

Agenda – Legislation, Justice and Constitution Committee

Meeting Venue:	For further information contact:
Hybrid – Committee Room 2, Senedd and videoconference via Zoom	P Gareth Williams Committee Clerk
Meeting date: 8 July 2024	0300 200 6565
Meeting time: 13.30	SeneddLJC@senedd.wales

Hybrid

Public meeting

(13.30 – 14.00)

1 Introduction, apologies, substitutions and declarations of interest
(13.30)

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

(13.30 – 13.35)

(Pages 1 – 2)

Attached Documents:

LJC(6)–23–24 – Paper 1 – Draft report

Made Negative Resolution Instruments

**2.1 SL(6)499 – The Education (Student Information) (Wales) (Amendment)
Regulations 2024**

Affirmative Resolution Instruments

**2.2 SL(6)500 – The Tertiary Education and Research (Wales) Act 2022
(Consequential Amendments) Regulations 2024**



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

(13.35 – 13.40)

Made Negative Resolution Instruments

3.1 SL(6)498 – The Central Rating List (Wales) (Amendment) Regulations 2024

(Pages 3 – 4)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-23-24 – Paper 2 – Draft report

Affirmative Resolution Instruments

3.2 SL(6)501 – The Digital Government (Welsh Bodies) Regulations 2024

(Pages 5 – 6)

[Regulations](#)

[Explanatory Memorandum](#)

Attached Documents:

LJC(6)-23-24 – Paper 3 – Draft report

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

(13.40 – 13.45)

4.1 SL(6)493 – The Procurement (Wales) Regulations 2024

(Pages 7 – 9)

Attached Documents:

LJC(6)-23-24 – Paper 4 – Letter to the Cabinet Secretary for Finance, Constitution and Cabinet Office, 1 July 2024

5 Instruments that raise issues to be reported to the Senedd under Standing Order 21.7 – previously considered

(13.45 – 13.50)

5.1 SL(6)494 – Part 2 Code of Practice – General Functions

(Pages 10 – 14)

Attached Documents:

LJC(6)-23-24 – Paper 5 – Report

LJC(6)-23-24 – Paper 6 – Welsh Government response

5.2 SL(6)495 – The National Framework for the Commissioning of Care and Support in Wales: Code of Practice

(Pages 15 – 18)

Attached Documents:

LJC(6)-23-24 – Paper 7 – Report

LJC(6)-23-24 – Paper 8 – Welsh Government response

6 Inter-Institutional Relations Agreement

(13.50 – 13.55)

7 Papers to note

(13.55 – 14.00)

7.1 Correspondence and Written Statement by the Cabinet Secretary for Health and Social Care: Healthy Food Environment

(Pages 19 – 21)

Attached Documents:

LJC(6)-23-24 – Paper 9 – Letter from the Cabinet Secretary for Health and Social Care, 1 July 2024

LJC(6)-23-24 – Paper 10 – Written Statement by the Cabinet Secretary for Health and Social Care, 1 July 2024

7.2 Correspondence with the UK Government: The Data Protection and Digital Information Bill

(Pages 22 – 25)

Attached Documents:

LJC(6)-23-24 – Paper 11 – Letter from the Department for Science, Innovation and Technology, 1 July 2024

LJC(6)-23-24 – Paper 12 – Letter to the Minister of State for Data and Digital Infrastructure, 15 March 2024

7.3 Correspondence from the Cabinet Secretary for Finance, Constitution and Cabinet Office: Local Government Finance (Wales) Bill

(Pages 26 – 43)

Attached Documents:

LJC(6)-23-24 – Paper 13 – Letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office to the Finance Committee, 2 July 2024

LJC(6)-23-24 – Paper 14 – Letter from the Cabinet Secretary for Finance, Constitution and Cabinet Office to the Local Government and Housing Committee, 2 July 2024

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

(14.00)

Private meeting

(14.00 – 15.30)

9 Consultation on the Trade and Co-operation Agreement

(14.00 – 14.15)

(Pages 44 – 47)

Attached Documents:

LJC(6)-23-24 – Paper 15 – Paper

10 The legislative consent process

(14.15 – 14.30)

(To Follow)

Attached Documents:

LJC(6)-23-24 – Paper 16 – Paper

11 The UK Internal Market Act 2020 and its impact on Welsh law:

Session with Professor Thomas Horsley

(14.30 – 15.30)

(Pages 48 – 87)

Professor Thomas Horsley (The University of Liverpool)

Attached Documents:

LJC(6)-23-24 – Paper 17 – Research Service Briefing

LJC(6)-23-24 – Paper 18 – Supplementary Research Service Briefing

LJC(6)-23-24 – Paper 19 – Briefing Note by Professor Thomas Horsley

LJC(6)-23-24 – Paper 20 – Supplementary Briefing Note by Professor Thomas Horsley

Statutory Instruments with Clear Reports 08 July 2024

SL(6)499 – [The Education \(Student Information\) \(Wales\) \(Amendment\) Regulations 2024](#)

Procedure: Made Negative

These Regulations amend the Education (Student Information) (Wales) Regulations 2017 to reflect changes made by the Tertiary Education and Research (Wales) Act 2022 and the Higher Education and Research Act 2017.

References to the Commission for Tertiary Education and Research and the Office for Students have been added. References to the Higher Education Funding Council for Wales and the Higher Education Funding Council for England have been removed.

Parent Act: Apprenticeships, Skills, Children and Learning Act 2009

Date Made: 19 June 2024

Date Laid: 21 June 2024

Coming into force date: 01 August 2024



Statutory Instruments with Clear Reports

08 July 2024

SL(6)500 – [The Tertiary Education and Research \(Wales\) Act 2022 \(Consequential Amendments\) Regulations 2024](#)

Procedure: Affirmative

These Regulations are made under section 146 of the Tertiary Education and Research (Wales) Act 2022 ("the 2022 Act"), which enables the Welsh Ministers to make provision for the purposes of, in consequence of, or for giving full effect to, a provision of the 2022 Act.

The 2022 Act establishes the Commission for Tertiary Education and Research, abolishes the Higher Education Funding Council for Wales, and makes provision in relation to the regulation and funding of tertiary education and research in Wales.

These Regulations make amendments to primary and secondary legislation to reflect the provisions in the 2022 Act.

Parent Act: Tertiary Education and Research (Wales) Act 2022

Date Made:

Date Laid:

Coming into force date: 01 August 2024



SL(6)498 – The Central Rating List (Wales) (Amendment) Regulation 2024

Background and Purpose

The Central Rating List (Wales) Regulations 2005 (“the 2005 Regulations”) prescribe the content of the central non-domestic rating list for Wales. Designated persons (companies which are the ratepayer in relation to central list hereditaments) are named in the Schedule of the 2005 Regulations. These Regulations amend the 2005 Regulations to update references to designated persons and omit those which are no longer central list ratepayers.

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 two points are 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 4 amends regulation 8 of the 2005 Regulations to change the name of British Telecommunications plc in each place it occurs, one of which is listed as being regulation 8(5)(b) of the 2005 Regulations. However, British Telecommunications plc does not appear in regulation 8(5)(b) of the 2005 Regulations, it appears at the end of regulation 8(5) which applies to both regulation 8(5)(a) and 8(5)(b).

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

Regulation 16 omits “The British Waterway Board” from the first column of Part 10 of the Schedule to the 2005 Regulations. This means that there is an entry in the second column of Part 10 for which no designated person is named. It would be helpful if it could be confirmed whether this was the intention or whether both entries in the first row of the table should be omitted.

Merits Scrutiny



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

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.

No consultation was undertaken by the Welsh Government in relation to these Regulations. The Explanatory Memorandum states:

The Welsh Government has not undertaken a consultation. The 2024 Regulations provide for administrative amendments which will not have any practical effect on the Valuation Office Agency or central list ratepayers.

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.

No regulatory impact assessment was undertaken by the Welsh Government in relation to these Regulations. The Explanatory Memorandum states:

A Regulatory Impact Assessment has not been prepared for the 2024 Regulations as they make factual amendments to update the 2005 Regulations and do not alter the impact of the policy. This is in line with the policy set out in the Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation.

