

# Agenda – Climate Change, Environment and Rural Affairs Committee

---

Meeting Venue:

For further information contact:

Video Conference via Zoom

Marc Wyn Jones

Meeting date: 11 March 2021

Committee Clerk

Meeting time: 13.30

0300 200 6565

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

---

## Private pre-meeting (13.30–13.45)

In accordance with Standing Order 34.19, the Chair has determined that the public are excluded from the Committee's meeting in order to protect public health. This meeting will be broadcast live on [www.senedd.tv](http://www.senedd.tv)

## Public meeting (13.45–15.00)

### 1 Introductions, apologies, substitutions and declarations of interest

(13.45)

### 2 Legacy work: aquaculture

(13.45–15.00)

(Pages 1 – 10)

James Wilson, Director – Bangor Mussel Producers Ltd

Jon Parker, Chair – Seafish Wales and Development Lead for Aquaculture Industry Wales Ltd

Attached Documents:

Research brief



### **3 Paper(s) to note**

(15.00)

#### **3.1 Response from the Minister for Environment, Energy and Rural Affairs to the Committee's report: Scrutiny of the Welsh Government draft budget 2021–22**

(Pages 11 – 29)

Attached Documents:

Letter

#### **3.2 Correspondence from the Minister for Environment, Energy and Rural Affairs in relation to the Climate Change (Wales) Regulations 2021**

(Pages 30 – 31)

Attached Documents:

Letter

#### **3.3 Correspondence from the Minister for Environment, Energy and Rural Affairs in relation to fuel poverty**

(Pages 32 – 33)

Attached Documents:

Letter

### **4 Motion under Standing Order 17.42 (vi) and (ix) to resolve to exclude the public from items 5 and 6 of today's meeting**

(15.00)

**Private meeting (15.00–15.40)**

### **5 Legacy work: aquaculture – consideration of evidence heard under item 2; and further consideration of the Committee's legacy work**

**6 Consideration of the Legislative Consent Memorandum (LCM) on the Animal Welfare (Sentencing) Bill**

(Pages 34 – 40)

Attached Documents:

Legal note

Legislative Consent Memorandum

**Public meeting (15.40–16.30)**

**7 Legacy work: fisheries**

(15.40–16.30)

Jim Evans, Chair – Welsh Fishermen’s Association

**8 Motion under Standing Order 17.42 (vi) and (ix) to resolve to exclude the public from the remainder of the meeting**

(16.30)

**Private meeting (16.30–16.45)**

**9 Legacy work: fisheries – consideration of evidence heard under item 7**

Document is Restricted

# Agenda Item 3.1

Lesley Griffiths AS/MS  
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

5 March 2021

Dear Mike

Thank you for your letter of 4 February with recommendations arising from your committee's scrutiny of the Welsh Government draft budget for 2021-22.

Below I list your recommendations along with my responses.

## Recommendation 1.

***The Welsh Government should clarify whether and how the Green Recovery Task Force's findings have influenced allocations in 2021-22. The Minister should report back to us on this matter before the annual budget motion.***

## Accept

Our capital investments are a key lever to building for a greener future, by ensuring that our infrastructure priorities are set within our overarching decarbonisation and biodiversity ambitions. In doing so, we are maintaining and building on the foundation provided through the £140m investment package we announced in the 2020-21 Budget to help combat climate change.

In building a greener future, we are focusing on our priorities of housing, combating climate change, and reinvesting in town centres to maximise the impact of our infrastructure investment. This includes an additional £36.8m for social housing, taking the total budget next year to £200m, and £5m more to develop our National Forest and invest in wider biodiversity. We are investing an extra £40m in education infrastructure, including £5m for the net-zero carbon schools pilot. We will go on decarbonising transport, boosting the funding for active travel by £20m, and providing a total investment of £274.7m in rail and metro.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

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

[Gohebiaeth.Lesley.Griffiths@llyw.cymru](mailto:Gohebiaeth.Lesley.Griffiths@llyw.cymru)  
[Correspondence.Lesley.Griffiths@gov.wales](mailto: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.

In May 2020, I invited Sir David Henshaw, the Chair of Natural Resources Wales, to lead a Green Recovery Task and Finish Group. One of the tasks they undertook was to identify priorities for action to contribute to the Welsh Government's approach. The Task and Finish Group conducted a call for proposals, which brought forward ideas for pilot interventions as set out in their report *Green Recovery: Priorities for Action*, published in December 2020. I was delighted at the response they received, with 168 proposals coming forward, at various stages of development.

My officials are working closely with the Green Recovery Task and Finish Group and Natural Resources Wales to take forward the opportunities coming from the work of the Group as part of the wider Welsh Government approach to a Green Recovery. As a first step, I have agreed for available funding to be allocated from the 2020/2021 budget towards those proposals, which are sufficiently well-developed to enable implementation by the end of the financial year. My officials are working to issue the necessary contracts and announcements will be made in due course.

## **Recommendation 2.**

***The Welsh Government should reflect on the findings of the UK CCC's recent reports and revised advice before finalising the budget. The Minister should report back to the Committee on the outcome as soon as possible, and ahead of the annual budget motion.***

### **Accept in principle**

I laid the draft Climate Change (Wales) Regulations 2021 in the Senedd on 9 February, which will be subject to a vote in mid-March. The targets and carbon budgets contained in the draft regulations follow the recommendations of the CCC. We have not, however, necessarily accepted each and every detail of the CCC's blueprint for how Wales achieves those targets and carbon budgets. This is a matter for each Welsh Government to determine as it publishes an emissions reduction plan for each 5-year carbon budget period. The next plan is required to cover Carbon Budget 2 (2021-25) and will be published in November 2021. We aim to align the development of each plan with the development of future financial budgets in order to help inform future allocations, which the Committee may wish to scrutinise in due course. However, the extent to which we are able to allocate funds for each carbon budget period depends on the outcome, duration and timing of UK Government and Welsh Government Spending Reviews and the evidence on where best to target investment versus making use of other government levers such as legislation to meet these Carbon targets.

