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Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros  
Newid Hinsawdd a Materion Gwledig  
Deputy First Minister and Cabinet Secretary for Climate  
Change and Rural Affairs



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref: MA/HIDCC/0865/25

Llŷr Gruffydd MS  
Chair  
Climate Change, Environment and Infrastructure Committee  
Welsh Parliament  
Cardiff Bay  
Cardiff  
CF99 1SN

24 April 2025

Dear Llŷr,

Thank you for your Stage 1 Report on the Disused Mine and Quarry Tips (Wales) Bill. Please see below my responses to the recommendations set out in your report.

**Recommendation 1. The Senedd should support the general principles of the Bill.**

**Response – Accept**

I am pleased the Committee supports the general principles of the Bill and I look forward to working with Committee and Members as we proceed through the Senedd scrutiny process

**Recommendation 2. The Welsh Government should provide assurance that the decision to include disused non-coal tips will not impact on the effective delivery of the new regime, or lead to resource being diverted away from ensuring the safety of disused coal tips.**

**Response - Accept**

I am pleased to provide that assurance. The decision to include disused non-coal tips will not impact on the effective delivery or the new regime, or lead to resource being diverted away from ensuring the safety of disused coal tips. The Authority will have the flexibility to adopt a phased approach in respect of the new regime, and I have been clear that the initial priority will be disused coal tips. Once the relevant work in respect of disused coal tips has completed (recognising that there will be ongoing duties in respect of registered tips), the Authority will include disused non-coal tips within the scope of its activities. The Explanatory Memorandum and Regulatory Impact Assessment assume that the Authority will be in a position to consider and include non-coal tips in its regime from around 2032-33. The Authority will, of course, have the flexibility to work on particular disused non-coal tips at any time, if required to protect human welfare.

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

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

This approach will ensure effective delivery of the new regime and will not jeopardise work in relation to disused coal tips.

**Recommendation 3. The Welsh Government should provide a detailed explanation of existing environmental legislation and systems in place to address environmental harm caused by disused tips and commit to reviewing these to ensure they are sufficiently robust and effective.**

#### **Response – Accept in Principle**

This is an extensive area of law, guidance, procedures and processes and many disused non coal tips are not yet mapped, so it is difficult to definitively identify and provide a comprehensive explanation of all the environmental legislation that might address environmental harm caused by disused tips.

The environmental legislation in place to address environmental harm caused by disused tips will vary depending on the specific nature of each site. Relevant land may contain or may be near to ecologically designated sites, protected habitats, critical infrastructure, residential areas, designated water courses or any other protected land/buildings. Given that there are legislative regimes in place in respect of each of these, it is my intention to write to the Committee in due course to summarise those key pieces of legislation that might apply.

I confirm that it is Welsh Government policy to review legislation periodically to ensure that it is robust and effective.

**Recommendation 4. The Welsh Government should provide further assurance that:**

- **existing planning legislation, the Welsh Government’s coal policy and Planning Policy Wales are sufficiently robust to ensure that proposals to remediate a disused tip involving coal extraction will not be permissible unless they are for the purpose of ensuring public safety, and**
- **the Welsh Government’s coal policy will prevent any coal extracted during remediation work from being sold for the purpose of burning.**

#### **Response – Accept in principle**

I can confirm that the Bill does not prevent the extraction or burning of coal. However, I am content that any proposed coal extraction or movement of coal will be caught by the Welsh Government's Coal Policy through the planning system.

The Welsh Government policy confirms that *“All proposals for the extraction of coal, including any secondary coal products produced during mining operations, which are destined for energy markets, must clearly demonstrate why they are needed in the context of climate change emission reduction targets.”*

The policy presumes against combustion, and I cannot envisage a scenario in which the extraction and burning of coal will arise as a result of the Bill. I am therefore confident that the coal policy already achieves the principle behind the recommendation.

**Recommendation 5. The Welsh Government should ensure that the Authority is fully operational from 1 April 2027, with all guidance in place and all necessary regulations in force by that date.**

**Response – Accept**

I am confident that the Authority will be fully operational from 1 April 2027, and that all necessary guidance will be in place and all necessary regulations will be in force from the that date.