Welsh Government response

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

Legal Advisers

Legislation, Justice and Constitution Committee

27 June 2024



SL(6)501 – The Digital Government (Welsh Bodies) Regulations 2024

Background and Purpose

Part 5 of the Digital Economy Act 2017 (“the 2017 Act”) allows persons listed in the Schedules to the Act to share information for specific purposes.

Section 56(1) of the 2017 Act allows information to be shared (by a specified person with certain other persons) for the purpose of preventing fraud against public authorities.

Part 2 of Schedule 8 contains a list of Welsh bodies who are specified for the purposes of section 56(1).

These Regulations remove the Higher Education Funding Council for Wales from the list in the 2017 Act and replace it with the Commission for Tertiary Education and Research.

Procedure

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

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

The Explanatory Notes to the Regulations state as follows in relation to a Regulatory Impact Assessment:

“The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of complying with these Regulations...”

However, the Explanatory Memorandum accompanying the Regulations appears to be inconsistent. Section 6 (Regulatory Impact Assessment (RIA)) states as follows:



“As these Regulations make factual amendments to update subordinate legislation and the amendments do not alter the policy (or its impact) in any significant way or how it is applied in a given situation, an RIA is not required. This is in line with the policy set out in the Welsh Ministers’ code of practice for carrying out regulatory impact assessments for subordinate legislation. However, the RIA to accompany TERA at its introduction to the Senedd assessed the potential costs and benefits associated with establishing the Commission.”

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 Memorandum accompanying the Regulations states the following in section 2 (Matters of special interest to the Legislation, Justice and Constitution Committee):

“The Legislation, Justice and Constitution Committee will wish to note that these Regulations amend the 2017 Act.”

Welsh Government response

A Welsh Government response is required to point 1, above.

Legal Advisers

Legislation, Justice and Constitution Committee

3 July 2024



Rebecca Evans MS
Cabinet Secretary for Finance, Constitution and Cabinet Office

1 July 2024

Dear Rebecca

The Procurement (Wales) Regulations 2024

Thank you for your swift letter of reply (dated 27 June 2024), in response to the letter we sent to you last Monday, 24 June, in relation to the draft Procurement (Wales) Regulations. We were able to consider the correspondence at our meeting this afternoon. We welcome and appreciate your timely engagement with us as we discharge our obligations to the Senedd to scrutinise the draft Regulations ahead of you seeking the Senedd's approval for them to be made.

Unfortunately, a handful of matters remain unresolved. Again, the Committee agreed to write to you urgently in advance of tomorrow's scheduled debate on the draft Regulations.

We note your view that it is not the case that the Welsh Government has deferred to UK Government during the development of these Regulations, and that you consider a better depiction of the relationship "would be one of constructive partnership, characterised by a shared focus on the wider long-term opportunities for buyers and suppliers".

In respect of technical reporting points 10 and 11, you have told us that the list of central government bodies in Schedule 2 of the Regulations mirrors the existing list of central government bodies in Schedule 1 of the amended Public Contracts Regulations 2015 (the 2015 Regulations). You state "This was a deliberate decision to ensure that bodies covered by existing legislation continued to be covered by the new legislation."

You have also told us that, historically, the Welsh Government has been unable to amend the names of central government bodies because of an absence of relevant powers in trade legislation to make these amendments. In addition, you state that the Welsh Government is exploring the feasibility of utilising the powers contained within the *Procurement Act 2023* (the 2023 Act) to update the list set

out at Schedule 2 of the Regulations “whilst simultaneously considering potential risks regarding compliance with international trade obligations”.

In relation to the distinction between “Welsh National Health Service Trusts and Local Health Boards” (LHBs) and “Welsh NHS Bodies”, you told us that you took a deliberate decision to mirror the existing list of central government bodies in the 2015 Regulations “to ensure that bodies covered by existing legislation continued to be covered by the new legislation, and to ensure that there is no ambiguity as we move to the new regime”.

We remain unclear as to why, in now exercising the powers in the 2023 Act to make new regulations, an opportunity has not been taken to use the correct name of the Senedd Commission. We are similarly unclear as to why using the current and correct name would make it unclear that the law continues to apply to that body. It is our understanding that the same body is covered by the new legislation whether the previous or current name is used. In our view it would be clearer that the law continues to apply to that body if its current name is used.

Furthermore, we are also unclear as to how making new legislation that simply uses the correct and current name of the Senedd Commission could pose a potential risk to compliance with international trade obligations.

It is disappointing that you have not provided us with the UK Government advice on this matter which you indicated the Welsh Government has received and was following when drafting these Regulations.

We acknowledge that the Welsh Government will perhaps have access to information to which we are not party. However, in our view, that demonstrates a need for as much detail as possible to be offered to the Senedd to provide absolute clarity as to why the Welsh Government has adopted an approach when legislating which to us seems irregular.

With regards to our technical reporting points 4 and 5, we acknowledge your comments that the decision not to define the terms ‘significant influence’ in regulation 12(7) and ‘concerted practice’ in regulation 13(8) included consideration of the equivalent drafting adopted by the UK Government in its Procurement Regulations 2024. We also note that you decided that each term “should bear its ordinary meaning in the context in which it is to be considered”.

You also state that “Should the need arise then further context can be given to stakeholders via guidance and advice”. You will be aware that there is a counter-view, often expressed by this Committee, that providing definitions on the face of legislation would be better for legal certainty and accessibility, and such matters should not be left to guidance.

Should you wish to provide additional comments and information to the Committee, we would welcome and would carefully consider, as always, any further correspondence we receive.

Given the timescales involved in the Senedd's consideration of these draft Regulations, I will be asking the Committee Clerk to make the necessary arrangements for our exchange of correspondence to be made available to all Members of the Senedd via the agenda for tomorrow's Plenary sitting.

Yours sincerely,

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

Mike Hedges
Chair

Agenda Item 5.1

SL(6)494 – Part 2 Code of Practice: General Functions

Background and Purpose

Section 145 of the Social Services and Well-being (Wales) Act 2014 (“the Act”) gives the Welsh Ministers the power to issue, and from time to time revise, one or more codes relating to the exercise of social services functions. A local authority must, when exercising social services functions, act in accordance with any relevant requirements contained in a code, and have regard to any relevant guidelines contained in it.

This Code sets out the requirements and guidelines which local authorities must act in accordance with when exercising their social services functions under Part 2 of the Act. It covers:

- the well-being and overarching duties;
- population needs assessments;
- integrated preventative and early intervention services;
- promoting social enterprises, co-operatives, user-led services and the third sector;
- engagement, voice and co-production;
- information, advice and assistance; and
- registers of sight-impaired, hearing, hearing impaired and other disabled people.

This Code was originally laid on 19 March 2024, but was withdrawn on 18 April 2024 following the circulation of a draft LJC report which identified a number of errors and inconsistencies in the document.

Procedure

Draft Negative.

The Welsh Ministers have laid a draft of the Code before the Senedd. If, within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the draft being laid, the Senedd resolves not to approve the draft Code then the Welsh Ministers must not issue the Code.

If no such resolution is made, the Welsh Ministers must issue the Code (in the form of the draft) and the Code comes into force on a day specified in an order made by the Welsh Ministers.

Scrutiny under Standing Order 21.7

The following points are identified for reporting under Standing Order 21.7 in respect of this code:

1. In paragraph 5 of the Code, it is stated that requirements are expressed in the Code as “must” or “must not” formatted in bold, and guidelines are expressed as “should”



or “should not” in regular format. However, the phrase “need to” is used in several places in the Code and the context suggests that there could be an intention to place a requirement or give guidelines. In which case, “must”/ “must not” in bold or “should”/ “should not” may have been the correct phrase to use rather than “need to”. For example, in paragraph 44 it states, “Support will need to be appropriate to their age and understanding” and in paragraph 351 it states “Protocols to enable this to happen need to be in place and regularly reviewed”. Is the use of “need to” in this type of context in the Code deliberate because they are not intended to be legal requirements or guidelines?