As the Government set out in its budget narrative, a core element of our approach this year is our drive for a greener future with our focus on housing, combating the climate emergency, and investing in our town centres and public transport. Investing in these priorities also reflects the important role our capital investment plays in supporting construction and wider jobs, with the proposed decarbonisation allocations intended to stimulate green jobs. In the 2020-21 Budget, £140m of capital funding was provided in an investment package designed to help combat the climate emergency. In 2021-22, the majority of this funding will be maintained in departmental baselines and we will allocate nearly £80m in additional capital funding to directly support activities that promote decarbonisation and further enhance our rich biodiversity, alongside the actions we are taking as part of our wider investments. This investment complements the wider commitments we are making to tackle the climate emergency, including continuing the comprehensive approach set out in the current Low Carbon Delivery Plan which described our approach to meet Carbon Budget 1 (2016-2020).

### **Recommendation 3.**

#### ***The Minister must commit to ensuring:***

- ***the second Low Carbon Delivery Plan is accompanied by an assessment of its financial implications, including costs and benefits, and an assessment of the carbon impact of each policy or intervention; and***
- ***the carbon impact of policies within the Plan in sum is enough to meet the third carbon budget.***

#### **Accept in principle**

Regarding financial costs and benefits: The Environment (Wales) Act requires us to set out the policies and proposals for meeting the carbon budget in question but it does not require us to assess the costs and impact of each separate intervention. This reflects the complexity of the system, which has a high degree of inter-dependency, making it difficult to attribute costs and benefits to just one action. In the same way as the governments of Scotland and the UK do not quantify individual interventions, the second Welsh delivery plan will, therefore, set out how the Government and Wales collectively intend to meet the next budget. Additionally, although it is not a statutory requirement, we will publish a sustainability appraisal to support our second Delivery Plan.

Regarding carbon impact - The Act requires each Delivery Plan to focus on the carbon budget in question, recognising each new administration will need to set out how they will achieve the carbon budget at hand. Low Carbon Delivery Plan 2 will focus on Carbon Budget 2. We are developing a tool to quantify the carbon impact of the policies and proposals set out in the plan and to test if these are sufficient to deliver the budget. This complex tool is currently under development with the aim for it to be an integral part of the quantification of the second delivery plan.

The above work falls within existing requirements around the development of our next Low Carbon Delivery Plan.

### **Recommendation 4.**

***The Minister should clarify whether and how the output from the pilot project to estimate the carbon impact of spending decisions in 2020-21 has influenced her approach to budget allocations in 2021-22.***

#### **Accept**

The work undertaken by the Welsh Economy Research Unit, published alongside the draft budget provides an estimation of the supplier emissions that are associated with goods and services that are purchased through the Welsh Government's budgets.

The publication of this analysis was very much an exploratory example of the work that is being undertaken. Alongside final Budget, the intention is to extend this analysis to cover all Welsh Government MEGs, as well as considering capital spend as well.

Given the timings of these publications, they have not directly influenced budget allocations in 2021-22.

However, we have recently received further advice from the UKCCC, who are clear on the current evidence that there is a credible, feasible and affordable path to net zero for Wales by 2050.

Alongside that information, we will also consider the information presented in both the pilot and updated projects reports from WERU, to determine what it means for our future budgetary plans.

Nonetheless, this type of assessment will not model carbon emissions or savings associated with outcomes arising from this spending.

It also is important that departments, when developing their spending proposals, undertake a comprehensive assessment of the broader carbon impact associated with those policies, in order to ensure that we are clear on the quantitative impacts of the choices we make on the climate emergency,

## **Recommendation 5.**

***The Minister should provide further details on:***

- ***how the additional allocation to the Welsh Government Energy Service will be used;***
- ***how it will contribute to achieving a net-zero carbon public sector and increase locally owned renewable energy to 1GW by 2030; and***
- ***progress made towards the 2030 target to date.***

## **Accept**

The Welsh Government Energy Service (WGES) provides support to public sector organisations and communities to help them develop energy efficiency and renewable energy schemes. Through the Service we have invested nearly £16 million this year in renewable energy and energy efficiency projects and have committed a further £9.3 million. The Local Energy Fund currently has more than £5 million available to loan to communities to develop renewable energy projects, with money for the public sector available through the Wales Funding Programme.

The Service is leading the work to develop regional energy strategies with the four regions of Wales to understand the transformation in power, heat and transport required to meet our ambition for Net Zero. The regional energy plans will help regions take advantage of the opportunities from this transformation. The Service will continue to support regions next year in the delivery stage of the strategies.

The additional funding supports upscaled delivery plans for 2020-2022, which will enable the public sector to take a strategic direction on energy, developing capacity and capability across Wales. Additional revenue will support the public sector to deliver the Net Zero strategic priorities; Procurement, Mobility and Transport, Buildings and Land Use. Additional capital will support an extended pipeline of energy efficiency and renewable energy projects. I have made £1.3m available for a pilot to support a switch to Ultra Low Emission Vehicles across the public sector. I have also made an additional £3m available for community renewable energy projects, to help meet the need for further support in the absence of UK Government tariffs.

Through the Service we are investigating the options for delivering an exemplar large scale renewable energy development on the Welsh Government's Woodland Estate, with a stronger role for the public sector, which could provide a pathfinder approach for other projects on public land, meeting local ownership aims. We are also engaging with private sector developers to help support shared ownership of large scale renewables projects across Wales. Additional funding will help communities access professional advice on partnering in larger projects. Such joint projects with Welsh communities, businesses and public sector bodies offer an opportunity to increase the amount of locally owned generation, following the end of the Feed in Tariff.

We are considering the future of the Welsh Government Energy Service beyond 2022, reviewing its effectiveness and considering future need in light of our existing Net Zero ambition and the advice for Wales from the Climate Change Committee to achieve a 63% emissions reduction by 2030.

Wales is already 83% of the way towards meeting its local ownership target of 1GW by 2030 with 825 MW of renewable energy capacity in local ownership. Over half our Local Authorities have declared climate emergencies and have either published emissions reduction action plans or have plans in development. Reaching net zero by 2030 will be very challenging. However, as we come through the Covid pandemic, the enthusiasm to collaborate and drive a green recovery gives me great optimism.

