildfires because we have lots of wildfires up on the mountain. They kill the animals and are dangerous for all the people. – child aged 9-11

(Facilitator asked: What don't you like about Wales?) Cars, I don't like them because they cause pollution. More cycling and walking to School, electric cars not gas or fossil fuel. – child aged 9-11

Green Cars only – less building roads - Home schooled participant

I think things like the 5p bag tax does make a lot of difference because before that was in place I can remember going on holiday in England and there was just so much plastic waste compared to Wales. I think it's important we think more about the environment as much now as we did when the 5p bag tax came in. We've got so such a nice environment and landscapes in Wales. I think we do do quite a bit too. But I think there's more we can do. – Participant from YFC

These images were collected from the school sessions:



Participants from schools shared images they'd taken of litter in their area and the presence of renewable energy sources in their local area:



Security in the context of relaxing and playing

Article 31: Your right to relax and play.

Children and young people across many groups expressed how important play was to them.

Words that sum up my best of Wales – freedom, creativity, resilience - Home school participant

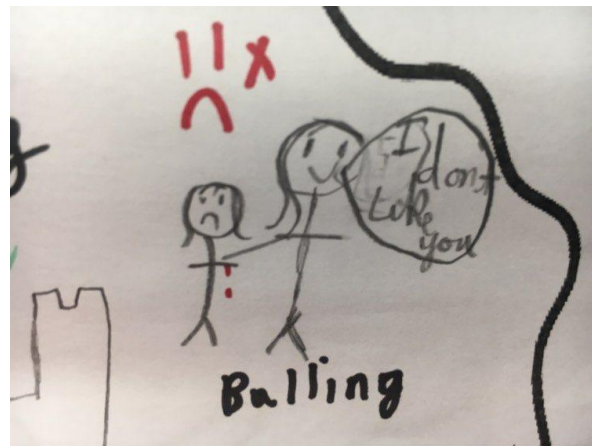
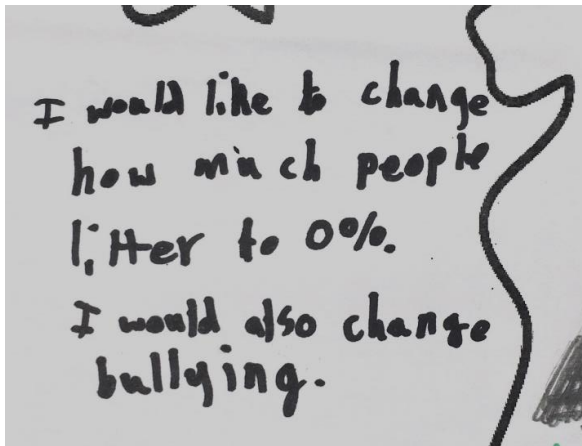
In the nursery sessions there was a clear theme of play and enjoyment at the nursery and in their local area.. The children wanted to take a photo of the playgroup garden saying 'I play in mud'. One of the older children wanted a picture in front of the 'big butterfly' and the other children joined in saying 'play with toys', 'do pictures' and 'stickers'.



However some participants struggled to find places to play for various reasons:

I don't really go out because there's not much to do and my Mam might be moving again. I have three friends, I did have friends before I moved. I moved a lot of times (over 5). I want to make more friends and I'd like to talk to my old friends too. I don't really want to move again. – child aged 9-11