2. In the Glossary on pages 3 and 4 of the English text, the terms “area” and “region/ regional” are defined in relation to local authorities, local health boards and regional partnership boards in the Code. However, in several places, the term “locality” has also been used in the context of those authorities or boards although it has not been given a meaning in the Code. For example, in paragraph 299 it states that “Local authorities must promote and publicise the service throughout the locality”. It is not clear whether the term “area” or “region” should have been used in those places or whether there is a difference in meaning between “locality” and “area” or “region”. We note that the Welsh text has used the defined term “ardal” (“area”) in the places that correspond to “locality” in the English text.
3. In paragraph 83, there is a difference between the English and Welsh text. In the second sentence of that paragraphs, in the English text, it incorrectly refers to “Chapter 2Bb of this Code”. But in the Welsh text it correctly refers to “Pennod 2B o’r Cod hwn” so that the Chapter numbers differ in the references.
4. In paragraph 230, there is a difference between the English and Welsh text. In the English text, in the final sentence, it states “the different types of organisations and approaches that fall under section 16 of the Act”. But in the Welsh text, the words “and approaches” are missing from the meaning of the sentence.
5. In paragraph 251, there is a difference between the English and Welsh text. In the English text, it states “to reach out, and engage as many and as diverse a range of people as possible”. But, in the Welsh text, the phrase “a chynnwys y bobl hyn” has been used which suggests involving or including other people rather than engagement with them. Elsewhere in the Code, “ymgysylltu” has been used regularly to convey the meaning of “engage” such as in paragraph 253.
6. In paragraph 276, there is a difference between the English and Welsh text. In the English text, it states “(see Chapter 2 of this Code)”. But in the Welsh text the Chapter number is missing so that it only states “(gweler Pennod o’r Cod hwn)” which could be interpreted as meaning “(see a Chapter of this Code)”.



7. In paragraph 283, the phrase “information, advice and assistance service” is used in the provision. However, the defined term “the service” has been used for that phrase from paragraph 275 onwards, including in the paragraphs immediately before and after paragraph 283. Therefore, it is inconsistent with the drafting of the other provisions where the defined term has been used when referring to the same service.
Government response

Welsh Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 1 July 2024 and reports to the Senedd in line with the reporting points above.



Government Response: Part 2 Code of Practice: General Functions

The Government is grateful to the Committee for the time that has been afforded and the attention to detail that has been given to scrutinising the draft Code of Practice.

The Code of Practice is issued under section 145 of the Social Services and Well-being (Wales) Act 2014. Under section 145(2) a Code may impose requirements or it may include guidelines (or both). This Code includes both and the helpful points raised by the Committee relate only to provisions of the Code that do not impose requirements. Notwithstanding that the Government notes the matters raised.

However, it respectfully submits that, albeit matters for correction, these are minor editorial points that do not change the operation or effect of the Code.

Given this observation, the Government proposes to the Committee that the Government makes the editorial corrections, as outlined in further detail below, prior to issuing the Code of Practice. The Government considers this a pragmatic and proportionate response that will ensure the Code of Practice is published without imprecision or unnecessary delay.

Scrutiny point 1: The second sentence of paragraph 44 will be amended from “Support will need to be appropriate ...” to read “Support should be appropriate ...”, as this statement follows the guideline in the previous sentence where ‘should’ is used.

Paragraph 351 of the Code will be amended to state “Protocols to enable this to happen should be put in place and regularly reviewed”.

The Government has considered the other uses of the phrase “need to” in the Code and has concluded that in each case the term is clear in terms of its purpose and is not intended to impose a legal requirement or guidance.

Scrutiny point 2: The Government has noted the Committee’s comments about the use of the word “locality”, which is not defined in the Glossary, and has considered the six uses of this term in the Code.

In paragraph 230 the use of “what works best in any given locality or region” is intended to convey a sense of “what works best across the local authorities in the region.” Therefore, the reference to “what works best in any given locality or region” will be amended to “what works best in the region”.

The other five usages of the term occur in Chapter 6 of the Code of Practice, which deals with the information, advice, and assistance service. The use of the term “locality” here is synonymous with the use of the defined term “region,” the term will be changed accordingly.

Scrutiny point 3: Paragraph 83 of the English text will be amended to refer to “Chapter 2B of this Code.”

Scrutiny Point 4: Paragraph 230 of the Welsh text will be amended to “gwahanol fathau o sefydliadau a dulliau gweithredu”, which is the equivalent to the English text.

Scrutiny Point 5: Paragraph 251 of the Welsh text will be amended to replace “a chynnwys y bobl hyn” with “ac ymgysylltu â’r bobl hyn” the equivalent of the English text.

Scrutiny Point 6: Paragraph 276 of the Welsh text will be amended to “(gweler pennod 2 o’r Cod hwn)”, the equivalent of the English text.

Scrutiny Point 7: Paragraph 283 will be amended to use the defined term “the service” when referring to the “information, advice and assistance service” to be consistent with the drafting of the paragraphs immediately before and after 283. Formatting, equivalence, and typographical corrections, as set out within your additional comments document, will also be addressed prior to publication.

SL(6)495 – The National Framework for the Commissioning of Care and Support in Wales: Code of Practice

Background and Purpose

The National Framework for the Commissioning of Care and Support in Wales: Code of Practice (“the Code”) sets out principles and standards for the commissioning of care and support by local authorities, local health boards and NHS trusts, referred to within the Code as “statutory partners”.

The Code was originally laid before the Senedd on 19 March 2024 before being withdrawn on 18 April 2024 to address errors identified in the draft.

Procedure

Draft Negative

The Welsh Ministers have laid a draft of the Code before the Senedd. If, within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the draft being laid, the Senedd resolves not to approve the draft Code then the Welsh Ministers must not issue the Code.

If no such resolution is made, the Welsh Ministers must issue the Code (in the form of the draft) and the Code comes into force on a day specified in an order made by the Welsh Ministers.

Scrutiny under Standing Order 21.7

The following point is identified for reporting under Standing Order 21.7 in respect of this Code.

1. The following referencing issues may have an impact on the accessibility of the Code:
 - a. In paragraph 1.19, there is a reference to “the Health Services (Provider Selection Regime) (Wales) Regulations”. This reference is incomplete as no year is given.
 - b. In paragraph 1.65, there is no footnote or hyperlink for the reference to the Welsh Language (Wales) Measure 2011.
 - c. In paragraph 1.94, there is no footnote or hyperlink for the reference to the self-assessment tool and introductory training.



- d. In the Glossary, the final paragraph of the entry for “Carer” refers to the Social Services and Well-being (Wales) Act 2014 as “the 2014 Act” rather than using the defined term “the Act” (which is used correctly in earlier paragraphs of this entry).

Government response

A Welsh Government response is required.

Committee Consideration

The Committee considered the instrument at its meeting on 1 July 2024 and reports to the Senedd in line with the reporting point above.



Government Response: The National Framework for the Commissioning of Care and Support in Wales: Code of Practice

The Government is grateful to the Committee for the time that has been afforded and the attention to detail that has been given to scrutinising the draft Code of Practice.

The Code of Practice is issued under section 145 of the Social Services and Well-being (Wales) Act 2014. Under section 145(2) a Code may impose requirements or it may include guidelines (or both). This Code includes both and the helpful points raised by the Committee relate only to provisions of the Code that do not impose requirements. Notwithstanding that the Government notes the matters raised.

However, it respectfully submits that, albeit matters for correction, these are minor editorial points that do not change the operation or effect of the Code.

Given this observation, the Government proposes to the Committee that the Government makes the editorial corrections, as outlined in further detail below, prior to issuing the Code of Practice. The Government considers this a pragmatic and proportionate response that will ensure the Code of Practice is published without imprecision or unnecessary delay.

Scrutiny point 1:

- a. No date is included in the reference to “the Health Services (Provider Selection Regime) (Wales) Regulations” in paragraph 1.19, as the Regulations are yet to be made. It is proposed that paragraph 1.19 be amended as follows, in order that this is clear.

“1.19 Local health boards and NHS trusts should be aware that the Health Services (Provider Selection Regime) (Wales) Regulations and accompanying statutory guidance (The Provider Selection Regime Wales - Statutory Guidance), which are due to be made/come into force in autumn 2024, will also apply to the procurement of health services...”