## **Recommendation 6.**

***The Minister should reflect on whether the increase in budget allocation for fuel poverty will be sufficient to deliver progress at the level and pace required to meet the proposed fuel poverty targets set out in the new Plan. She should report back to the Committee on the outcome as soon as possible, and ahead of the annual budget motion.***

### **Accept in principle**

I will publish the new Fuel Poverty Action Plan on 2 March and make a statement in the Senedd.

One of the actions will be to run a consultation on the next iteration of the Warm Homes Programme later this year. Additional modelling to determine the level of activity needed to achieve our 2035 targets is being commissioned to inform the consultation.

Work has also started to publish new estimates of fuel poverty in 2021/22. Our expectation is the estimated level of fuel poverty will have increased significantly in 2020 and the additional investment made by the Welsh Government in 2021/22 will maintain current levels of activity through the Warm Homes Programme.

Until such time as the evidence base has been updated, it is impossible to say whether increase in budget allocation for fuel poverty will be sufficient to deliver progress at the level and pace required to meet the proposed fuel poverty targets. Advice regarding the investment needed to achieve the targets by 2035, and as assessment of how this compares to the Government's current budget allocation, will be submitted to the committee when it becomes available.

Additional Welsh Government funding of £1m revenue and £4m Capital has been proposed in the 2021/22 draft budget.

## **Recommendation 7.**

***The Minister should clarify:***

- ***the cost of delivering home energy efficiency improvements through Nest in 2020-21; and***
- ***the proposed allocations in 2021-22 for Arbed and Nest, and the projected number of households that will receive home improvements under each scheme.***

### **Accept**

In response to the challenges presented to households by the ongoing global pandemic, the Welsh Government budget to tackle fuel poverty has been increased by £5m, 80% of which is allocated to capital investment in home energy efficiency improvements delivered through the Warm Homes Programme. On this basis, we expect Welsh Government capital investment of £27m in 2021/22, and funding of £8.7m from the European Regional Development Fund.

The forecast outturn for the Nest Scheme in 2021/21 is expected to be £18.5m.

The total capital budget in 2021/22 of £35.7m is projected to benefit not less than 5,500 (1,080 Arbed and 4,420 Nest) households during the year, not including the thousands of households who typically benefit from home energy efficiency advice provided through the Nest scheme. Projections for Arbed are included only until October 2021, to the end of the current contract.

Whilst this delivery profile is marginally below the ten year annual average since the Warm Homes Programme began in 2009/2010, delivery is expected to improve over the summer months as social distancing measures are relaxed gradually, but may be depressed once again in winter 21/22. Our expectation is activity levels will resume in 2022/23 subject to successful vaccine roll out and increased public confidence. An additional £1m revenue funding has been set aside to fund a pilot to improve our advice services, work on the winter resilience plan and fuel poverty estimates and delivery modelling.

Capital investment of £27m, plus £8.7m European funding in 2021/22 to deliver the Warm Homes Programme. As recommended by the Committee in its fuel poverty recommendations, flexibility between the Nest and Arbed schemes has been introduced to ensure full forecast outturn is achieved.

## **Recommendation 8.**

***The Minister should provide an update on progress towards delivering the 'short term' actions set out in the Clean Air Plan.***

### **Accept**

The Clean Air Plan for Wales - Healthy Air, Healthy Wales was published on 6 August 2020. The Plan comprises a suite of actions. Short term actions were set for completion by the end of this Senedd term. The majority of actions relate to publication of new guidance and consultations on a range of topics. The medium term actions are scheduled to deliver during the sixth Senedd term and long term actions are expected to deliver improvements up to 2030.

There are twelve actions classed as short term:

Action 4 - Air Quality incident management: The funding has been agreed and Ministerial approval given for the new service. Natural Resources Wales will conduct procurement in financial year 21/22, with an expectation for the contract to be let in the autumn 2021. Natural Resources Wales procured contractor and manufacturers are presently evaluating options for air quality monitoring systems to ensure they are robust enough to work in field conditions before procurement of the equipment.

Action 6 - Local Air Quality Management enhancement through a Clean Air Act for Wales: Our approach to achieving this is set out in the White Paper on the Clean Air (Wales) Bill, published on 13 January 2021.

Action 7 - Clean Air Zone Framework: The draft framework document is currently being reviewed by relevant Welsh Government departments and external partners. We intend to publish the Clean Air Zone Framework during spring this year.

Action 18 - White Paper on a Clean Air Act: The White Paper was published on 13 January 2021.

Action 19 - Air Quality in Wales website: Officials are continuing to develop proposals to enhance the Air Quality in Wales website to deliver increased functionality and to provide a fresh and user-friendly look. It is intended an initial phase of updates will be completed by the end of this year.

Action 20 - Clean Air Day: Last year we supported Clean Air Day activity focused on building back a better Wales. The event provided a valuable opportunity for us all to think about how we can adjust our habits and behaviours to reduce the air pollution caused by everyday activities. Officials are developing proposals for further activity in relation to Clean Air Day 2021.

Action 31 - Agriculture in Wales White Paper: We published the Agriculture (Wales) White Paper on 16 December.

Action 32 - Issue new TAN on intensive farming: This will be brought forward early in the next Senedd term.

Action 42 - Planning guidance for air quality, noise and soundscape to Local Authority planners: Consultation on an updated Technical Advice Note is expected to be undertaken this year during the next Senedd term. Delivery timescales for the final guidance will be dependent on responses. However, we aim to publish the final guidance by the end of 2021.

Action 44: Launch new Wales Transport Strategy: We went out to consultation on a new Wales Transport Strategy in November 2020. The consultation closed at the end of January. We are considering the consultation responses and intend to publish the final Strategy in the spring 2021.

Action 46: Update delivery and design guidance for walking and cycling infrastructure: Consultation completed summer 2020 now finalising the final version for publication end of March 2021.

Action 47: Support for Local Authority implementation of Active Travel: Final Online engagement platform Common Place is now available to all local authorities from November 2020 with good take up. Active Travel Mapping System on Data Map Wales is available for use from November 2020 with Phase 2 completed February 2021. Training and support is being provided continuously on both tools.