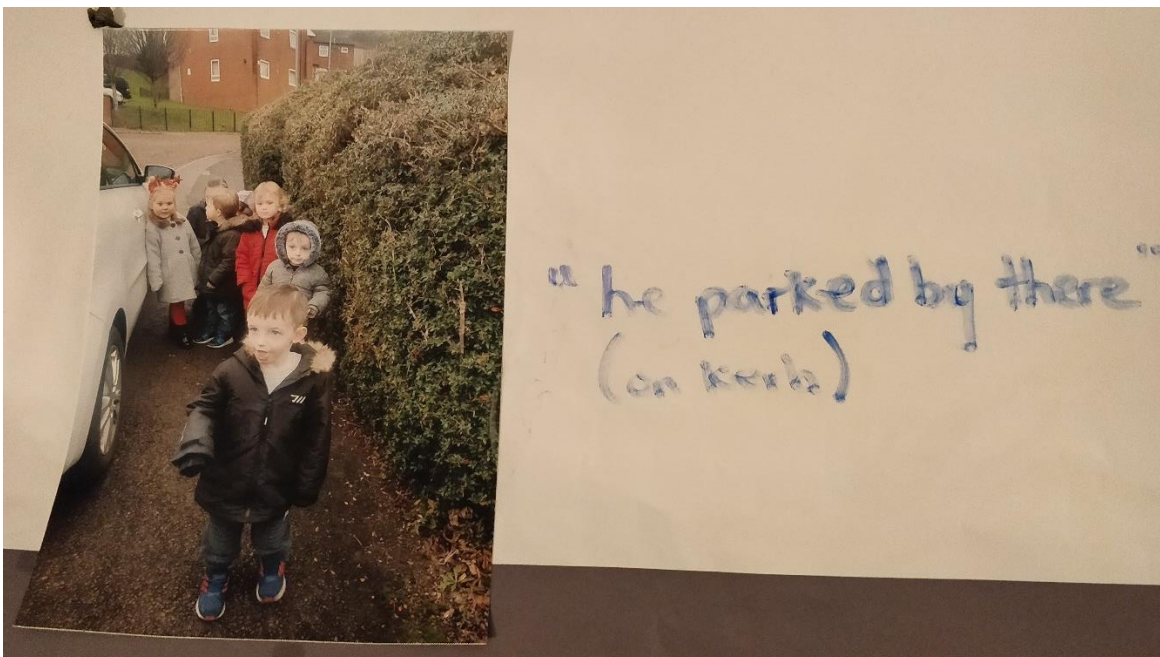
The participants in schools shared experiences and perspectives on when those spaces or their personal safety felt under threat:



There's lots of fighting around here. It's like the Hood up here. It's all the naughty teenagers. They spray spray-paint all over the place and they ruined our swings and jumped all over them. They tell us to get off the swings. They can go far away and not destroy the children's parks. – child aged 9-11

I want a skatepark that doesn't get wrecked by the teenagers, they keep digging it up and trying to set fire to it. – child aged 9-11

Within the nursery session, one child said 'he parked there' pointing out that there was very little space for staff and children to pass by safely on the path:





Other children pointed out overgrown bushes meaning children were unable to walk down a path without moving onto the grass (when holding hands in pairs) 'didn't like the prickles'.

Many children and young people requested an increase in the number, variety and quality of spaces to spend time with family, with particular reference to outside spaces and local parks:



I want more places to go to like places to go on walks with my family. Like Pen y Fan Pond because it's not next to the road. – child aged 9-11

I like indoor places like a museum and trampoline parks. I like going places with my family. – child aged 9-11

Culture 😊 – Better access please but love the opportunities in Wales, castles, theatres, dancing – Home school participant

Health – including access to good physical and mental health

Article 6: You have the right to life and to grow up to be healthy.

At the virtual session with YFC, mental health was discussed in detail. **Isolation as a result of the pandemic, social media and child poverty were identified by young people as instigators for poor mental health.** (Please see the “Diversity and Inclusion” section for data on child poverty):

Mental health support is something I'm really passionate about. In my undergraduate dissertation I wrote about how in general we [society] think it's older people that don't want to come forward and talk about it – perhaps because of a stiff upper lip attitude. However my research actually found it was young people who had more stigma towards it despite being educated on it so much more. – Participant from YFC

COVID has affected levels of mental health. Mental health has been heightened because of isolation. We've been behind computers and the isolation of being away from family and so forth has exacerbated the problem. – Participant from YFC

Social media plays a huge role in young people's mental health – but unfortunately I don't see how we can really police it easily. There are some obvious approaches out there. Like encouraging the young people to unfollow people who don't make them feel happy. But at the end of the day who's actually gone through their social media and taken out the people who don't make them feel good. It's such a big thing in our lives and it's going to be our lives now forever. – Participant from YFC

Unfortunately, we're seeing much more of this issue [poor mental health] than we are seeing the positive sides of social media. – Participant from YFC