The Health Services (Provider Selection Regime) (Wales) Regulations will be made under section 10A of the NHS (Wales) Act 2006. Section 3 of the Health Service Procurement (Wales) Act 2024 (the procurement Act) inserted a power to make these regulations into the NHS (Wales) Act 2006. Section 2 of the procurement Act also inserted a regulation making power allowing the Welsh Ministers to disapply health service procurement in Wales from the new procurement regime under the procurement Act. This power will also be relied upon to make these regulations.

- b. A footnote/hyperlink will be added in paragraph 1.68 for the reference to the Welsh Language (Wales) Measure 2011. Paragraph 1.68 contains the only reference to the Measure in the Code.
- c. A footnote/hyperlink will be added in paragraph 1.94 for the reference to the self-assessment tool and introductory training.

- d.** In the Glossary, the final paragraph of the entry for “Carer” will be amended to refer to the Social Services and Well-being (Wales) Act 2014 using the defined term “the Act.”

Mike Hedges MS
Chair
Legislation, Justice and Constitution Committee

SeneddLJC@senedd.wales

1 July 2024

Dear Mike

You will be aware that in summer 2022 the then Deputy Minister for Mental Health and Wellbeing consulted on proposals to improve the health of food environments in Wales: [Healthy food environment | GOV.WALES](#).

I am writing to inform you of the [consultation](#) I have published on the enforcement approach and the text of draft regulations for placement and price promotion restrictions in Wales, largely equivalent to [The Food \(Promotion and Placement\) \(England\) Regulations 2021](#) which I intend to lay before the Senedd before the end of 2024. The intention is for there to be a 12-month implementation period, which would allow industry the time to make the necessary changes before, subject to Senedd approval, the coming into force of the regulations towards the end of 2025. You may also wish to note the [Written Ministerial Statement](#) I have published to announce the launch of the consultation.

Following the Welsh Government's separate consultation in 2022 on a proposal to restrict the sale of energy drinks to under 16s, I am also taking this opportunity to undertake a call for evidence to further understand the impacts of energy drink consumption by children, including those for our wider society.

I look forward to hearing your views and working together on this important area.

I have also sent a letter to the Chair of the Health and Social Care Committee and the Chair of the Children, Young People and Education Committee.

Yours sincerely,



Eluned Morgan AS/MS

Ysgrifennydd y Cabinet dros Iechyd a Gofal Cymdeithasol
Cabinet Secretary for Health and Social Care

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

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

Gohebiaeth.Eluned.Morgan@llyw.cymru
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.



Llywodraeth Cymru
Welsh Government

WRITTEN STATEMENT BY THE WELSH GOVERNMENT

TITLE **Proposals to make the food environment in Wales healthier**

DATE **01 July 2024**

BY **Eluned Morgan MS, Cabinet Secretary for Health and Social Care**

Today, I am launching a consultation about the proposed enforcement approach for legislation to restrict promotions of food products high in fat, sugar and salt by location and price, together with a draft text of the Regulations.

I am committed to supporting people in Wales to make the healthy choice the easy choice when food shopping and eating out.

The consultation details the proposed legislation associated with the first phase of the action we intend to take to improve our food environment. Evidence shows that food products with poor nutritional value are currently disproportionately promoted more than healthier products. Unfortunately, these promotions are very effective in influencing what food and drink we buy. I am determined to support the industry to increase the pace and scale of action to produce and market healthier food and drink products.

The draft Regulations outline location and price promotion restrictions on less healthy products, as well as restrictions for sugary drink refills. To ensure that delivery and enforcement is made as straightforward as possible, the proposed enforcement approach is aligned with equivalent legislation in England. The Scottish Government has also set out its proposals to introduce similar measures.

Regulations are intended to be laid in the Senedd before the end of 2024 and, subject to Senedd approval, to come into force in 2025, following a 12-month implementation window for impacted businesses and enforcement bodies. This legislation represents a significant step towards our ambition for a healthier food environment; it will encourage the food industry to take steps to provide a more balanced food offer for people and communities in Wales.

Officials will work closely with stakeholders to ensure that clear and comprehensive guidance for the food industry is in place at the time any legislation is laid.

Following the Welsh Government's consultation in 2022 about a proposal to restrict the sale of energy drinks to under 16s, I am also taking this opportunity to undertake a call for evidence in relation to the consumption of energy drinks by children and to further understand the associated impacts of this, including those for our wider society.

I will set out my proposals to take forward other proposed measures included in our [Healthy Food Environment](#) consultation in 2022 shortly, together with a broader range of approaches to support the sector to produce and promote affordable healthy food options for everyone.

The consultation is available at: [Proposals to make the food environment healthier](#)

Agenda Item 7.2



Department for
Science, Innovation
& Technology

Ministerial Support Team
Department for Science, Innovation and
Technology
100 Parliament Street
London SW1A 2BQ

www.gov.uk/dsit

1 July 2024


seneddLJC@senedd.wales

Our Ref: TOB2024/05951/FA

Dear ,

Thank you for your correspondence of 15 March to the Department for Science, Innovation and Technology. This response is from an official in accordance with procedures for handling correspondence during the pre-election period and I sincerely apologise for the delay in you receiving a response.

The Data Protection and Digital Information Bill did not complete parliamentary passage ahead of prorogation, and therefore did not receive Royal Assent.

Yours sincerely,




Julia Lopez MP

Minister of State for Data and Digital Infrastructure

15 March 2024

Dear Julia

The Data Protection and Digital Information Bill

At our meeting of the Legislation, Justice and Constitution Committee on 11 March 2024 we considered a letter dated 8 March 2024 from the Rt Hon Mark Drakeford MS, the First Minister of Wales, in which he responds to my Committee's report on the Welsh Government's Supplementary Legislative Consent Memorandum (Memorandum No. 3) on the Data Protection and Digital Information Bill (report on Memorandum No. 3).

The letter raises a number of matters on which we would be grateful to receive further clarity. Any detail that you would be able to provide would be very helpful to my Committee as we consider the Welsh Government's legislative consent memoranda for the Bill. Given our work is time-critical and linked to the Bill's passage through the UK Parliament, we would welcome a response by 25 April 2024.

I am copying this letter to the Senedd's Culture, Communications, Welsh Language, Sport, and International Relations Committee.

Yours sincerely,



Huw Irranca-Davies

Chair

Annex

Question 1. On the subject of legislative consent, to date we have held opposing views to the Welsh Government on whether the purpose of clauses 74 and 78 (clauses 54 and 56 as introduced) relating to Digital Verification Services (DVS) make provision within the legislative competence of the Senedd. In his letter to us on 8 March 2024, the First Minister confirmed that the Welsh Government remained of the view that these provisions are within the Senedd's legislative competence, in so far as they relate to the devolved matters of public services, economy and business. The First Minister also told us:

"Indeed, on 6 February Julia Lopez MP, Minister of State for Data and Digital Infrastructure, wrote to update me on their own devolution analysis on this Part of the Bill. Previously their position had been that provisions within this Part of the Bill were reserved under the internet services reservation and therefore did not require consent of the Senedd. Her letter noted that under the Welsh Devolution Guidance Note consent should be sought when conferring or imposing reserved functions on a devolved Welsh authority. She added that as a result, whilst UKG maintain that these functions are reserved, UKG are now of the view that agreement should be sought for clause 74 and clause 78(3)."

a) To assist our understanding, please would you share with us the correspondence you sent to the Welsh Government on 6 February 2024.

In his letter, the First Minister highlights your continued view that clauses 74 and 78 are reserved. However, the First Minister also explains that it is the UK Government's Devolution Guidance Note, Parliamentary and Assembly Primary Legislation Affecting Wales, which includes a requirement for consent to be sought when provisions in a Bill confer or impose *reserved* functions on a devolved Welsh authority. This appears to be a different requirement to that of the Sewel convention, which recognises that the UK Parliament will not normally legislate in relation to Wales in regard to *devolved* matters. It also differs from the requirements of the Senedd's Standing Orders, specifically Standing Order 29.1 which states that, for the purpose of engaging Standing Order 29, a "relevant Bill" must make provision for any purpose "within the legislative competence of the Senedd" (or modify the Senedd's legislative competence).

b) We would welcome your views on the different criteria and approaches that appear to be applied by the UK Government, the Welsh Government and the Senedd's Standing Orders when assessing whether a Bill's provisions require the Senedd's legislative consent.