Action 55: Enhanced regulatory measures to prevent vehicle idling: Our approach to achieving this is set out in the White Paper on the Clean Air (Wales) Bill, published on 13 January 2021.

Action 56: Revised NO<sub>2</sub> Plan: The timetable for delivery of the NO<sub>2</sub> update plan has slipped from November 2020 following prioritisation of our Clean Air (Wales) Bill White Paper. We intend to consult on the plan for this spring.

Air quality incident management: The funding has been agreed and Ministerial approval given for the new service. Natural Resources Wales will conduct procurement in financial year 21/22, with an expectation for the contract to be let in the autumn 2021. Further information in relation to funding can be found in the response to Recommendation 9 below.

### **Recommendation 9.**

***The Minister should clarify how much funding has been allocated in 2021-22 to deliver the actions set out in the Clean Air Plan.***

#### **Accept**

£1m revenue and £3k capital has been identified to support actions in the Clean Air Plan. This includes:

- Funding for air quality monitoring equipment to support incident response capability.
- Evidence to inform the Clean Air Act for Wales, new monitoring and assessment capabilities, legal responsibilities for national emissions reduction and tackling nitrogen dioxide exceedances, environment impacts of fireworks, lessons learned and impacts from COVID-19 and new planning guidance on air quality, noise and soundscape.
- Communications to support positive behaviour change.

Depending on the specific pathway chosen in achieving our emission reduction ambitions by 2030 and lowering public exposure, it is estimated the future cost of action under the Plan, including through actions associated with proposals in this White Paper, is approximately £10m per annum. Work is underway to provide a more detailed cost estimate for the Clean Air Plan. This will cover the range of cross departmental and sector commitments. We aim to have this completed by April 2021. As the plan covers a 10 year period, it needs to be flexible to adapt to changing circumstances relating to COVID-19, new evidence and EU Exit.

#### **Recommendation 10.**

***The Minister should clarify the level of funding available to support the delivery of the Covid-19 recovery plan for the food and drink industry, including allocations in the 2021-22 draft budget.***

#### **Accept in Principle**

The Covid -19 Recovery plan builds on the longer term strategy and resources have been allocated accordingly. The budget allocations have also included support through a range of Welsh Government Programmes, such as Project Helix, Cywain , Food Business Investment Scheme , Rural Business Investment Scheme and Economic Resilience Fund. This means operationally Welsh Government will flex available resources as opportunities and needs arise, and against our on-going measurement of progress against the Covid -19 Recovery plan. The resources deployed at present are in excess of £30m of direct and indirect support to the industry across the remaining life of the RDP.

We are monitoring the ongoing impact of the pandemic and carefully considering the case for further funding

#### **Recommendation 11.**

***The Minister should report back to the Committee in due course on the findings of the cost assessment for delivering the Welsh Government's new food strategy.***

#### **Accept in Principle**

The strategy sets out our vision and mission, how we will measure progress, and an outline of the main focus areas for action. The strategy is long-term and is flexible to adapt to changing circumstances of Covid- 19 and EU Exit. This means operationally Welsh Government will flex resources as opportunities and needs arise, and against our on-going measurement for progress. Resource allocation will be set in the usual budget planning of the Welsh Government and not fixed on publication.

#### **Recommendation 12.**

***The Minister should continue to press the UK Government to reconsider the methodology for determining replacement EU funding for agricultural support and address the shortfall in funding for 2021-22. She should report back to the Committee on the outcome as soon as practicable.***

#### **Accept**

The Minister for Finance and Trefnydd has written to the Chief Secretary of the Treasury on multiple occasions to outline our deep concern with the replacement farm funding announced in the Spending Review, which leaves farmers and rural communities in Wales short-changed by £137m. On 20<sup>th</sup> October 2020, Minister for Finance and Trefnydd wrote jointly with the Minister for Environment, Energy and Rural Affairs to the Chief Secretary to the Treasury to review the proposed methodology of netting off committed EU receipts, emphasising the inequitable impact of this across the Devolved Administrations.

On 27 November, after the Spending Review, the Minister for Finance and Trefnydd wrote to the Chief Secretary of the Treasury to review the decision for a pillar transfer, and request the level of farm funding for 2020-21, is revised to include this £42m. The Minister for Finance and Trefnydd raised the issue again in a meeting with the Chief Secretary of the Treasury in December. It has been confirmed through the Supplementary Estimates process that the request for the pillar transfer has been rejected. This fails to recognise that the decision to take a 15% pillar transfer for rural development was procedural to meet EU obligations to notify it of the proportion of our domestic replacement 2020-21 CAP budget we would carry forward to 2021-22 to invest in wider rural development.

On 21 December I announced I would be prioritising funding for farmers, reflecting the additional strain placed on the industry by EU Exit and Covid-19. The total direct payment ceiling will be set £238m to provide the same level of direct payments to farmers in 2021, as was provided in 2020. Had the UK Government replaced EU funding in full, Wales would have been better placed to invest in our domestic rural development programme. We will now prioritise using the limited rural development funding for 2021-22 to develop a programme which will target investment in future years on post-EU Exit and Covid Recovery to support our rural communities and environment.

Alongside this we have allocated £2.6m to deliver the start of the new post-EU funded farm support programme and the BEW review recommendations, alongside delivering the remaining commitments under the existing EU funded schemes up to 2023

### **Recommendation 13.**

***The Minister should reflect on whether there is a case for additional funding from within the wider Welsh Government budget to offset the shortfall in replacement EU funding for agricultural support.***

#### **Accept in Principle**

Had the UK Government replaced EU funding in full, Wales would have been better placed to invest in our domestic rural development programme. We will now prioritise using the limited rural development funding for 2021-22 to develop a programme which will target investment in future years on post-EU Exit and Covid Recovery to support our rural communities and environment. An additional £2.6m was also allocated at final budget for wider rural development.

### **Recommendation 14.**

***The Minister should provide further details on:***

- ***the policy areas in which she considers potential gaps could arise as a result of prioritising funding to address the shortfall;***
- ***how this will impact on delivery in those policy areas; and***
- ***the steps she intends to take to mitigate this.***

#### **Accept**

As I said in response to Recommendation 13, I am prioritising using the limited rural development funding for 2021-22 to develop a programme which will target investment in future years on post-EU Exit and Covid Recovery.