**Recommendation 6. The Welsh Government should provide biannual updates to the Senedd on progress towards delivery of its current programme of work to inspect and maintain disused coal tips, being led by the Mining Remediation Authority.**

**Response – Accept**

I recognise the Committee’s desire for regular updates relating to the delivery of the current work programme of inspections and maintenance of disused coal tips by the Mining Remediation Authority. As such, I will provide a bi-annual written update to the Senedd on the programme. These updates will be provided at the end of the winter and summer inspection programmes.

**Recommendation 7. The Welsh Government should set out its expectation for the Authority to engage the environmental sector and local nature conservation groups in the development of management plans.**

**Response - Accept**

I can confirm that guidance on management plans will include an expectation that the Authority will engage with the environmental sector and local nature conservation groups when developing management plans.

**Recommendation 8. The Welsh Government should bring forward an amendment to the Bill to ensure that the Authority’s corporate plan sets out clearly how it will embed the consideration of biodiversity into its thinking and business planning.**

**Response – Accept in principle**

I agree with the principle that the Authority should embed consideration of biodiversity into its thinking and business planning. I am acutely aware that disused tips are known to be incredibly biodiverse.

However, I do not believe an amendment to the Bill is required as pursuant to section 6(1) of the Environment (Wales) Act 2016, the Authority will be under a duty to seek to maintain and enhance biodiversity in the exercise of its functions in relation to Wales, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of its functions. Under section 6(6) of the 2016 Act, the Authority will have to prepare and publish a plan setting out how intends to comply with section 6(1). It also, under section 6(7), will have to publish a report on what it has done to comply with section 6(1).

**Recommendation 9. The Welsh Government should provide details of actions it is taking, working with its partners, including education and skills providers, to address skills and representation gaps in the workforce and develop suitable career pathways, to support the effective implementation of the Bill.**

**Response - Accept**

We have and will continue to work with key stakeholders including the Welsh Local Government Association (WLGA), Natural Resources Wales (NRW) and the Mining Remediation Authority (MRA) to undertake a capability assessment, and to discuss, identify and support new technological developments which could be used to assist the work in this area and to identify future skills requirements.

Early discussions are continuing between Welsh Government officials responsible for apprenticeships and post 16 education and Medr (Commission for Tertiary Education and Research) to identify opportunities to create a pipeline of new talent to address skills and representation gaps and to create a long-term strategy including the development of suitable career pathways.

My officials have also looked at wider opportunities to help address skill and representation gaps having had discussions with Talent Beyond Boundaries (TBB) who launched their programme, in Wales, in September. This programme will look to match internationally displaced skilled workers with Welsh employers to address skills shortages. This scheme is also available to local authorities and other organisations. Officials plan to encourage WLGA, local authorities, MRA and NRW to engage with the scheme through the Coal Tip Safety Technical Working Group communications/meetings.”

**Recommendation 10. The Welsh Government should bring forward amendments to the Bill to provide a duty on the Authority to create and maintain a comprehensive register of all disused tips.**

**Response – Accept in principle**

I have asked my officials to begin work on drafting an amendment that will require the Authority to prepare and publish a list of all disused tips that have been through the preliminary assessment process.

I do not think that it would be sensible for the Authority to list all disused tips without qualification until we know where all disused tips are located. This will ensure that resources are directed to Welsh Government priorities – in this case our immediate priority is disused coal tips.

**Recommendation 11. The Welsh Government should bring forward amendments to the Bill to include a requirement on the Welsh Ministers to:**

- **make regulations on the monitoring and inspections of disused tips. These regulations must specify the minimum frequency of inspections for each category of tip, and**
- **consult relevant experts, stakeholders, and other persons with an interest in disused tips before making regulations.**
- **These regulations should be subject to the affirmative procedure.**

**Response – Accept in Principle**

See response to recommendation 12

**Recommendation 12. If the Welsh Government is unwilling to accept Recommendation 11, it should bring forward amendments to the Bill to place a requirement on the Welsh Ministers to:**

- **give guidance to the Authority on monitoring and inspections, and**
- **consult relevant experts, stakeholders, and other persons with an interest in disused tips before giving guidance.**

**Response - Accept**

After considering the Committee's report, I have asked my officials to begin work on drafting an amendment that will place a duty on the Welsh Ministers to give guidance to the Authority on monitoring and inspections, and to consult before giving that guidance.

