

Lesley Griffiths MS/AS
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs



Llywodraeth Cymru
Welsh Government

Mike Hedges MS
Chair of Climate Change,
Environment and Rural Affairs Committee

mike.hedges@senedd.wales

16 July 2020

Dear Mike

Climate Change, Environment and Rural Affairs Committee Report on the Legislative Consent Memorandum for the UK Environment Bill

Thank you for your letter of 2 July, and for the Climate Change, Environment and Rural Affairs Committee's consideration and recommendations on the Legislative Consent Memorandum for the UK Environment Bill.

Please find the Welsh Government's response to the report's recommendations at Annex A.

I would like to take this opportunity to update the Committee on the current situation with the UK Parliament and Senedd Cymru's consideration of the Bill. The Bill was being considered by a public bill committee in the House of Commons but sittings of the Committee were suspended on 18 March until further notice. The Committee is now scheduled to report by Tuesday 29 September. There has been no update on when the parliamentary scrutiny of the Bill will likely recommence..

Given the uncertainty in the UK Bill timetable, no legislative consent motion debate has been scheduled for the Senedd at present. I now expect this to take place after summer recess.

Yours sincerely

Lesley Griffiths MS/AS
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs

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

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@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.

Annex A

Welsh Government Responses to Recommendations from the Climate Change, Environment and Rural Affairs Committee on the Legislative Consent Memorandum for the UK Environment Bill

Recommendation	Welsh Government Response
Recommendation 1. We recommend to the Senedd that it gives consent to the provisions in the UK Environment Bill, subject to it being satisfied by the Minister's response to each of the recommendations in this report	Accept Your recommendation the Senedd Cymru provide its consent is welcomed. Of your 15 recommendations, I have been able to accept 14. One has been accepted in principle and I have set out my reasons for this as clearly as possible. Financial Implications – None.
Recommendation 2. The Welsh Government must commit to consulting on proposals and/or draft regulations before making regulations using the powers provided in the Bill.	Accept In line with the Regulatory Impact Assessment Code (Section 76 of GOWA 2006) the Welsh Government will carry out proper and appropriate consultation with those who are likely to be affected by the legislation, and those who have an interest in its overall impact, before making regulations using the powers provided in the Bill. Financial Implications – There are no additional financial implications as a result of accepting this recommendation.
Recommendation 3. The Welsh Government should give an undertaking that third party organisations, including Natural Resources Wales, will be properly resourced to deliver additional duties or responsibilities arising from the provisions in this Bill.	Accept The waste tracking powers include provision for Natural Resources Wales (NRW) to create a charging scheme as a means of recovering costs incurred when performing their new functions in relation to this area. NRW are currently working with Welsh Government, UK Government and the other devolved administrations' officials to take forward the waste tracking project and the Welsh Government has provided NRW with funding to support their contribution. Both Extended Producer Responsibility (EPR) and the Deposit Return Schemes (DRS) are being designed based on the polluter pays principle. As such obligated producers covered by the schemes will be required to pay a fee. This will need to cover a range of elements including the costs of any compliance and monitoring required. NRW officials are fully engaged in the development of both schemes and are developing costing

	<p>models to ensure the costs recovered by producers reflects the costs they will incur in any regulatory activity.</p> <p>In relation to EPR for packaging materials the policy is for producers to cover the full net cost for the collection, handling and processing of used packaging materials. Where the responsibility for this falls to Local Authorities, the scheme is being designed to ensure it will cover the cost of relevant waste collection services.</p> <p>The Drainage and Wastewater Management Plan provisions affect both the water companies and NRW. Any additional responsibilities placed upon NRW and their resource implications will be carefully assessed against its remit and statutory obligations, and NRW will be consulted throughout. The Minister has committed previously to consult on any proposed requirements on NRW and the water companies.</p> <p>The powers in relation to land drainage would provide a regulation making power for the Welsh Ministers to make provision for the value of other land (non-agricultural) in a Welsh internal drainage district to be determined. As the current legislation stands, Internal Drainage Boards (IDBs) calculate the value of drainage rates for non-agricultural land using a methodology based on valuation lists which are outdated and incomplete.</p> <p>Consenting to provision being made within the Bill in relation to Wales will allow NRW to calculate the value of non-agricultural land in Wales though an alternative methodology as they will be able to make use of alternative data for these calculations. NRW would also be able to use an alternative methodology for calculating the value of agricultural land and buildings to avoid the potential distortion of the apportionment calculation.</p> <p>IDB work is self-financing, as the precepts help to pay for the management and associated resources. The proposed changes in the Bill will make this simpler and fairer by correcting the earlier measures/calculation which didn't cover non-agricultural land.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 4. The Minister must update the Senedd in advance of the debate on the LCM, on progress in securing an amendment to Clause 24 to make</p>	<p>Accept</p> <p>Discussions are continuing with Defra and I will update the Senedd on progress after the summer recess.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>