On 21 December I announced I would be prioritising funding for farmers, reflecting the additional strain placed on the industry by EU Exit and Covid-19. The total direct payment ceiling will be set £238m to provide the same level of direct payments to farmers in 2021, as was provided in 2020. Had the UK Government replaced EU funding in full, Wales would have been better placed to invest in our domestic rural development programme. We will now prioritise using the limited rural development funding for 2021-22 to develop a programme which will target investment in future years on post-EU Exit and Covid Recovery to support our rural communities and environment.

### **Recommendation 15.**

***The Minister should report back to the Committee on:***

- ***the outcome of her discussions with the UK Government on replacement funding to offset the loss of EU TB income; and***
- ***Progress made in reviewing the TB compensation arrangements, including a timeline for the consultation on proposed changes.***

### **Accept**

#### **Replacement funding**

In October the Minister for Finance and Trefnydd wrote to the Chancellor setting out our requirements on EU exit finance issues ahead of the Spending Review. Bovine TB eradication was listed as a specific area where we would be seeking replacement funding from the UK Government.

The Spending Review took place on 25<sup>th</sup> November 2020. UK Government provided limited and much lower than expected amounts of funding to replace some previously EU funded programmes (e.g. farming and fisheries). No replacement funding for Bovine TB eradication was provided to Welsh Government (the same for several other programmes).

Therefore, In light of not having received replacement funding for Bovine TB eradication from the UK Government yet in 2021-22 we were not in a position to recognise this pressure at this stage in what was a difficult funding context. We will continue to monitor the impact of this programme should the funding become available in-year.

#### **TB Compensation review**

The TB compensation review has been recently paused due to lack of staffing resource within the team and conflicting priorities with available legal support. We aim to continue with this review during the next Assembly term, providing sufficient staffing and legal resources are available.

## **TB EU Funding**

Wales previously received on average £3-4m per year in EU funding, although this amount has been declining since the 2019/2020 financial year (relating to the 2018 TB eradication plan onwards). Welsh Government officials are liaising with Defra on possible replacement funding options. We received £1.59m in November 2020, and are expecting an estimated £1.1m of TB EU funding at the end of 2021, this relates to the claim in relation to the 2020 TB eradication plan. This will be the final TB EU funding allocation received by Welsh Government.

## **TB Compensation**

The financial year 2019/20 had a budget of £15.76M that included a non-recurring extra allocation of £6.4m and a final expenditure of £14.90m, £851k under the allocation. The current forecasted overspend for the TB compensation budget is £4.6m for this financial year. Although the TB compensation review is currently on hold, the options identified for further development could save Welsh Government between £2.91m and £5m per financial year if they were implemented.

### **Recommendation 16.**

***The Minister should clarify the level of funding provided for the pilot project to enhance capacity across local authorities' animal welfare inspection and enforcement services, including the budget allocation for 2021-22.***

#### **Accept**

The level of funding for the LA Enforcement Project was set at £1m over three financial years with the first year of funding beginning in 2020-21. Unfortunately the Covid-19 situation delayed the start of the project and has had a significant impact on the LA Project leads to fully utilise the spend in this financial year. Having said that they have made excellent progress in setting up bespoke training courses for local authority enforcement officers, pan Wales; have made recommendations for the updating of the existing supporting enforcement guidance for the Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014, which will be consulted on; and begun looking at IT solutions for registration, record keeping and accessing key documents during inspections.

There will be a financial underspend for this year but, due to the pandemic situation in 2020/21, we will be exploring whether the work can roll over into a fourth financial year should they be unable to fulfil their overarching commitments for the project.

### **Recommendation 17.**

***The Minister should provide details of any existing or planned work to assess the impact of the pilot project on local authorities' enforcement and resourcing capabilities, and enforcement action.***

#### **Accept**

Regular monthly meetings are held with the project leads and a review of progress against the project plan will be undertaken annually. A formal review of the project is part of the process and will be undertaken at an appropriate time to assess the overall impact.

## **Recommendation 18.**

***The Minister should report back to the Committee on what proportion of the hypothecated income from wind farms she intends to allocate to NRW.***

### **Accept In Principle**

Energy development on the Welsh Government's Woodland Estate is outside of the Forestry Act. As a consequence, an agreement was originally developed between the Forestry Commission Wales and Welsh Government emanating from the Government of Wales Act. This enabled the Forestry Commission Wales (now NRW) to act as the Welsh Government's agent for these developments.

The income from these developments is passed to the Welsh Government from the developers, via NRW. As our land managers, NRW retains the costs of running the programme and passes the remaining income from energy development on the Welsh Government's Woodland Estate back to the Welsh Government. This income is returned to the Welsh Government's central reserves for allocation in line with Welsh Ministers wider priorities.

There are ongoing discussions on how to treat future income received from energy produced on the Welsh Government's Woodland Estate.

Any changes to the level of income retention by NRW may require a change in legislation, and therefore is something which requires wider discussion.

## **Recommendation 19.**

***The Minister should report back to the Committee on any assessment made of the impact that preventing NRW from carrying forward reserves will have on its ability to manage on-going budgetary pressures, and how this has been considered in determining NRW's budget allocations in 2021-22.***

### **Accept**

The reserves available to NRW, and all public bodies, are set out in a letter to accounting officers in July 2019 ([DAO\(19\)02](#)). This has been put in place to ensure the Welsh Government and its arm's length bodies comply with the HM Treasury's consolidated budgeting guidelines.

NRW's cash carry-over limit at year end is up to 2% of their annual resource budget for working capital purposes.. This 2% tolerance for carry-over applies to all Welsh Government arm's length bodies. This is intended to avoid public bodies holding large sums of excess cash which is seen as an inefficient use of public resources and can lead to financial mismanagement

The impacts of the carry over limit continue to be discussed with NRW with a view to limiting NRW's reliance of cash carry over for ongoing budgetary pressures. There are regular meetings between the Minister for Environment, Energy and Rural Affairs and the Chair and Chief Executive of NRW to ensure its delivery is collectively managed. In addition, ongoing regular reviews of NRW's budget forecasts, allows officials to discuss NRW's requirements and to understand the impacts on current and future budgets and any other financial pressures they are experiencing.