**Recommendation 13. The Welsh Government should bring forward amendments to the Bill:**

- **to place a duty on the Authority to develop management plans for disused tips categorised as causing the Authority most concern (categories 1 and 2),**
- **to enable the Authority to develop management plans for disused tips categorised as causing the Authority the least concern (categories 3 and 4), and to include a requirement for the Welsh Ministers to make regulations setting out the minimum content of management plans. Before making regulations, the Welsh Ministers must consult stakeholders and other persons with an interest in disused tips. Regulations should be subject to the affirmative procedure.**

**Response - Accept**

After considering the Committee's report, I have asked my officials to begin drafting an amendment which will place a duty on the Authority to develop management plans for category 1 and 2 disused tips and which will provide the Authority with discretionary powers to develop management plans for category 3 and 4 disused tips.

The amendment will set out the minimum content of management plans, this will include:

- the way the Authority intends to exercise its functions in relation to the tip (including details of advice it intends to give about the maintenance and management of the tip); and
- information relating to emergency planning and preparedness.

The amendment will also provide the Authority with the ability to include any other information it considers necessary in a management plan.

The intended approach seeks to allow for flexibility - it provides an indication of what will be in a management plan but also allows the Authority to include other information.

The Committee was sighted on high level guidance relating to management plans in January of this year. Since then, my officials have been consulting with key stakeholders in relation to management plans. The views of stakeholders and Committee recommendations will be considered before any draft amendment is finalised.

**Recommendation 14. The Welsh Government should bring forward amendments to the Bill to include a requirement on the Welsh Ministers to:**

- **make regulations specifying minimum requirements for preliminary and full assessment. This should include what a preliminary and full assessment will involve, what each assessment will be expected to include, and the minimum content of inspection reports, and**
- **consult relevant experts, stakeholders, and other persons with an interest in disused tips before making regulations. These regulations should be subject to the affirmative procedure.**

and

**Recommendation 15. The Welsh Government should ensure that regulations on assessments (see Recommendation 14) provide for a preliminary assessment to include a physical inspection. The regulations should provide that the Authority is not required to undertake a physical inspection of a disused tip that has been inspected in the 2 years prior to the regulations coming into force.**

#### **Response - Reject**

Whilst I support the spirit of these recommendations, I do not consider regulations are necessary to set out the detail of preliminary and full assessment. I believe that this is best covered in guidance.

A key reason for setting up the Authority is that it will be an expert body with a focus on disused tips. A number of the more technical elements of the regime, including the approach to assessments, will require input from expertise within the Authority. This will ensure that the technical experts directly inform policy. This also supports the principles of an adaptive and futureproof regime. This approach aligns with consultation responses made to Welsh Government in the White Paper.

**Recommendation 16. If the Welsh Government is unwilling to accept Recommendation 14, it should bring forward amendments to the Bill to place a requirement on the Welsh Ministers to:**

- **give guidance to the Authority on preliminary and full assessments, and**
- **consult relevant experts, stakeholders, and other persons with an interest in disused tips before giving guidance.**

#### **Response – Accept**

After considering the Committee's report, I am happy to accept this recommendation. I have therefore asked my officials to begin drafting an amendment to the Bill to require the Welsh Ministers to give guidance to the Authority on preliminary and full assessments and for that guidance to be consulted upon with key stakeholders.

As the Committee is already aware, I have set out in high level guidance what will be included in the guidance on assessments. I can assure the Committee that the guidance will include details on what both preliminary and full assessments will involve and the content of inspection reports.