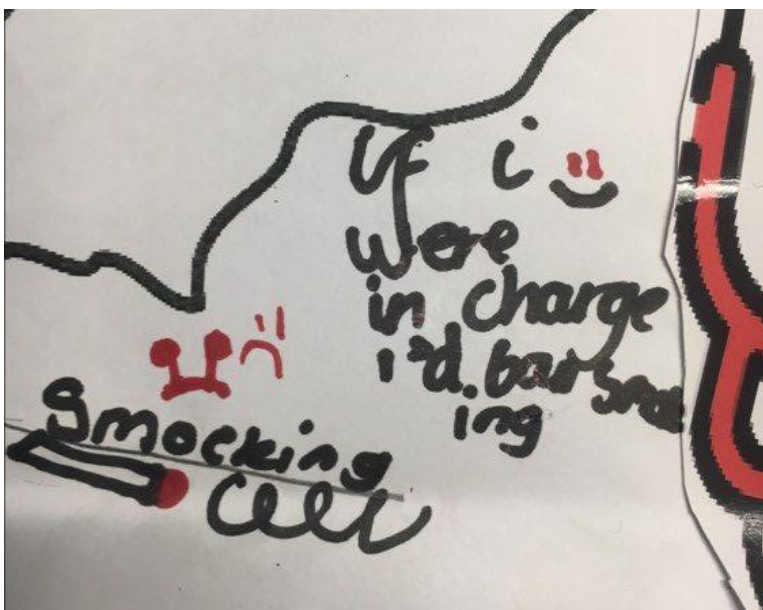
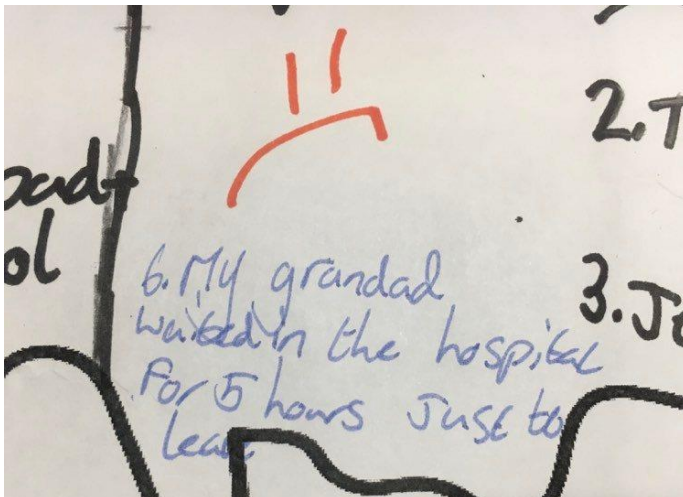
One thing that I would change if I could, if I had a magic power, is that people can only post their real life rather than their ideal vision [...] we [social media users] end up comparing ourselves and feeling hopeless. – Participant from YFC

Participants suggested nature could help mitigate poor mental health:

I love the countryside and beaches – more people should spend more time outside in my opinion – makes people happy! – Home school participant

People can go out to nature they hear the birds singing it helps them calm. – child aged 9-11

References were made by school participants about **waiting times** and their **dislike of smoking** and under the map titled “what would you change in Wales?” one home schooled participant said “**More Carers**” and “**More Male Carers!**”:



Smoking can affect your health, I know it's addictive but it shouldn't be if it affects your health. Why should it be there at all because it's affecting your lungs. – child aged 9-11

(Facilitator asked: What would you like to change?) When you go to into hospital there are gigantic ques. – child aged 9-11

Access to services

Article 29: Your right to become the best that you can be.

Closures of services and centralisation of facilities, lack of affordable homes and poor internet connection were among a range of things that young people felt held them back from being the best they could.

Participants from the YFC group felt that **the future of Wales should focus on children and young people primarily**. Ensuring this group has the security and support to be able to grow up and live in their local area as they felt a lot of services are being centralised or closed. This was echoed by some younger participants who were aware of hospital closures or the need to have services more locally:

I think young farmers have a vision of a better Wales for the future of young people [...] We need to make sure that the future is safe and secure for them in regards to being able to work in agriculture. A lot of young people are moving away from agriculture and moving away from rural areas because they're not able to afford to live in rural areas [...] We've heard of local small schools closing, and we are losing those communities in those areas. I know my local school here has closed and it does feel that you lose the community. –

Participant from YFC

I think that it's important to have something to still bring those young people back into those areas. – Participant from YFC

I put a school on the map too so I can walk to it and my dad has to get up really early in the morning to travel to work. I'd like it if we had everything so we could walk there like a local school and jobs. - child aged 9-11

There was a sense that **participants were grateful for their rural surroundings** but also that they **wanted a good balance with sharing it with people who come from outside the area**. Their reasons for this were to ensure respect for the area and the safety of local people and the economy.