All budget pressures presented by NRW throughout the budget process for 2021-22 were considered along with priorities across the portfolio against a limited settlement. The Minister for Environment and Rural Affairs will continue to review NRW's position during the year as well as work with NRW as they develop their financial plans in line with Welsh Governments Budget timetable for future years.

There are in ongoing discussions with NRW to understand any potential budget pressures and implications for the 2021-22 financial year.

#### **Recommendation 20.**

***The Minister should reflect on the findings of this Committee in its report on Flooding in Wales when determining the NRW's flood funding in 2021-22. The Minister should report back to the Committee once a decision on flood funding has been made.***

#### **Accept**

The recommendations of the report will be considered when setting budgets for NRW and to Local Authorities. We allocate capital funding based on risk to life across the whole of Wales as set out in our National Strategy. The Minister will be issuing a written statement next month setting out funding allocations for the upcoming financial year.

We are already investing substantial funding in flood and coastal risk management. To support repair work to damaged assets following flooding in December and January and increase the Small Scale Works Grant, we are providing an additional **£8m to help local authorities and NRW improve and maintain our flood defences** and reduce risk to our communities.

#### **Recommendation 21.**

***The Welsh Government must begin a programme of work to develop alternative ways of leveraging investment, such as from the private sector, to support the delivery of actions to address the nature and climate change emergencies.***

#### **Accept In Principle**

New funding streams like the Circular Economy Fund for businesses are already seeing significant match funding of investment from the private sector of up to 65%.

The challenge of climate change requires everyone to act. The Welsh Government has recently laid regulations in the Senedd to set Wales on the path to net-zero, in line with the recent advice from the Climate Change Committee (CCC). In their advice to the UK and to Wales, the CCC recognise that whilst Government action is essential the private sector has a significant role to play.

This is also a big theme in the UN's Climate Change Conference (COP26), where one of the UK themes is specifically focussing on finance recognising the long-term transition to a net-zero and resilient future requires investment and an unprecedented shift in the global financial system.

£200,000 has also been allocated to support the development of a sustainable funding model for biodiversity. My officials, NRW and representatives of the environmental sector are developing a proposal, which will include how we can more effectively leverage private sector investment to support the transformational change we need for biodiversity.

Flood funding could also benefit from leveraging in external funding sources and as a recommendation within our new National Strategy for Flood and Coastal Erosion Committee to consider and report back.

### **Recommendation 22.**

***The Minister should clarify the budget allocation in 2021-22 for Natura 2000. She should also set out her views on whether it is sufficient to accelerate the delivery of projects as Wales emerges from the pandemic.***

### **Accept**

£14m of the circa £32m funding package allocated for biodiversity, nature and the National Forest will directly support the restoration of Natura 2000 and other protected sites, havens to our most valuable and threatened species and habitats. Improving the condition of this network of sites is vital to creating resilient ecological networks across Wales whilst also providing benefits to people and businesses. This package of funding will allow us to build on the projects and programmes we have in place to help meet our national and international commitments for biodiversity, tackling the nature and climate emergencies whilst ensuring that our recovery from Covid is truly a green one.

We need to ensure we build on the provisions I have already put in place to ensure our stakeholders including the eNGO's have the necessary capacity to recover from the pandemic and enhance future delivery. The capacity building scheme for the environmental sector in partnership with National Lottery Heritage Fund (NLHF) will continue into 2021/22 and aims to support delivery through enhancing financial resilience reducing reliance on public sector funding, and supporting project development, so there is a pipeline of shovel ready projects when funding opportunities arise.

To further support the restoration of Natura sites and the development of Resilient Ecological Networks we are working with NRW to develop a multi - year programme for our protected site network so delivery can be further accelerated as Wales emerges from the pandemic and future funding and mechanisms to deliver are secured.

### **Recommendation 23.**

***The Minister should clarify whether and how the Green Recovery Task Force's findings on supporting the environmental sector have influenced allocations in 2021-22. The Minister should report back to us on this matter before the annual budget motion.***

### **Accept**

Budget allocations have been made in response to a number of key recommendations within the report including strengthening the resilience of the environmental sector, improving collaboration, developing innovative funding mechanisms and multi-year programmes to allow for better planning.

The capacity building scheme for the environmental sector in partnership with National Lottery Heritage Fund (NLHF) will continue into 2021/22 and aims to support delivery through enhancing financial resilience by reducing reliance on public sector funding, and

supporting project development, so there is a pipeline of shovel ready projects when funding opportunities arise. The scheme will also fund projects that support greater collaboration, particularly between smaller eNGOs, and increase diversity in employees, volunteers and trustees.

£200,000 has been allocated to support the development of a sustainable funding model for biodiversity. My officials, NRW and representatives of the environmental sector are developing a proposal, which will include how we can more effectively leverage private sector investment to support the transformational change we need for biodiversity. £100,000 has also been allocated to design a three year programme for the protected site network with the aim of creating resilient ecological networks across Wales. Having a multi-year programme in place with clear objectives will enable the environmental sector to plan more effectively and develop and retain the skills they need to implement projects. Budgets will be sourced from the Division,

#### **Recommendation 24.**

***The Minister should provide details on the budget allocation in 2021-22 for marine management and conservation, and how it will be used.***

#### **Accept**

Budgetary allocations for MPA management and wider conservation will be equivocal to last year's budget with no reductions anticipated. Programmes of work will further support and complement Welsh Government's wider marine management activities. Budget has been set aside to fund;

- Existing and new actions arising from the current call for Marine Protected Area (MPA) management actions 2021-22
- Science and evidence activities relating to the potential designation of further Marine Conservation Zones in Wales
- Communication resources to support wider stakeholder engagement as part of the MPA network completion programme
- Wider biodiversity projects such as cetacean stranding's, angel shark investigations and marine litter.

There are no further financial implications. Budgets will be sourced from Division.