**Recommendation 17. The Welsh Government should bring forward amendments to the Bill to ensure that the Authority publishes reports of preliminary and full assessments**

**Response - Accept**

After considering the Committee's report, I am happy to accept this recommendation. I have therefore asked my officials to begin drafting an amendment to the Bill requiring the Authority to publish reports of preliminary and full assessment, subject to appropriate redaction.

**Recommendation 18. If the Welsh Government is unwilling to accept Recommendation 17, it should bring forward amendments to the Bill to ensure that the Authority:**

- publishes its conclusions of reports of preliminary and full assessments, and
- provides access to reports of preliminary and full assessments on request, without an individual having to rely on their statutory right of access to public and environmental information.

**Response - Reject**

On the basis that I am content to accept recommendation 17 and will be bringing forward an amendment to the Bill requiring the Authority to publish reports of preliminary and full assessment, I do not consider it necessary to accept this recommendation.

**Recommendation 19. The Welsh Government should clarify how it will give practical effect to the commitment to ensure that public information and engagement is a priority for the Authority. This should include information sharing and engagement with communities living in the vicinity of disused tips.**

**Response - Accept**

The Welsh Ministers will set out its expectations for the Authority in an annual remit letter. This will confirm what the Authority will need to deliver in terms of public information and engagement with communities. I think it is vitally important that communities are aware of the work the Authority is doing on disused tip safety and that people know where to direct any queries or concerns. The Authority's website will be an important source of information and advice and I will expect public information sessions to be an important tool to inform and update communities of major works.

It is significant that the register of disused tips will be publicly available and will include information on the location of disused tips, the tip's category - which will mean that individuals can easily understand the risk that each disused tip poses - and the date of the tip's most recent inspection. The register is an important tool for keeping communities up to date with the status of disused tips in their local area. As stated in response to recommendation 17, I am also content to agree the Committee's recommendation that reports of full and preliminary assessments be published. This will aid transparency.

I expect the Authority to be seen to manage disused tips and threats to their stability in a transparent way that garners public trust.

**Recommendation 20. The Welsh Government should bring forward an amendment to the Bill to place a duty on the Authority to consult stakeholders, relevant experts and other persons with an interest in disused tip safety, on its proposed policy for categorisation.**

**Response - Accept**

After considering the Committee's report, I am happy to accept this recommendation. I have therefore asked my officials to begin drafting an amendment to the Bill that will place a duty on the Authority to consult on its statement of policy on categorisation.

**Recommendation 21. The Welsh Government should set a clear expectation for the Authority to inform communities living in the vicinity of disused tips of any changes to the categorisation of those tips.**

**Response - Accept**

I am pleased to accept this recommendation – the Bill confirms that if the Authority proposes to change a disused tip's category, it must give a notice of that proposal to every owner and every occupier of the land on which the tip is situated, and any other person who to the Authority's knowledge has an estate or interest in that land, otherwise than as a mortgagee. The category of a disused tip is included in the entry to the register which, as stated above in relation to recommendation 19, is publicly available.

In terms of the wider community, I can confirm that I expect the Authority, where there is a change to the categorisation of a disused tip, to inform communities living in the vicinity of that tip – this will be confirmed in guidance and the remit letter.

**Recommendation 22. The Welsh Government should bring forward amendments to the Bill to place a requirement on the Welsh Ministers to give guidance on compensation claims, and to consult before giving guidance.**

**Response – Accept**

After considering the Committee's report, I am happy to accept this recommendation. I have therefore asked my officials to begin drafting an amendment to the Bill that will require the Welsh Ministers to give guidance to the Authority on its handling of claims for compensation in relation to damage, loss or disturbance, and for that guidance to be consulted upon with key stakeholders.

**Recommendation 23. The Welsh Government should set out the steps it will take to ensure that owners of land, and other persons likely to be affected by the changes to the disused tip safety regime arising from the Bill, are aware and understand the implications of those changes.**

**Response - Accept**

I am pleased to accept this recommendation, and I agree that it will be vital for landowners and other persons likely to be affected by the changes made by the Bill to be aware of and understand the changes that it makes.

I have asked my officials to plan a communications campaign that will seek to inform the public about the changes. Officials are considering how best to deliver that campaign to ensure the messaging is effective and reaches its target audience. I will be seeking the views of stakeholders to ensure the efficacy of that campaign, and I will write to the Committee with the full details of the planned communications in due course.