I'm lucky in the area I live in. I live in a rural area of Wales and we've been very very lucky throughout COVID. That's made me appreciate much more of what I have around me. – Participant from YFC

(Facilitator asked: How do you feel living here in the summer?) The summer has loads of great things but way too many tourists. – child aged 9-11

We want our town not to be so messy. Tourists come and leave their rubbish - child aged 9-11

The group shared **dismay at the infrastructure around internet access in rural areas**. They explained how this is prohibiting their lives and ability to stay in these rural areas due to the lack of being able to work successfully from home, something they have observed is more of a norm these days. They also raised concerns of personal safety when they had a lack of signal in rural areas:

Internet access will be something that affects young people's decision to stay in rural areas. Unless we can get that sorted, people are really going to have to move away from those areas due to not being able to work from home as well as someone in urban areas. – Participant from YFC

What I don't like about Wales is the whole Internet and phone signal thing. As someone who works from home at the moment, it's a pain in my bum sometimes. But also, it made me feel less safe going on walks in my area [...] Sometimes this stopped me from going on those walks. – Participant from YFC

Issues around affordable housing were raised with concerns about young people having to leave the areas that they have grown up in:

I think that's very important during the next five years in the Senedd that Members make sure that young people are looked after and young people that have been in those areas over the years are able to stay in those areas. Or rural Wales is going to be more like an old age pensioners area. There is room for both age groups in every area, but I think the priority for support needs to be the younger generation for the future of Wales going forward. – Participant from YFC

Being 22 years old now I'm in the typical age group to look to buy a house but with rising house prices and so forth it is proving very difficult. I know this issue may be difficult to sort out over five years because that's a big job, but I can see it's only getting harder and harder, with holidaymakers coming in all the time. Boosted prices with second homes. It's a hard thing to balance in Wales

because we don't want to segregated ourselves away from the rest of the country. We want people to come in. We want that economic support and money from those holidaymakers. But we don't want those people taking our houses. – Participant from YFC

One participant explained they felt they were at a disadvantage due to becoming a professional even though this was what society needs. This meant they have **'lost their independence'**:

As someone who went to university and therefore didn't have a wage from 16 straight through to what am I now (22) it makes it even harder to buy a house. My brother is hardly 20 years old, and he's buying a house at the moment but it's only because he worked straight from coming out of school. Because I went to university I'm at a disadvantage even though I've got a professional job. I've lost out on my independence because I'm still at home. Perhaps this is a reflection on current wages too. As I'm doing jobs that are stuck on minimum wage. We [society] make it hard for people who go to university to come out the other end financially successful but we [society] need people to go to university to come out with these degrees and training skills because these people are then the future for tomorrow. They will be those teachers teaching children. – Participant from YFC

Education and Welsh language

Article 28: Your right to learn and go to school.

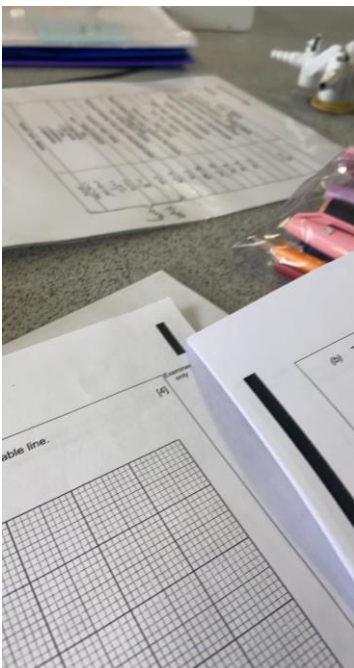
In general young people expressed their satisfaction with their education.

Our school has a lot of energy, it's nice and positive, they are nice when people are sad – child aged 9-11

Below is a reversible paper person that one participant created of their 'superhero teacher':



A YFC member submitted this photograph saying schools are something that they like about Wales:



Home school educated participants wanted to see **more long term funding for home education** and they requested **free exams** and **free Welsh language lessons**.