Question 2. In response to recommendation 3 in our report on Memorandum No. 3, which relates to the Welsh Government's "constitutional policy concerns" with the National Underground Asset Register (NUAR) provisions in the Bill, the First Minister states that he wrote to you on 23 January 2024 setting out the Welsh Government's concerns around the UK Government's proposed legislative

approach and the impact of the NUAR provisions on Welsh Ministers' powers. Have you responded to the Welsh Government's concerns and, if so, will you share the correspondence with us? If not, when do you anticipate that you will respond to the Welsh Government?

Question 3. In response to recommendation 8 in our report on Memorandum No. 3, the First Minister told us that the Welsh Government has not received a copy of the UK Government's risk assessment on the potential impact of the Bill on the UK's EU data adequacy decision and that you had declined to share it because it is important for UK Government officials to be able to conduct candid discussions during the policy-making process. You will be aware that there may be implications for Wales should the adequacy decision be lost. Please would you share with us the correspondence you sent to the First Minister on 1 March 2024 and/or further explain your decision not to share your risk assessment with the Welsh Government.



Ein cyf/Our ref MA-RE-5685-24

Peredur Owen Griffiths MS
Chair, Finance Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

2 July 2024

Dear Peredur,

Local Government Finance (Wales) Bill

I am writing to inform you that an updated Explanatory Memorandum has been published ahead of stage 3 proceedings for the Local Government Finance (Wales) Bill, and a copy has been included with this letter.

You will be aware that I accepted all of the Finance Committee's stage 1 recommendations, some of which required revisions to the Explanatory Memorandum. These are as follows:

In relation to recommendation 4, changes have been made to Table 8.2, paragraphs 8.91, 8.92 and 8.128 to address inconsistencies identified by the committee in paragraph 53 of your report. All other relevant figures quoted in the RIA have also been reviewed and updated to ensure consistency between the text and tables.

In relation to recommendation 5, paragraph 8.15 of the RIA has been updated with additional information about the potential implications if the non-domestic rating revaluation cycles in Wales diverged from that in England.

In relation to recommendations 6 and 7, paragraphs 8.125 to 8.127 of the RIA have been updated to clarify the estimated cost to ratepayers of compliance with the new duties to provide information to the Valuation Office Agency and provide further information about timing implications of the delivery of the associated online service.

A number of government amendments were made to the Bill at stage 2 which have also required changes to the Explanatory Memorandum. In particular, the committee will note

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

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

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.

that as a result of the government amendment which brings forward the start of council tax revaluation cycles from 2030 to 2028, two revaluation cycles will now take place over the RIA's 10-year analysis period, rather than one cycle under the original provision. The total estimated costs in the RIA have been updated from £59 million in the version published at introduction to £106 million in the revised version to reflect this change, and other minor changes.

A number of other revisions have also been made to the Explanatory Memorandum to reflect government responses to recommendations made by the Local Government and Housing Committee and the Legislation, Justice and Constitution Committee. All of the revisions made to the Explanatory Memorandum are listed in Annex A below.

I hope you find this information useful.

Yours sincerely,

A handwritten signature in black ink that reads "Rebecca Evans". The signature is written in a cursive, flowing style.

Rebecca Evans AS/MS

Ysgrifennydd y Cabinet dros Gyllid, y Cyfansoddiad a Swyddfa'r Cabinet
Cabinet Secretary for Finance, Constitution & Cabinet Office

Annex A

Local Government Finance (Wales) Bill – Revisions made to EM/RIA to reflect government responses to stage 1 recommendations from the Local Government and Housing Committee

Recommendation	Government response	Revisions to EM/RIA
<p>Recommendation 2: The Welsh Government should amend the Bill to include a requirement for a statutory review to be undertaken on the use of powers under sections 5 [NDR reliefs], 9 [NDR exemptions], 10 [NDR multipliers], 13 [NDR avoidance] and 18 [CT discounts] of the Bill. The review should be undertaken before the end of the Seventh Senedd and should include:</p> <ul style="list-style-type: none"> • An assessment by the Welsh Ministers of alternative legislative mechanisms for making changes to Welsh legislation in the context of NDR reliefs, exemptions, multipliers, anti-avoidance provisions and council tax discounts; and • A requirement to consult the Senedd. 	<p>ACCEPT IN PRINCIPLE. Rather than include a commitment to undertake a statutory review on the face of the Bill, the Government will amend the Explanatory Memorandum after stage 2 to include a commitment to undertake a post-implementation review of the operation and impact of this legislation before the end of the Seventh Senedd. This will include consideration of the relevant subordinate legislation making powers in the Bill.</p>	<p>Revisions have been made to paragraph 11.5 of Chapter 11 of the Explanatory Memorandum, to include the commitment to undertake the post-implementation review set out in response to the stage 1 recommendation from the committee.</p>

Local Government Finance (Wales) Bill – Revisions made to EM/RIA to reflect government responses to stage 1 recommendations from the Finance Committee

Recommendation	Government response	Revisions to EM/RIA
<p>Recommendation 4: The Committee recommends that the Minister reviews the points raised around inconsistencies in the RIA noted in this section, with a view to clarifying the information identified in a revised RIA.</p>	<p>ACCEPT We thank the committee for bringing these to our attention. We will review and ensure the figures are consistent. A revised RIA will be provided ahead of stage 3.</p>	<p>Changes have been made to Table 8.2; paragraph 8.128 and paragraphs 8.91 and 8.92 to address inconsistencies identified by the committee in paragraph 53 of your report. All other relevant figures quoted in the RIA have also been reviewed and updated to ensure accuracy and consistency between the text and tables.</p>
<p>Recommendation 5: The Committee recommends that the</p>	<p>ACCEPT The RIA explains that, at the present time, it is not possible</p>	<p>Additional information has been included in paragraph 8.15 of the RIA. Divergence</p>

Recommendation	Government response	Revisions to EM/RIA
<p>Minister provides information on the risks and cost implications for Wales in diverging from England in terms of the timing of its non-domestic rates revaluations, and for this information to be included in a revised RIA.</p>	<p>to fully quantify the costs and risks which would arise from divergence. It is, however, possible to provide further information on the resourcing implications for the Valuation Office Agency ('VOA') and high-level risks. Additional details will be included ahead of stage 3.</p>	<p>with England in relation to the revaluation cycle would lead to an increase in resource requirements in all valuation areas in Wales. The VOA's estimates indicate an additional cost of around £1m per revaluation cycle. Valuations of some property types may be less robust, leading to appeals and rateable value loss.</p>
<p>Recommendation 6: The Committee request further information on the total cost to ratepayers of the new duty to supply up-to-date information to the VOA, in particular, whether the £35 and £20 cost per ratepayer is in addition to the costs currently estimated for relevant activity, and for this information to be included in a revised RIA.</p>	<p>ACCEPT. The figures represent an average estimate of the additional costs of compliance. Actual costs will depend on individual circumstances. For some ratepayers, the costs of complying with the new duty will not represent new or additional costs compared to those incurred on the current system. This information will be included in the revised RIA ahead of stage 3.</p>	<p>The requested information, as described in response to the committee during stage 1, has been included in paragraph 8.126 of the RIA.</p>
<p>Recommendation 7: The Committee recommends that the Minister provides further information on the potential costs and risks associated with the VOA's new online system. This should include when it will be implemented and the risks of any potential delays in implementation to ratepayers complying with the new requirements to provide information, and for this information to be included in a revised RIA.</p>	<p>ACCEPT. The completion of a revaluation in 2026 is not dependent on the launch of the online system, as the VOA is already preparing to undertake that exercise under current arrangements. The system is intended to ensure the sustainability of more frequent revaluations over the longer-term. There is no risk to ratepayers associated with the timing of launch, because the duties will only be brought into force when the Welsh Government and the VOA are satisfied that ratepayers can reasonably be expected to comply. This information will be included, alongside the estimated costs already provided, in the revised RIA ahead of stage 3.</p>	<p>Paragraph 8.125 of the RIA has been updated to clarify that the VOA cost profile for the online system is based on an assumption that it will launch during 2026-27. This is subject to confirmation as the programme progresses.</p> <p>Paragraph 8.127 of the RIA has been updated to provide the additional explanation and clarification, provided in response to the committee during stage 1, about the timing implications of the delivery of the online service.</p>