#### **Recommendation 25.**

***The Minister should reflect on her previous decision not to extend the Fisheries Support Grant, given the evidence received by this Committee that current financial support interventions do not meet industry needs.***

#### **Accept**

The Welsh Fisheries Grant in April 2020 supported active fishing businesses with their fixed costs. I felt this was necessary because those businesses had suffered an immediate and acute disruption to the demand for their produce and their ability to trade following the necessary COVID-19 public health measures. Many fishing businesses in Wales do not

have premises and their main capital is their vessels so they have ongoing costs and were not eligible for assistance from the Welsh Government's Economic Resilience Fund. I, therefore, felt it was appropriate to intervene in this targeted way.

The health of the fishing and seafood sector has been kept under constant observation since March 2020. The Welsh Government had been working with the other UK Fisheries Administrations on a Winter Intervention Scheme should further support be necessary as a result of the end of the EU Exit Implementation Period and third national lockdown. However in January, the UK Government decided to focus on a separate UK Government administered scheme to make £23m available to compensate exporters who can evidence loss as a result of the end of the EU Exit Implementation Period.

I have pressed UK Government to extend the scope of the export compensation to include the fisheries and aquaculture sector. The scheme has now been broadened, which is welcome, though it is regretful that it has taken six weeks for UK Government to take this action and my hope is this support finds those businesses in need before it is too late.

It is also a matter of regret that this UK Government shows no respect for the devolution settlement in choosing to directly administer the scheme, rather than funding in the usual way with relevant consequential for devolved administrations.

#### **Recommendation 26.**

***The Minister should explain the impact of the latest delay in the passage of the UK Environment Bill through the UK Parliament on the timeline for introducing the Deposit Return Scheme and Extended Producer Responsibility for plastic packaging. The Minister should also set out proposals for the implementation of the Deposit Return Scheme.***

#### **Accept**

The revised timetable for the UK Environment Bill means it is expected to receive Royal Assent this autumn. We do not envisage this impacting the timeline for the implementation of both Extended Producer Responsibility for packaging waste or the Deposit Return Scheme for drink containers. This is because the policy development work will run in parallel with the progression of the Bill through the UK Parliament.

The next stage for the Deposit Return Scheme is an example of this, with the consultation planned for March 2021. The consultation will set out the proposals for the implementation of the Deposit Return Scheme and in parallel a consultation is also planned to outline the proposals on the Extended Producer Responsibility scheme.

**Recommendation 27.**

***The Minister should provide details of any assessment made of the implementation costs for the Deposit Return Scheme and Extended Producer Responsibility for plastic packaging. She should also report back to the Committee on the outcome of discussions with the UK Government on future funding to support the implementation of these schemes***

**Accept**

The upcoming consultations on both schemes will be accompanied by an updated Impact Assessment report. This builds on the impact assessments completed for the first consultations in 2019 and will include estimates for the implementation and on-going operation of both schemes. Importantly, both schemes implement the producer pays principal, with the requirement for producers to cover the full net costs of the management of these materials when they have come to the end of their life. Subject to the consultation, if the approach outlined is agreed we will work with the other governments of the UK to agree the mechanism for the allocation of a fair flow of money to Wales.

Regards

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end of the name.

**Lesley Griffiths AS/MS**

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig

# Agenda Item 3.2

Lesley Griffiths AS/MS

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs



Ein cyf/Our ref LG/00262/21

Llywodraeth Cymru  
Welsh Government

Mike Hedges MS

Chair, Climate Change, Environment and Rural Affairs Committee

seneddcccera@senedd.wales

2<sup>nd</sup> March 2021

Dear Mike,

Thank you for your letter of 10 February 2021 formally notifying me of the Committee's intention to report on the package of Climate Change Regulations laid on 9 February 2021. I note the Committee's concern regarding the timetable for these Regulations.

Following my letter to you in June 2020 (our ref: MA/LG/0821/20), you will be aware of the unavoidable delay in the publication of the Climate Change Committee's advice, required to inform the development of these Regulations. Despite this delay, the Regulations are available for scrutiny for the standard 20 sitting days between being laid and the debate. The debate is currently scheduled for 9 March 2021 with the aim of the Regulations coming into force, subject to the will of the Senedd, on 12 March 2021.

Further to your letter and request to enable the Committee to undertake its scrutiny and report, I have agreed to move the plenary debate on the Regulations to 16 March 2021. I am sure the Committee will support this move, however Members will wish to note this will, by necessity, affect the proposed coming into force date of the Regulations, which will move to 19 March 2021. This change will be made after the Regulations have been approved by the Senedd.

My officials are available to provide a technical briefing on the Regulations to your Committee staff, as they provided in 2018.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

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

[Gohebiaeth.Lesley.Griffiths@llyw.cymru](mailto:Gohebiaeth.Lesley.Griffiths@llyw.cymru)  
[Correspondence.Lesley.Griffiths@gov.wales](mailto: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.

I am copying this letter to Mick Antoniw MS, Chair of the Legislation, Justice and Constitution Committee.

Yours sincerely,



**Lesley Griffiths AS/MS**

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

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

[Gohebiaeth.Lesley.Griffiths@llyw.cymru](mailto:Gohebiaeth.Lesley.Griffiths@llyw.cymru)  
[Correspondence.Lesley.Griffiths@gov.wales](mailto: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.

# Agenda Item 3.3

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



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref MA/LG0864/21

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

2 March 2021

Dear Mike

Today, I have made a statement in the Senedd regarding the new plan to tackle fuel poverty. I wish to put on record my sincere thanks to you and the Climate Change, Environment and Rural Affairs Committee for the excellent work undertaken during the inquiry on fuel poverty in Wales. The recommendations published in April have provided the backbone of the new plan I am about to publish.

One of the recommendations made by the committee was the Welsh Government should adopt a more appropriate definition of fuel poverty: one that more accurately reflects the lived experience of fuel poor households in Wales. As its starting point, the Committee suggested the Welsh Government should consider the 'residual income' approach, learning lessons from England and Scotland. The recommendation said this work should be undertaken in conjunction with relevant stakeholders and be completed within 12 months of the publication of the report.