Apprenticeships were discussed at the YFC session. Participants felt although they are necessary they need more structure and **should be assessed by demand from the perspective of the employer and apprentice**:

I think apprenticeships are a vital part of rural areas to be honest. With apprenticeships, it's getting the correct apprenticeships in the correct places. Because we're seeing a lot of people that are going for apprenticeships but they might not be old enough to drive. They might be old enough to drive but can't. Catching a bus at the correct time to the correct place is, well, completely impossible in our area anyway. They usually don't turn it or they turn up two hours too late. - Participant from YFC

Social media was also discussed with the emphasis to **include it in the curriculum** in order to mitigate poor mental health:

I definitely think it's important for social media to be part of the curriculum, but I have I worked in a school where time was set aside for talking about this topic, but their form tutor was an old man who clearly didn't understand social media and it's affects. So it's important to get the balance of how to get that message across right and getting the children to actually take notice of it. – Participant from YFC

Young people were positive about Welsh language education:

We want more Welsh language to be included in the world. – child aged 9-11

Love the language!!! More Welsh activities. – Home school participant

Diversity and Inclusion

Article 3: Everyone who works with children should always do what is best for each child.

The topics of **racism** and **gender balance** occurred in several groups, mainly with requests to **'stop racism'** or where participants wanted to highlight that they **felt these topics are 'still' a problem**. Occurrences were verbal and visual:



I want more inclusivity for gender and races – Home schooled YP

I said black lives matter because it's important. – child aged 9-11

I think in schools they [poorer families and children] can be treated differently. From my experience, maybe the school isn't looking out for them as much as other pupils because they've got special education needs and so forth, they then end up with adverse situations when they're older and then unfortunately cost Wales extra money because society should have intervened earlier rather than intervening at crisis point. – Participant from YFC

Inclusivity is not just about in schools. It includes the community. It includes us as a younger generation and the older generations living in rural communities. -Participant from YFC

I've seen a big change in women in agriculture during the last five to 10 years. I think the appreciation of the work women do within agriculture is getting closer to being level with men. [...] We've seen the unions doing a lot of work showing what women do in agriculture. However in my opinion we shouldn't

have to be doing that, we should be on level playing fields by now and it doesn't matter what sex you are because at the end of the day we can all do the work. I'm glad to say that it is going in the right direction. -Participant from YFC

Also, in reference to **Article 27: Your right to a good standard of living**, child poverty was discussed. Children were **concerned child poverty is still prevalent** and they expressed how they felt it was affecting children and young people today:

I think it's bad that some children don't have money for a bike. – child aged 9-11

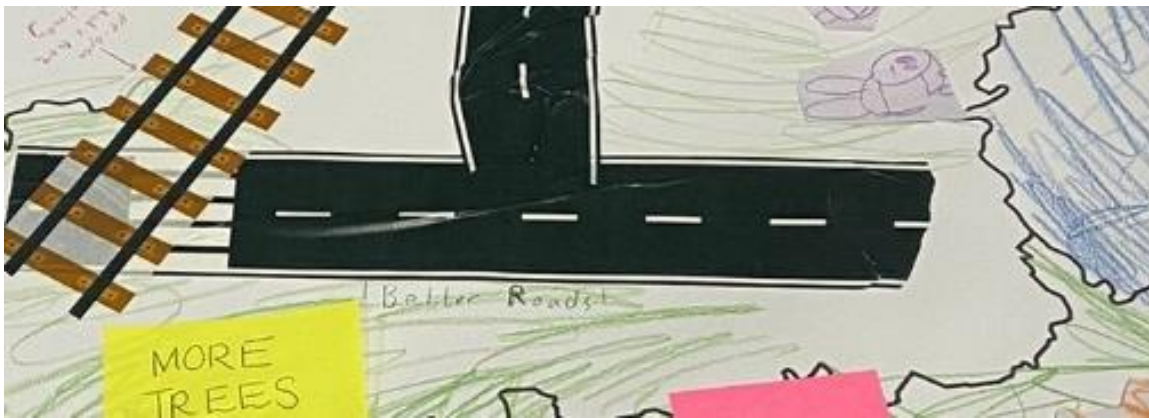
I have to cycle to get to school, it's ok the traffic isn't bad. More should cycle to school but not everyone can afford a bike, we should do something about that. – child aged 9-11