Local Government Finance (Wales) Bill – Revisions made to EM/RIA to reflect government responses to stage 1 recommendations from the Legislation, Justice and Constitution Committee

Recommendation	Government response	Revisions to EM/RIA
Recommendation 13: The Minister should clarify which scrutiny procedure will apply to regulations made under section 13(1) of the Local Government Finance Act 1992 ('the 1992 Act') (as amended).	Regulations made under section 13(1) of the 1992 Act will be subject to the negative procedure as already provided in the 1992 Act. Table 5.1 in the Explanatory Memorandum will be amended to reflect this position.	Table 5.1 in the Explanatory Memorandum has been amended.

Local Government Finance (Wales) Bill – Revisions made to EM/RIA to reflect stage 2 government amendments

Government amendment	Impact of amendment	Revisions to EM/RIA
Government amendment 1: Section 14, page 24, line 22, after 'paragraphs', insert '1(2)'.	This amendment ensures that the affirmative procedure continues to apply to an existing regulation-making power relating to the setting of the daily chargeable amount for unoccupied hereditaments before any reliefs are applied.	The only change required is a minor update made to reflect the effect of the amendment in the Keeling Schedule for section 143A(5)(i) of the Local Government Finance Act 1988 ('the 1988 Act').
Government amendment 2: Section 21, page 33, line 27, leave out '2029' and insert '2027'.	This amendment replaces a reference to the year 2029 with a reference to 2027. This will change the latest year by which the Welsh Ministers may, under existing legislative powers, specify as the year when the next council tax valuation list is to be compiled. The intention is for five-yearly council tax revaluation cycles to begin in 2028.	The Explanatory Notes have been updated in relation to section 21 'Procedure for the compilation of valuation lists' to replace a reference to the year 2029 with a reference to 2027. The Keeling Schedule, particularly new subsections (3A) to (3C) within section 22B of the 1992 Act, have also been updated in this respect.
Government amendment 3: Section 21, page 33, line 31, leave out '2030' and insert '2028'.	This amendment changes a reference to the year when the five-yearly council tax revaluation cycles will begin under the provisions of the Local Government Finance (Wales) Bill, from 2030 to 2028.	References to 2030 have been changed to 2028 throughout the Explanatory Memorandum, and information provided outlining the Phase 2 consultation outcome. The

Government amendment	Impact of amendment	Revisions to EM/RIA
		<p>paragraphs and tables amended are as follows:</p> <p>Paragraphs - 3.95; 4.9 – 4.13; 8.154; 8.162 – 8.166; 8.168 – 8.169; 8.173; 8.175 – 8.177; 8.180; 9.26; 12.9 – 12.10; & 12.17.</p> <p>Tables - RIA Summary Table at pp.48 – 49; Tables 8.8 – 8.12; Table 8.14; Tables 12.3; 12.4 & 12.6.</p>
<p>Government amendment 4: Section 24, page 36, line 11, after ‘25’, insert ‘and paragraph [first sub-sub-paragraph to be inserted by amendment 6] of the Schedule (and section 15 in so far as relating to paragraph [first sub-paragraph to be inserted by amendment 6])’.</p>	<p>This amendment will ensure that the sub-paragraph which will enable the Welsh Ministers to provide a right to appeal to the Upper Tribunal in respect of decisions made by the Valuation Tribunal for Wales in the context of appeals under paragraphs 5C and 6AA of Schedule 9 to the 1988 Act will come into force on the day after the day of Royal Assent for the Bill.</p>	<p>The Explanatory Notes, particularly in relation to section 15 of, and Schedule 1 to, the Bill, which make minor and consequential amendments relating to Part 1, have been revised to reflect the coming into force date of the sub-paragraph which will enable the Welsh Ministers to provide a right to appeal to the Upper Tribunal in respect of decisions made by the Valuation Tribunal for Wales in the context of appeals under paragraphs 5C and 6AA of Schedule 9 to the 1988 Act.</p>
<p>Government amendment 5: Schedule 1, page 42, after line 12, insert— ‘Local Government and Rating Act 1997 (c. 29) [] (1) The Local Government and Rating Act 1997 is amended as follows. (2) In Schedule 3, omit paragraph 23.’</p>	<p>This amendment will add a reference to paragraph 23 of Schedule 3 to the Local Government and Rating Act 1997 to the Schedule to the Local Government Finance (Wales) Bill.</p>	<p>The Explanatory Notes, particularly in relation to section 15 of, and Schedule 1 to, the Bill, which make minor and consequential amendments relating to Part 1, have been revised to reflect the addition to the Schedule to the Bill the reference to paragraph 23 of Schedule 3 to the Local Government and Rating Act 1997 (for the purpose of</p>

Government amendment	Impact of amendment	Revisions to EM/RIA
		<p>repealing that spent provision which relates to time limits on discretionary NDR reliefs which will no longer apply to Wales as a result of the Local Government Finance (Wales) Bill).</p> <p>The Keeling Schedule also illustrates the change to the Local Government and Rating Act 1997.</p>
<p>Government amendment 6:</p> <p>Schedule 1, page 44, after line 27, insert— ‘ () after paragraph 11(1) insert— “(1A) Regulations under paragraph 1 may also include provision that an appeal lies to the Upper Tribunal in respect of a decision or order given or made by a tribunal established under that paragraph on an appeal under paragraph 5C or 6AA of Schedule 9.”; () in paragraph 11, in subparagraph (1A) (as inserted by subparagraph [first subparagraph to be inserted by this amendment]) before “5C or 6AA” insert “5BB, 5BE, ”.’</p>	<p>Amendment 6 will ensure that regulations may provide for rights of appeal to the Upper Tribunal, where ratepayers are subject to a penalty for failure to comply with requirements to provide information to the VOA, HMRC and local authorities. The intention is to enable consistency across similar duties on ratepayers within the NDR system, including those introduced by section 12 of the Bill.</p>	<p>Table 5.1 (Summary of powers to make subordinate legislation) of the Explanatory Memorandum has been updated to include this amendment.</p> <p>The Explanatory Notes, particularly in relation to section 15 of, and Schedule 1 to, the Bill, which make minor and consequential amendments relating to Part 1, have been revised to reflect the amendment to paragraph 11 of Schedule 11 to the 1988 Act which relates to rights of appeal from the Valuation Tribunal for Wales to the Upper Tribunal in respect of decisions made by local authorities, VOA or HMRC.</p> <p>The Keeling Schedule also illustrates the changes to Part 3 of Schedule 11 to the 1988 Act.</p>
<p>Government amendment 7:</p> <p>Schedule 1, page 44, line 36, after ‘(e)’, insert ‘, (3)(b)(i) and (6)’.</p>	<p>This amendment will add section 151(3)(b)(i) and (6) of the Local Government and Elections (Wales) Act 2021 to the list of provisions omitted by this Bill. The effect of this amendment is to include provisions previously inserted into the 1988 Act in respect of penalties for failing to provide information to valuation officers, but which</p>	<p>The Explanatory Notes, particularly in relation to section 15 of, and Schedule 1 to, the Bill, which make minor and consequential amendments relating to Part 1, have been revised to reflect the fact that these provisions no longer apply in Wales.</p>