<p>provision for cooperative working between the OEP and any equivalent Welsh governance body. If an amendment to Clause 24 cannot be achieved, the Minister must set out what measures will be introduced to ensure cooperative working between Welsh and English/UK bodies.</p>	
<p>Recommendation 5. The Minister should set out a timetable for the establishment of interim environmental governance measures following the end of the transition period and the UK's exit from the EU.</p>	<p>Accept</p> <p>The intention is for the interim measures to be in place for the end of the Implementation Period ("IP"). My priority is to ensure a complaints mechanism is in place, which will provide a dedicated webpage for environmental governance and a complaints form. Any complaints submitted will be acknowledged, logged and included in an annual report.</p> <p>It is also my intention to put in place the means for all complaints to be independently assessed and, where they are considered urgent or serious, for them to be escalated. Again, our aim is to have this in place for the end of the IP but this will be subject to the lifting of the current restrictions on public appointments as a result of COVID-19.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 6. The Minister should publish the report of the stakeholder group she tasked with considering future environmental governance arrangements in Wales. The Minister should publish the Welsh Government's response to the group's recommendations.</p>	<p>Accept</p> <p>The Stakeholder report will be published along with further costed options analysis when this work is complete in the Autumn.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 7. The Minister should give a commitment</p>	<p>Accept</p>

<p>that the Welsh Government's Deposit Return Scheme should apply to the broadest variety of containers so that no restrictions are placed on the size or type of containers eligible for the scheme.</p>	<p>We are working in partnership with the UK Government and Northern Ireland Executive to develop the proposals for the basis of a further consultation to inform the final design of the scheme. This is scheduled to be published early 2021. It is our intention the consultation will set out the container sizes and material types to be covered by the DRS. I agree with the Committee's recommendation this should cover a wide range of materials and bottle sizes.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 8. The Minister should provide the Committee with further information on the work that is being undertaken to assess the evidence base for a tax or a charge on single-use plastics.</p>	<p>Accept</p> <p>Prior to COVID-19 there was growing support from the public for governments to take action against single-use plastic (SUP) items, reduce packaging and promote reusable products. Whilst this is still likely to be the case, there is some anecdotal evidence emerging to suggest the COVID-19 pandemic has generated concerns about the safety of using reusable products, in particular reusable cups, with some high street retailers temporarily banning the use of reusable cups.</p> <p>We recognise it will not just be businesses challenged - we may see changes in buyer behaviour with falling employment rates and reduced household income as a consequence of the significant impact COVID-19 has had on the economy. It may be some time before consumers are in a position to make more sustainable or premium buying decisions.</p> <p>The point between public hygiene concerns in the short term versus the longer term goal of tackling the pollution created by unnecessary SUP will need a balanced response. Ultimately, our goal will focus on advancing our long term aspirations to protect our environment, in line with our Well-being and Future Generations objectives.</p> <p>Work to assess the available evidence base surrounding a potential tax or charge on SUP cups is ongoing, and will take into account our tax policy principles, as well as the potential longer term impacts of COVID-19 on both consumer behaviours and the industries involved.</p> <p>Any potential tax or charge measure on single-use cups would need to be carefully co-ordinated with the wider initiatives to ensure the intended behaviour change is encouraged without being overly burdensome on business. This includes EPR, DRS, forthcoming bans on specific SUP items (which will include expanded and extruded polystyrene cups), as well as the UK Government's proposals for a plastic packaging tax.. Further consultations on each of these areas are due soon. It will be important to consider the evidence gathered as part of these exercises.</p>

	<p>The Welsh Government <i>Beyond Recycling</i> consultation closed in April and sought views on proposals for a tax or charge on disposable plastic cups and food containers in Wales. There was lots of interest on how best to make use of our fiscal powers. The responses to this consultation are currently being reviewed and the consultation summary will be published later this summer.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 9. The Minister should clarify a timetable for the introduction of extended producer responsibility and deposit return schemes and measures in relation to single-use plastics.</p>	<p>Accept</p> <p>In relation to the DRS and EPR for packaging, implementation of both schemes is dependent upon the relevant clauses within the UK Environment Bill being passed by the UK Parliament. Royal Assent for the Bill is currently expected by November 2020, subject to the current delays as a result of COVID-19.</p> <p>In the meantime, we are working to develop the detailed proposals to be included in a further consultation to set out the preferred options for both schemes. This is scheduled to be published in early 2021.</p> <p>In preparation for consultation, we are currently reviewing the proposed timeline for the implementation of both schemes, this is dependent on factors such as the passage of secondary legislation setting up of the required scheme administrators, collection infrastructure and development of supporting ICT systems. It is our intention to include within the consultation an outline proposed implementation timetable.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 10. The Minister should clarify how the provisions in the Bill will be used to give effect to the proposals in the Welsh Government’s “Beyond Recycling” consultation.</p>	<p>Accept</p> <p>The Beyond Recycling consultation closed on 24 April. The consultation and 40 engagement events across the country engaged around 1,000 citizens and stakeholders. The consultation had a very simple and clear aim to shift Wales towards a more circular economy where we use only our fair share of resources, keep resources in use for as long as possible and avoid waste. The Bill provides powers which will enable the implementation of key actions encompassed by ‘<i>Beyond Recycling</i>’, particularly those relating to a DRS and EPR. This will support the future strategy’s objectives of avoiding waste and keeping resources in use for as long as possible, and our aim as a Government to become the world’s best in terms of recycling. Other powers in the Bill will also be</p>