Make more jobs and give more money (Facilitator asked: What do you mean more and better paid jobs?) Yes, so that people don't get homeless so that they can afford what they need. – child aged 9-11

I feel like COVID has segregated people from being people who can afford a laptop, and people who can't, especially for young people. When they don't have a laptop they can't pick up their school work so easily making it more difficult when they go back to school. I work in a school and I have seen how far behind some children have been because of not being able to afford a laptop and that really affects their mental health, not just because they can see they are behind, but because they can see, that they can't afford one like other people. They know they have missed out on two months of education and are asking themselves "Where am I going to be in the future? What's the point in trying for my future?" And this attitude can spiral. – Participant from YFC

Transport and Connectivity

Participants wanted improved public transport, with particular reference given to **better train infrastructure, public transport and increased electric cars** (see comments above):





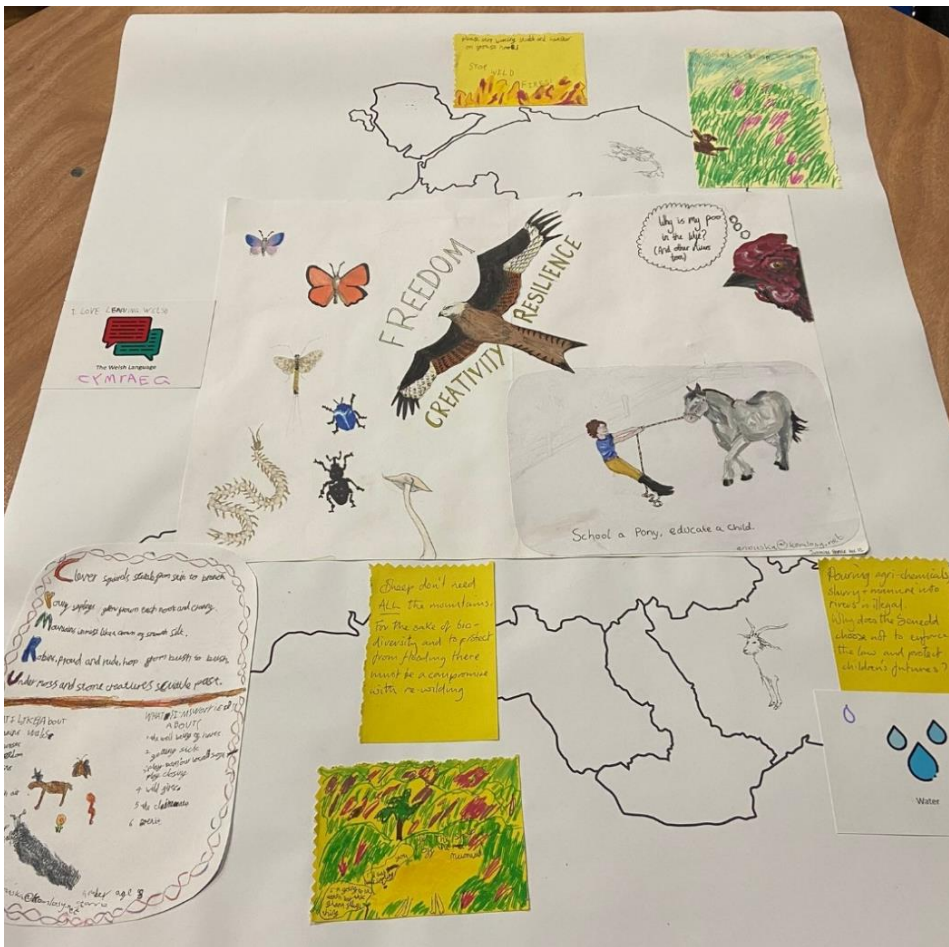
This quote related to the map above on the left:

We need better trains and roads. We put more train places on our map so people can get the train instead of driving. We made it so all the tracks all over Wales connect up. – child aged 9-11

There were also references to north and south road connections (see map above and on the right):