Government amendment	Impact of amendment	Revisions to EM/RIA
	are superseded by new provisions in this Bill, in the Schedule so that they will no longer apply in Wales.	The Keeling Schedule also illustrates the change to the Local Government and Elections (Wales) Act 2021.
<p>Government amendment 8:</p> <p>Schedule 1, page 45, after line 9, insert— ‘() in paragraph 11, in sub-paragraph (1A) (as inserted by paragraph [first sub-paragraph to be inserted by amendment 6] of this Schedule) after “on an appeal under” insert “section 63L or”.’.</p>	This amendment will enable regulations to provide for a right of appeal to the Upper Tribunal, in relation to a liability notice imposed to counteract an artificial avoidance arrangement.	<p>Table 5.1 (Summary of powers to make subordinate legislation) of the Explanatory Memorandum has been updated to include this amendment.</p> <p>The Explanatory Notes, particularly in relation to section 15 of, and Schedule 1 to, the Bill, which make minor and consequential amendments relating to Part 1, have been revised to reflect the right of appeal for ratepayers to the Upper Tribunal in relation to a liability notice imposed to counteract an artificial avoidance arrangement.</p> <p>The Keeling Schedule also illustrates the changes to Part 3 of Schedule 11 to the 1988 Act.</p>

Rebecca Evans AS/MS
Ysgrifennydd y Cabinet dros Gyllid, y Cyfansoddiad
a Swyddfa'r Cabinet
Cabinet Secretary for Finance, Constitution & Cabinet Office



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-RE-5685-24

John Griffiths MS
Chair, Local Government and Housing Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

2 July 2024

Dear John,

Local Government Finance (Wales) Bill

I am writing to inform you that an updated Explanatory Memorandum has been published ahead of stage 3 proceedings for the Local Government Finance (Wales) Bill, and a copy has been included with this letter.

In response to the committee's stage 1 recommendation that the Welsh Government should undertake a statutory review of the use of regulation-making powers in the Bill, I have included in the Explanatory Memorandum a commitment to undertake a non-statutory post-implementation review of the operation and impact of the Bill, including the use of the subordinate legislation-making powers, before the end of the Seventh Senedd term (as I explained in my original response to the committee's recommendations, the government does not consider a statutory requirement for a review to be necessary). Paragraph 11.5 of the Explanatory Memorandum has been updated to confirm this.

A number of other revisions have also been made to the Explanatory Memorandum to reflect government responses to recommendations made by the Finance Committee, the Legislation, Justice and Constitution Committee, and also government amendments made to the Bill at stage 2. All of these revisions are listed in Annex A below.

I hope you find this information useful.

Yours sincerely,

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

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

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.

Rebecca Evans.

Rebecca Evans AS/MS

Ysgrifennydd y Cabinet dros Gyllid, y Cyfansoddiad a Swyddfa'r Cabinet
Cabinet Secretary for Finance, Constitution & Cabinet Office

Annex A

Local Government Finance (Wales) Bill – Revisions made to EM/RIA to reflect government responses to stage 1 recommendations from the Local Government and Housing Committee

Recommendation	Government response	Revisions to EM/RIA
<p>Recommendation 2: The Welsh Government should amend the Bill to include a requirement for a statutory review to be undertaken on the use of powers under sections 5 [NDR reliefs], 9 [NDR exemptions], 10 [NDR multipliers], 13 [NDR avoidance] and 18 [CT discounts] of the Bill. The review should be undertaken before the end of the Seventh Senedd and should include:</p> <ul style="list-style-type: none"> • An assessment by the Welsh Ministers of alternative legislative mechanisms for making changes to Welsh legislation in the context of NDR reliefs, exemptions, multipliers, anti-avoidance provisions and council tax discounts; and • A requirement to consult the Senedd. 	<p>ACCEPT IN PRINCIPLE. Rather than include a commitment to undertake a statutory review on the face of the Bill, the Government will amend the Explanatory Memorandum after stage 2 to include a commitment to undertake a post-implementation review of the operation and impact of this legislation before the end of the Seventh Senedd. This will include consideration of the relevant subordinate legislation making powers in the Bill.</p>	<p>Revisions have been made to paragraph 11.5 of Chapter 11 of the Explanatory Memorandum, to include the commitment to undertake the post-implementation review set out in response to the stage 1 recommendation from the committee.</p>

Local Government Finance (Wales) Bill – Revisions made to EM/RIA to reflect government responses to stage 1 recommendations from the Finance Committee

Recommendation	Government response	Revisions to EM/RIA
<p>Recommendation 4: The Committee recommends that the Minister reviews the points raised around inconsistencies in the RIA noted in this section, with a view to clarifying the information identified in a revised RIA.</p>	<p>ACCEPT We thank the committee for bringing these to our attention. We will review and ensure the figures are consistent. A revised RIA will be provided ahead of stage 3.</p>	<p>Changes have been made to Table 8.2; paragraph 8.128 and paragraphs 8.91 and 8.92 to address inconsistencies identified by the committee in paragraph 53 of your report. All other relevant figures quoted in the RIA have also been reviewed and updated to ensure accuracy and consistency between the text and</p>

Recommendation	Government response	Revisions to EM/RIA
<p>Recommendation 5: The Committee recommends that the Minister provides information on the risks and cost implications for Wales in diverging from England in terms of the timing of its non-domestic rates revaluations, and for this information to be included in a revised RIA.</p>	<p>ACCEPT The RIA explains that, at the present time, it is not possible to fully quantify the costs and risks which would arise from divergence. It is, however, possible to provide further information on the resourcing implications for the Valuation Office Agency ('VOA') and high-level risks. Additional details will be included ahead of stage 3.</p>	<p>tables. Additional information has been included in paragraph 8.15 of the RIA. Divergence with England in relation to the revaluation cycle would lead to an increase in resource requirements in all valuation areas in Wales. The VOA's estimates indicate an additional cost of around £1m per revaluation cycle. Valuations of some property types may be less robust, leading to appeals and rateable value loss.</p>
<p>Recommendation 6: The Committee request further information on the total cost to ratepayers of the new duty to supply up-to-date information to the VOA, in particular, whether the £35 and £20 cost per ratepayer is in addition to the costs currently estimated for relevant activity, and for this information to be included in a revised RIA.</p>	<p>ACCEPT. The figures represent an average estimate of the additional costs of compliance. Actual costs will depend on individual circumstances. For some ratepayers, the costs of complying with the new duty will not represent new or additional costs compared to those incurred on the current system. This information will be included in the revised RIA ahead of stage 3.</p>	<p>The requested information, as described in response to the committee during stage 1, has been included in paragraph 8.126 of the RIA.</p>
<p>Recommendation 7: The Committee recommends that the Minister provides further information on the potential costs and risks associated with the VOA's new online system. This should include when it will be implemented and the risks of any potential delays in implementation to ratepayers complying with the new requirements to provide information, and for this information to be</p>	<p>ACCEPT. The completion of a revaluation in 2026 is not dependent on the launch of the online system, as the VOA is already preparing to undertake that exercise under current arrangements. The system is intended to ensure the sustainability of more frequent revaluations over the longer-term. There is no risk to ratepayers associated with the timing of launch, because the duties will only be brought into force when the Welsh Government and the VOA are satisfied that ratepayers can reasonably be expected to</p>	<p>Paragraph 8.125 of the RIA has been updated to clarify that the VOA cost profile for the online system is based on an assumption that it will launch during 2026-27. This is subject to confirmation as the programme progresses. Paragraph 8.127 of the RIA has been updated to provide the additional explanation and clarification, provided in response to the committee during stage 1, about the</p>

Recommendation	Government response	Revisions to EM/RIA
included in a revised RIA.	comply. This information will be included, alongside the estimated costs already provided, in the revised RIA ahead of stage 3.	timing implications of the delivery of the online service.

Local Government Finance (Wales) Bill – Revisions made to EM/RIA to reflect government responses to stage 1 recommendations from the Legislation, Justice and Constitution Committee

Recommendation	Government response	Revisions to EM/RIA
Recommendation 13: The Minister should clarify which scrutiny procedure will apply to regulations made under section 13(1) of the Local Government Finance Act 1992 ('the 1992 Act') (as amended).	Regulations made under section 13(1) of the 1992 Act will be subject to the negative procedure as already provided in the 1992 Act. Table 5.1 in the Explanatory Memorandum will be amended to reflect this position.	Table 5.1 in the Explanatory Memorandum has been amended.