**Recommendation 24. The Welsh Government should provide further assurance that the Welsh Government’s coal policy will prevent coal extracted during the course of operations to stabilise a disused tip from being sold for the purpose of burning.**

#### **Response – Accept in Principle**

I can confirm that the Bill does not prevent the extraction or burning of coal. However, I am content that any proposed coal extraction or movement of coal will be caught by the Welsh Government's Coal Policy through the planning system.

The Welsh Government policy confirms that *“All proposals for the extraction of coal, including any secondary coal products produced during mining operations, which are destined for energy markets, must clearly demonstrate why they are needed in the context of climate change emission reduction targets.”*

The policy presumes against combustion, and I cannot envisage a scenario in which the extraction and burning of coal will arise as a result of the Bill. I am therefore confident that the coal policy already achieves the principle behind the recommendation.

**Recommendation 25. The Welsh Government should bring forward amendments to the Bill to place a requirement on the Welsh Ministers to give guidance on appeals, and to consult on this guidance.**

#### **Response – Accept**

After considering the Committee’s report, I am happy to accept this recommendation. I have therefore asked my officials to begin drafting an amendment to the Bill that will require the Welsh Ministers to give guidance to the person appointed to determine applications under sections 36 and 41 of the Bill. This person is intended to be Planning and Environment Wales (PEDW), and to consult on that guidance.

**Recommendation 26. The Welsh Government should bring forward amendments to the Bill to enable the Authority to carry out “immediate” operations to avoid the failure of disused tip without being delayed by its obligations under environmental and planning law.**

#### **Response – Reject**

Whilst I understand the principle behind this recommendation, I believe that the pragmatic and sensible approach would be for statutory stakeholders to work collaboratively to plan and mitigate for emergency events. That is why I will propose amendments to the Bill to ensure that emergency planning is a mandatory element of management plans – I expect those plans to include how to identify and mitigate potential environmental and planning issues and for relevant partners to agree on an approach in the event of an emergency. This kind of system is already in place and works well in respect of reservoirs in Wales and England. NRW has been working with Welsh Government, MRA, WLGA and others on a protocol for working together on disused coal tips in Wales.

**Recommendation 27. The Welsh Government should bring forward amendments to the Bill to address any gaps in provisions to prevent or control activities that may impact on the stability of disused tips.**

**Response – Reject**

I don't believe there are any gaps in the Bill. Detailed consideration was given to the inclusion of civil sanctions during the development of the Bill and the White Paper.

I believe that the framework of criminal sanctions in the Bill is sufficient to fully enforce the Bill's provisions. The table at Table 1 below demonstrates the strength of the criminal sanctions regime that is included in the Bill, with, for example, failure to comply with notices requiring operations on land punishable by an unlimited fine. The kinds of matters to which we have applied criminal sanctions (e.g. obstructing monitoring activities or assessments, failing to comply with notices requiring operations) are of such a level of seriousness that, in my view, civil sanctions would be inadequate and would give the wrong message. In addition, the Authority is permitted to bring prosecutions, so it is not dependent on the Director of Public Prosecutions to prosecute.

To include supplementary civil sanctions would in my view be unnecessary. For example, compliance notices and stop notices would be technical and would mean a significant amount of additional administration and bureaucracy as well as the likelihood of delays caused by appeals against such notices. I also consider that civil sanctions would not foster the collaborative approach the Bill favours with a focus on the Authority providing advice and assistance.

The system of notices backed by offences for non-compliance is an effective and proportionate way of enforcing the regime established by the Bill. The Bill allows the Authority or the landowner to seek a contribution from anyone whose conduct has caused or contributed to the need for operations on land. This will act as an additional deterrent to engaging in conduct that is detrimental to the stability of a disused tip.