	<p>used for several other key actions in Beyond Recycling, including applying EPR to other products and wastes, mandating waste tracking, food waste redistribution, environmental product labelling and applying charges for problematic single use packaging.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 11. The Welsh Government should introduce an approach for plastic waste and pollution reduction based on the model set out in the Environment (Wales) Act 2016. The approach should include an overall target, interim targets and reporting requirements.</p>	<p>Accept</p> <p>Amongst other materials both EPR and DRS for drinks containers target a large proportion of plastic. Within both schemes the intention is to set statutory recycling targets for those obliged under the schemes to meet. Although the intention is for the schemes to operate across the UK, reporting on material capture and recycling rates will be reported on an individual nation basis – therefore it will be possible to track the success of both schemes on an all Wales basis.</p> <p>With regard to a deposit scheme for drinks containers our current preferred option is to set a series of targets increasing over time as the scheme beds in and becomes widely accepted. In addition, the variable or modulated fee payment packaging will incentivise producers to design easier to recycle and less wasteful packaging. Further details on how statutory targets will work will be covered in the second consultation on both schemes, scheduled for publication early in 2021.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 12. The Minister should clarify the Welsh Government's intended timetables for the white paper on the Clean Air Bill and the introduction of the list system arising from Part of Schedule 12 of the UK Bill.</p>	<p>Accept</p> <p>The Welsh Government intends to launch and complete a White Paper consultation on proposals for the Clean Air Bill for Wales within the current Assembly term.</p> <p>Regarding the published lists for recording approved fuels and exempted classes of fireplace, Welsh Ministers have discretion to decide when the provision comes into force. However, given the need to ensure manufacturers can sell their products on the market without hindrance, including the need to increase consumer choice by ensuring more products enter the market sooner, it is expected the published lists will be developed and implemented within six months following the enactment of the Bill.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 13. The Minister should reaffirm her</p>	<p>Accept</p>

<p>commitment that the Welsh Government will consult stakeholders on all proposed regulations and before making directions arising from the provisions in Part 5 of the UK Bill.</p>	<p>I remain committed to consulting stakeholders on regulations arising from Part 5 of the Bill.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 14. The Minister should pursue an amendment to Clause 82 to seek scientific advice before exercising the powers set out in that clause. If an amendment is not achievable, the Minister should commit to ensuring that the Welsh Government should seek scientific advice before exercising the powers.</p>	<p>Accept in principle</p> <p>Section 82 mirrors the powers of the Secretary of State (S81).</p> <p>In line with the Regulatory Impact Assessment Code (Section 76 of GOWA 2006) the Welsh Government will carry out proper and appropriate consultation with those who are likely to be affected by the legislation, and those who have an interest in its overall impact, before making regulations using the powers provided in the Bill. This includes a requirement to consult those influential in the area, specific communities and/ or organisations.</p> <p>The Gunning Principles on consultation also require all interested parties to be consulted and the final decision to be taken on the basis of rationale and evidence. This is sufficient to ensure the requirement to obtain scientific advice.</p> <p>I can therefore assure the Committee scientific advice will be thoroughly considered as part of the Welsh Government’s operational practices and there is no need to specify this requirement in law.</p> <p>Financial Implications – There are no additional financial implications as a result of accepting this recommendation</p>
<p>Recommendation 15. The Minister should set out what mechanisms are in place or will be necessary to ensure that REACH can continue in a consistent manner across all four constituent nations of the UK in future.</p>	<p>Accept.</p> <p>A common rulebook enables the smooth trade in chemicals and products arising from chemicals, both within the UK and with our European neighbours. It also reduces the associated costs for businesses and regulatory agencies. For these reasons, in our negotiating priorities for a future relationship with the European Union (EU) we have called on the UK Government to negotiate continued membership of the European Chemicals Agency as part of a comprehensive trade agreement.</p> <p>In the absence of such an agreement, it will remain important to keep pace with the progress being made in the EU to address the risks posed by hazardous chemicals to human health and the environment, even if we don’t align with the EU on every regulatory decision. It should also be noted, at least to begin</p>

with, Northern Ireland will continue to be subject to EU rules on chemicals under the Northern Ireland Protocol.

We consider it essential to continue to monitor regulatory decision-making in the EU as we take decisions together with the UK and Scottish Governments in relation to chemicals on the market in Great Britain from next year. We have worked with the other administrations to bring REACH across into UK law in a way which favours collective rather than divergent decision-making. This maximises consistency across Great Britain, whilst retaining the right to take action on our own, where we consider it absolutely necessary, to protect human health and the environment in Wales.

The legislation supporting this approach is largely in place in the form of retained EU law. My officials are working with the other administrations to put in place the non-legislative elements of a common regulatory framework on chemicals. The powers in this Bill relating to REACH will give the new framework the flexibility to fine-tune domestic legislation to suit whatever circumstances we find ourselves in following the end of the current implementation period.

Financial Implications – There are no additional financial implications as a result of accepting this recommendation