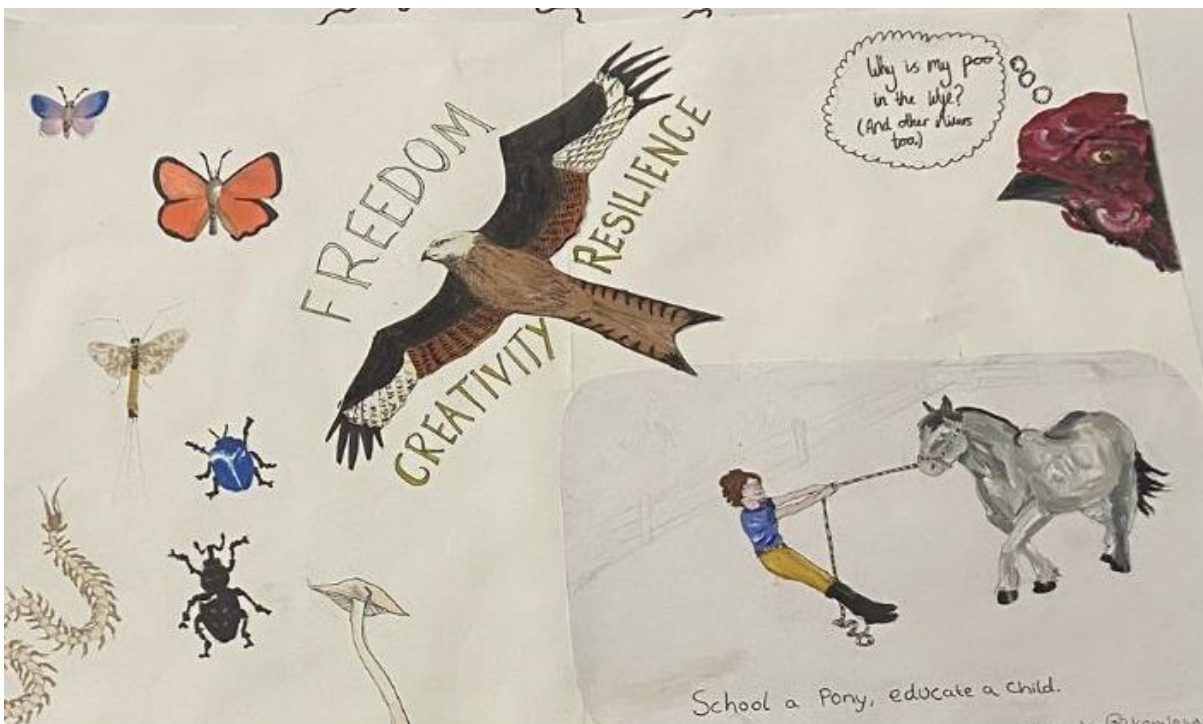
I went up to North Wales for a big bike ride. It took forever and the road was really bad to get there. – child aged 9-11