*Table 1 – framework of criminal sanctions contained in the Bill*

<b>Section</b>	<b>Offence</b>	<b>Fine</b>
32(1)	<p><b>Penalty for obstructing monitoring activities or assessments</b></p> <p>A person who intentionally obstructs or interferes with—                      (a) an inspection or other monitoring activity under Chapter 1, or                      (b) a preliminary assessment or full assessment under Chapter 2, commits an offence</p>	unlimited
39(1)	<p><b>Penalty for failure to comply with notice</b></p> <p>An owner of land who is given a notice under section 33 commits an offence if, without reasonable excuse, the owner fails to carry out the operations required by the notice within the period specified in the notice or, if</p>	unlimited

	that period is extended under section 37, within the extended period.	
54 (1) and (2)	<p><b>Penalty for obstructing operations etc.</b></p> <p>(1) A person who intentionally obstructs or interferes with—  (a) an investigation into—  (i) whether operations need to be required under section 33 or carried out under section 42, or  (ii) whether operations are being carried out in compliance with a notice given under section 33,  (b) the carrying out of operations required by a notice under section 33, or  (c) the carrying out of operations under section 42,  commits an offence.</p> <p>2) A person who intentionally damages or otherwise interferes with any works completed in the course of operations required by a notice under section 33 or carried out under section 42 commits an offence.</p>	unlimited
61(1)	<p><b>Penalties in connection with notices requiring information</b></p> <p>(1) A person who is required to give information under section 58 or 60 commits an offence if the person fails, without reasonable excuse, to give the information.</p>	Not exceeding level 3 on the standard scale (currently £1,000)
61(3)	<p><b>Penalties in connection with notices requiring information</b></p> <p>3) A person who is required to give information under section 58 or 60 commits an offence if the person, in purported compliance with the notice—  (a) gives information which is false or misleading in a material respect, and  (b) either—  (i) knows that the information is false or misleading, or  (ii) is reckless as to whether the information is false or misleading</p>	unlimited

66	<p><b>Penalty for obstructing entry to land</b></p> <p>(1) This section applies where a power to enter land is conferred on a person by section 62(1) or by a warrant issued under section 64(1).</p> <p>(2) A person who intentionally obstructs the exercise of the power commits an offence.</p>	Not exceeding level 3 on the standard scale (currently £1,000)
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It is important to note that tip owners will be clear about activities that could create instability - the management plan guidance will set out the expectation that advice to landowners about the management and maintenance of the tips on their land should include advice about activities which could cause tip instability, such as advice about keeping a site secure to prevent access to off-road motorcyclists or advice on whether felling specific trees or removing vegetation could create instability.

**Recommendation 28. The Welsh Government should clarify:**

- **what consideration was given to extending the duties in section 56 and 57 to the Crown, relevant UK Government departments, and to the Health and Safety Executive;**
- **whether and how the powers of entry in the Bill are broader than those available to local authorities under the 1969 Act; and**
- **whether and how it intends to give guidance to public authorities (other than the new Authority) to support the implementation of the Bill.**

**Response - Accept**

I am pleased to accept this recommendation and can provide the following information:

What consideration was given to extending the duties in section 56 and 57 to the Crown, relevant UK Government departments, and to the Health and Safety Executive

In accordance with convention, section 59 makes provision in relation to obtaining information about estates or interests in Crown land. During the development of the Bill, extensive consideration was given as to which bodies should fall within the definition of “relevant public authority” in section 55.

I am satisfied that given the nature of this Bill, the appropriate bodies, including Natural Resources Wales, the Mining Remediation Authority and local authorities in Wales, fall within scope of this definition. I am content with the decision not to include UK Government departments within the definition of relevant public authorities.

The Health and Safety Executive was considered in the context of the duties in sections 56 and 57. For reasons relating to competence, the Health and Safety Executive was not included in the definition of “relevant public authority”.