Local Government Finance (Wales) Bill – Revisions made to EM/RIA to reflect stage 2 government amendments

Government amendment	Impact of amendment	Revisions to EM/RIA
Government amendment 1: Section 14, page 24, line 22, after 'paragraphs', insert '1(2),'.	This amendment ensures that the affirmative procedure continues to apply to an existing regulation-making power relating to the setting of the daily chargeable amount for unoccupied hereditaments before any reliefs are applied.	The only change required is a minor update made to reflect the effect of the amendment in the Keeling Schedule for section 143A(5)(i) of the Local Government Finance Act 1988 ('the 1988 Act').
Government amendment 2: Section 21, page 33, line 27, leave out '2029' and insert '2027'.	This amendment replaces a reference to the year 2029 with a reference to 2027. This will change the latest year by which the Welsh Ministers may, under existing legislative powers, specify as the year when the next council tax valuation list is to be compiled. The intention is for five-yearly council tax revaluation cycles to begin in 2028.	The Explanatory Notes have been updated in relation to section 21 'Procedure for the compilation of valuation lists' to replace a reference to the year 2029 with a reference to 2027. The Keeling Schedule, particularly new subsections (3A) to (3C) within section 22B of the 1992 Act, have also been updated in this respect.

Government amendment	Impact of amendment	Revisions to EM/RIA
<p>Government amendment 3: Section 21, page 33, line 31, leave out '2030' and insert '2028'.</p>	<p>This amendment changes a reference to the year when the five-yearly council tax revaluation cycles will begin under the provisions of the Local Government Finance (Wales) Bill, from 2030 to 2028.</p>	<p>References to 2030 have been changed to 2028 throughout the Explanatory Memorandum, and information provided outlining the Phase 2 consultation outcome.</p> <p>The paragraphs and tables amended are as follows:</p> <p>Paragraphs - 3.95; 4.9 – 4.13; 8.154; 8.162 – 8.166; 8.168 – 8.169; 8.173; 8.175 – 8.177; 8.180; 9.26; 12.9 – 12.10; & 12.17.</p> <p>Tables - RIA Summary Table at pp.48 – 49; Tables 8.8 – 8.12; Table 8.14; Tables 12.3; 12.4 & 12.6.</p>
<p>Government amendment 4: Section 24, page 36, line 11, after '25', insert 'and paragraph [first sub-sub-paragraph to be inserted by amendment 6] of the Schedule (and section 15 in so far as relating to paragraph [first sub-paragraph to be inserted by amendment 6])'.</p>	<p>This amendment will ensure that the sub-paragraph which will enable the Welsh Ministers to provide a right to appeal to the Upper Tribunal in respect of decisions made by the Valuation Tribunal for Wales in the context of appeals under paragraphs 5C and 6AA of Schedule 9 to the 1988 Act will come into force on the day after the day of Royal Assent for the Bill.</p>	<p>The Explanatory Notes, particularly in relation to section 15 of, and Schedule 1 to, the Bill, which make minor and consequential amendments relating to Part 1, have been revised to reflect the coming into force date of the sub-paragraph which will enable the Welsh Ministers to provide a right to appeal to the Upper Tribunal in respect of decisions made by the Valuation Tribunal for Wales in the context of appeals under paragraphs 5C and 6AA of Schedule 9 to the 1988 Act.</p>
<p>Government amendment 5:</p>	<p>This amendment will add a reference to paragraph 23 of Schedule 3 to the Local Government and Rating Act</p>	<p>The Explanatory Notes, particularly in relation to section 15 of, and Schedule 1 to, the Bill which make</p>

Government amendment	Impact of amendment	Revisions to EM/RIA
<p>Schedule 1, page 42, after line 12, insert— ‘Local Government and Rating Act 1997 (c. 29) [] (1) The Local Government and Rating Act 1997 is amended as follows. (2) In Schedule 3, omit paragraph 23.’</p>	<p>1997 to the Schedule to the Local Government Finance (Wales) Bill.</p>	<p>minor and consequential amendments relating to Part 1, have been revised to reflect the addition to the Schedule to the Bill the reference to paragraph 23 of Schedule 3 to the Local Government and Rating Act 1997 (for the purpose of repealing that spent provision which relates to time limits on discretionary NDR reliefs which will no longer apply to Wales as a result of the Local Government Finance (Wales) Bill).</p> <p>The Keeling Schedule also illustrates the change to the Local Government and Rating Act 1997.</p>
<p>Government amendment 6:</p> <p>Schedule 1, page 44, after line 27, insert— ‘() after paragraph 11(1) insert— “(1A) Regulations under paragraph 1 may also include provision that an appeal lies to the Upper Tribunal in respect of a decision or order given or made by a tribunal established under that paragraph on an appeal under paragraph 5C or 6AA of Schedule 9.”; () in paragraph 11, in subparagraph (1A) (as inserted by subparagraph [first subparagraph to be inserted by this amendment]) before “5C or 6AA” insert “5BB, 5BE, ”.’</p>	<p>Amendment 6 will ensure that regulations may provide for rights of appeal to the Upper Tribunal, where ratepayers are subject to a penalty for failure to comply with requirements to provide information to the VOA, HMRC and local authorities. The intention is to enable consistency across similar duties on ratepayers within the NDR system, including those introduced by section 12 of the Bill.</p>	<p>Table 5.1 (Summary of powers to make subordinate legislation) of the Explanatory Memorandum has been updated to include this amendment.</p> <p>The Explanatory Notes, particularly in relation to section 15 of, and Schedule 1 to, the Bill which make minor and consequential amendments relating to Part 1, have been revised to reflect the amendment to paragraph 11 of Schedule 11 to the 1988 Act which relates to rights of appeal from the Valuation Tribunal for Wales to the Upper Tribunal in respect of decisions made by local authorities, VOA or HMRC.</p> <p>The Keeling Schedule also illustrates the changes to Part 3 of Schedule 11 to the 1988 Act.</p>
<p>Government amendment 7:</p>	<p>This amendment will add section 151(3)(b)(i) and (6) of</p>	<p>The Explanatory Notes, particularly in relation to</p>

Government amendment	Impact of amendment	Revisions to EM/RIA
<p>Schedule 1, page 44, line 36, after ‘(e)’, insert ‘, (3)(b)(i) and (6)’.</p>	<p>the Local Government and Elections (Wales) Act 2021 to the list of provisions omitted by this Bill. The effect of this amendment is to include provisions previously inserted into the 1988 Act in respect of penalties for failing to provide information to valuation officers, but which are superseded by new provisions in this Bill, in the Schedule so that they will no longer apply in Wales.</p>	<p>section 15 of, and Schedule 1 to, the Bill, which make minor and consequential amendments relating to Part 1, have been revised to reflect the fact that these provisions no longer apply in Wales.</p> <p>The Keeling Schedule also illustrates the change to the Local Government and Elections (Wales) Act 2021.</p>
<p>Government amendment 8:</p> <p>Schedule 1, page 45, after line 9, insert— ‘() in paragraph 11, in sub-paragraph (1A) (as inserted by paragraph [first sub-paragraph to be inserted by amendment 6] of this Schedule) after “on an appeal under” insert “section 63L or”.’.</p>	<p>This amendment will enable regulations to provide for a right of appeal to the Upper Tribunal, in relation to a liability notice imposed to counteract an artificial avoidance arrangement.</p>	<p>Table 5.1 (Summary of powers to make subordinate legislation) of the Explanatory Memorandum has been updated to include this amendment.</p> <p>The Explanatory Notes, particularly in relation to section 15 of, and Schedule 1 to, the Bill, which make minor and consequential amendments relating to Part 1, have been revised to reflect the right of appeal for ratepayers to the Upper Tribunal in relation to a liability notice imposed to counteract an artificial avoidance arrangement.</p> <p>The Keeling Schedule also illustrates the changes to Part 3 of Schedule 11 to the 1988 Act.</p>

Agenda Item 9

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

Document is Restricted

Agenda Item 11

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

Document is Restricted

Document is Restricted

Document is Restricted

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

Document is Restricted