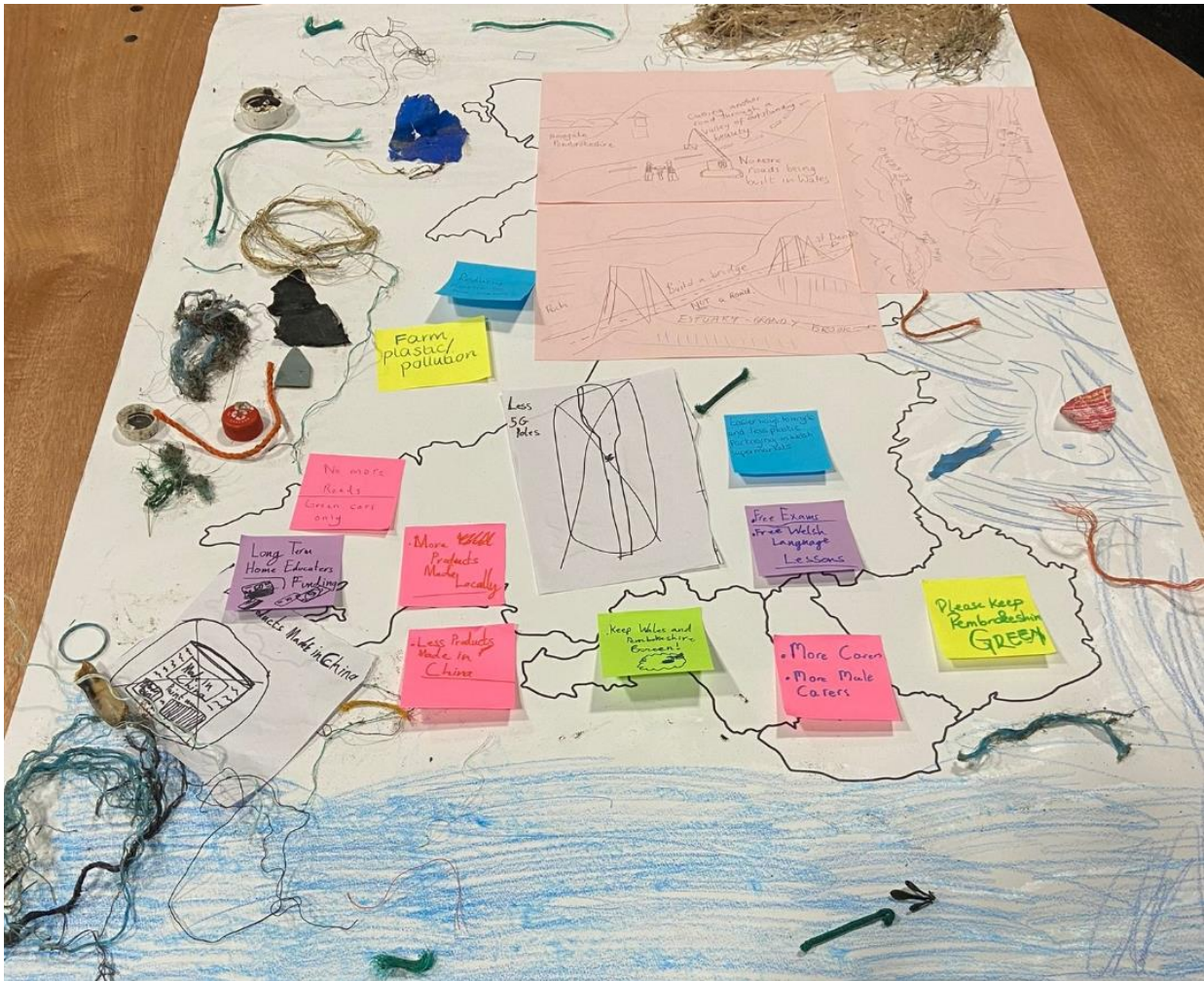
Appendix A:



Above: Map making example from home school group

Below: Detailed shot of map making example with home school group





Above: Map making example from home school group

Below: Above: Map making example from nursery setting





Above and Below: Map making examples from school groups



Agenda Item 8.8

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice



Llywodraeth Cymru
Welsh Government

Huw Irranca-Davies MS
Chair
Legislation, Justice and Constitution Committee
And Members of the Senedd
Senedd Cymru

SeneddLJC@senedd.wales

24 February 2022

Dear Huw,

I am writing to inform you the UK Government tabled its final amendments on 22 February 2022 regarding the Policing, Crime, Sentencing and Courts Bill (the Bill). The Bill will return to the House of Commons for consideration of final amendments stage on 28 February.

Some of the amendments tabled will require a Supplementary Legislative Consent Memorandum (Memorandum No 5) (SLCM) which I will lay on or before 28 February subject to full analysis of the provisions. The SLCM will also address any relevant amendments agreed by the House of Lords on 17 January.

I will be seeking to hold a further Senedd debate on 1 March, which will once again ask the Senedd to debate and vote on legislative consent in respect of the Bill. If the debate is scheduled, I will again be recommending consent be given to some amendments and the withholding of consent to others. Therefore I intend to lay two motions for debate once the SLCM has been laid.

Given the timing of the amendments and the stage at which the Bill is at, which are outside of our direct control, it is not possible to provide the Senedd with sufficient time for scrutiny. However, it is important for the Senedd to have the opportunity to have a final say on what continues to be a long and complex piece of legislation with significant impacts for Wales.

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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.

My officials will continue to liaise with the UK Government regarding the Bill, and I will keep you updated as appropriate.

This letter is being copied to Jenny Rathbone MS, Chair of the Equality and Social Justice Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Jane Hutt". The signature is written in a cursive style with a long horizontal stroke above the first letter "J".

Jane Hutt AS/MS

Y Gweinidog Cyfiawnder Cymdeithasol
Minister for Social Justice

Agenda Item 11

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

Document is Restricted

Agenda Item 12

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

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