Whether and how the powers of entry in the Bill are broader than those available to local authorities under the 1969 Act

The functions contained in the Bill have been designed to ensure that the Authority has greater powers than those currently available to local authorities. The key difference between the two regimes is that the 1969 Act only provides for a permissive regime - it is reactive rather than proactive – whereas the Bill provides for a proactive approach. This includes the powers to enter land to enable preventative actions to be undertaken. The powers of entry conferred upon the Authority in the Bill are broader than the 1969 Act in a number of ways including:

- The 1969 Act allows a person authorised by a local authority to enter land for the purpose of investigating whether any instability of a tip might constitute a danger to members of the public, and to enter land to carry out operations to determine whether a tip is unstable;
- The Bill places a duty on the Authority to carry out a preliminary assessment in relation to every disused tip (there is no such duty on local authorities in the 1969 Act);
- The Bill provides a power of entry for a person authorised by the Authority to enter land for the purpose of carrying out an assessment;
- The Bill places a duty on the Authority to monitor the stability and threats to the stability of disused tips in the register (there is no such duty on local authorities in the 1969 Act);
- The Bill provides a power of entry to enable the Authority to carry out this function;
- The Bill will ensure that the Authority has a power of entry not just to land on which a tip is located, but all land where necessary in the carrying out of its functions. This power will ensure that the Authority can properly assess risks associated with every disused tip. It will also ensure that issues on neighbouring land, that may have an impact on a disused tip, can be resolved. The Authority will have to exercise its powers of entry in a way that is justifiable and reasonable.

#### Whether and how it intends to give guidance to public authorities (other than the new Authority) to support the implementation of the Bill

The Welsh Ministers intend giving guidance to the person appointed to determine appeals under sections 36 and 41 (and as noted above, I have asked my officials to begin drafting an amendment requiring the Welsh Ministers to give such guidance). I expect that PEDW will be that appointed person.

Consideration has been given as to whether guidance should be given to those public bodies which fall into the definition of “relevant public authority” in section 55. Those defined as relevant public authorities have been engaged during the development of the Bill and are familiar with the provisions set out in sections 56 and 57. The Authority will work with the relevant public authorities when undertaking its functions and will work with relevant public authorities to put in place protocols where required.

I am content that it is not necessary for the Welsh Ministers to provide formal guidance to these bodies in respect of sections 56 and 57. However, I will keep this under review.

**Recommendation 29. The Welsh Government should bring forward an amendment to the Bill to place a duty on the Welsh Ministers to consult stakeholders, communities living in the vicinity of disused tips, and the wider public, before bringing forward regulations using the powers provided in section 81(4) and (5).**

**Response – Accept in Principle**

Section 81(3) sets out the meaning of a disused tip as a tip situated wholly or partly in Wales other than one to which the Quarries Regulations 1999 or the Mines Regulations 2014 applies. Section 81(4) gives Welsh Ministers the power to amend the definition of disused tip if either of these regulations is amended/revoked. As a result, any amendment to the definition of ‘disused tip’ could be very technical, and will need to ensure that the various regimes dovetail. Given the likely technical nature of any amendment, it is not considered appropriate to attach a consultation requirement where the definition of disused tip is amended under s.81(4). The position is slightly different in relation to section 81(5) as that gives Welsh Ministers the power to make regulations to remove tips of a particular description from being treated as a disused tip. This might be, for example, because they are too small to pose a threat. For this part of the recommendation, we accept that an amendment should be considered.

**Recommendation 30. The Welsh Government should clarify the following in relation to the definition of “threat to human welfare”:**

- **whether “damage to property” includes “death or damage to livestock on common land”, and**
- **whether “disruption to a supply of water” includes water contamination.**

**Response - Accept**

I am pleased to accept this recommendation and can provide the following information to aid clarity:

Under the Bill, the meaning of “threat to human welfare” includes where there is a possibility of *serious* damage to property or *serious* disruption to a supply of water. When carrying out its functions, where it is necessary for the Authority to determine what constitutes “serious damage to property” or “serious disruption to a supply of water”, the Authority will act in accordance with public law principles.

It is possible for the death or damage to livestock and water contamination to fall within the meaning of “threat to human welfare” for the purposes of the Bill. However, consideration will need to be given on a case-by-case basis as to whether the particular circumstances of each case comprise *serious* damage to property or *serious* disruption to a supply of water.

If you have any further questions, please let me know.

Yours sincerely,



**Huw Irranca-Davies AS/MS**

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

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