In my response, I agreed the definition and measures used to assess fuel poverty should be appropriate for the people of Wales. Any measure needs to take into account the transient nature of fuel poverty. I agreed to give the matter further consideration, subject to the outcome of the public consultation on the new plan to tackle fuel poverty. In the consultation, stakeholders were asked whether the current definition of fuel poverty should continue to be used, or whether an alternative definition should be adopted.

The Warm Homes and Energy Conservation Act 2000 defines a person is to be regarded as living "in fuel poverty" if a member of a household is living on a lower income in a home which cannot be kept warm at reasonable cost. This definition continues to apply to England and Wales but not Scotland.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

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

[Gohebiaeth.Lesley.Griffiths@llyw.cymru](mailto:Gohebiaeth.Lesley.Griffiths@llyw.cymru)  
[Correspondence.Lesley.Griffiths@gov.wales](mailto: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.

**Back Page 32**  
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.

By contrast, Section 2 of the Fuel Poverty (Targets, Definition and Strategy)(Scotland) Act 2019, now defines a household in Scotland as being in fuel poverty if after having paid its housing costs, it would need more than 10% of its remaining net income to pay for its reasonable fuel needs, and having paid for its reasonable fuel needs, its childcare costs and its housing costs, this then leaves the household unable to maintain an acceptable standard of living. This method is known as the residual income method.

A majority of respondents in our consultation agreed the current definition of fuel poverty in the 2000 Act should be retained in Wales, whilst 16% of respondents suggested an alternative, such as the Scottish definition should be adopted. Supporters suggested it remains relevant and is more easily communicated and understood. There was, however, a note of caution. ***“The definition must ensure that it is not based on actual energy payments due to the fuel poor households that may be under heating their home and are therefore stopping themselves from paying more than 10% (even though in reality they should be spending more to be able meet their heating requirements)”***. This risk of under-heating, self-disconnection and self-rationing was a persistent theme throughout the consultation exercise.

I have considered the recommendation made by the committee and the representations submitted by respondents to the public consultation. I accept there are advantages and disadvantages whichever measure is adopted. On balance and in consideration of all the representations made to me on this point, I have concluded the current definition of fuel poverty used in relation to Wales, should be retained.

Regards,

A handwritten signature in black ink that reads "Lesley Griffiths". The signature is written in a cursive style with a large, sweeping flourish at the end.

**Lesley Griffiths AS/MS**

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig  
Minister for Environment, Energy and Rural Affairs

# Agenda Item 6

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

Document is Restricted

## LEGISLATIVE CONSENT MEMORANDUM

### Animal Welfare (Sentencing) Bill

1. This Legislative Consent Memorandum is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a Legislative Consent Memorandum must be laid, and a Legislative Consent Motion may be tabled, before Senedd Cymru if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Animal Welfare (Sentencing) Bill (“the Bill”) was introduced into the House of Commons on 5 February 2020. The Bill can be found at: <https://services.parliament.uk/Bills/2019-20/animalwelfare/sentencing/documents.html>
3. A similar bill, the Animal Welfare (Sentencing and Recognition of Sentience) Bill, was introduced in Parliament in June 2019 but was considered fallen following the prorogation of Parliament on 8 October 2019. That Bill was again introduced on 15 October 2019 however the Bill fell following prorogation prior to the December 2019 General Election.
4. The Animal Welfare (Sentencing) Bill is a UK Government backed Private Members’ Bill sponsored by Chris Loder MP. The substantive provisions of the Bill remain unchanged from the Animal Welfare (Sentencing and Recognition of Sentience) Bill, for which a Legislative Consent Memorandum was laid on 19 July 2019.

#### Policy Objective(s)

5. The stated policy objective is to increase the maximum penalty for specific offences relating to animal cruelty from six months to five years’ imprisonment.

#### Summary of the Bill

6. The Bill increases the maximum penalty for specific offences related to animal welfare in England and Wales. It does so by extending the current maximum penalty, specified in section 32 of the Act, of six months and/or an unlimited fine to a penalty of five years and/or an unlimited fine. These offences therefore become triable either way, and may be heard in the Magistrates Court or the Crown Court.
7. The draft clauses in this Bill were published by the UK Government for public consultation on 12 December 2017 as part of the Animal Welfare (Sentencing and Recognition of Sentience) Bill. The consultation closed on 31 January 2018 and the summary of responses document published on 7 August 2018. The Department for Environment, Food & Rural Affairs (DEFRA) received 9,084 direct responses to the consultation. 70 per cent

of respondents agreed with the new maximum penalties. In the summary of responses document, the UK Government committed to bring forward the sentencing clauses in a separate Bill.

## **Provisions in the Bill for which consent is required**

### Clause 1: Mode of Trial and Maximum Penalty for Certain Animal Welfare Offences

8. Section 32(1) of the Animal Welfare Act 2006 provides that particular specified offences should carry a maximum penalty of 51 weeks imprisonment and/or an unlimited fine.
9. In practice, the maximum penalty is capped at 6 months and/or an unlimited fine. This is because section 32(5) of the Animal Welfare Act 2006 specifies that for all offences committed prior to the commencement of section 281(5) of the Criminal Justice Act 2003, the reference to 51 weeks imprisonment is to be read as a reference to 6 months imprisonment. To date, section 281(5) has not been commenced.
10. Clause 1 of the Bill seeks to amend the Animal Welfare Act 2006 in order to change the maximum penalty available for the following offences only:
  - a. causing unnecessary suffering (section 4);
  - b. carrying out a non-exempted mutilation (section 5);
  - c. docking the tail of a dog except where permitted (section 6(1) and 6(2));
  - d. administering a poison to an animal (section 7); and
  - e. involvement in an animal fight (section 8).
11. The existing maximum penalty, outlined above, is retained if the offender is summarily convicted. However offenders may now receive a higher penalty of up to 5 years imprisonment and/or an unlimited fine if they are convicted on trial by indictment.
12. Magistrates' Courts do not have the power to impose penalties greater than six months. Section 154(1) of the Criminal Justice Act 2003 was to increase the maximum custodial sentence imposable by a magistrate's court to 12 months. Section 154(1) will be repealed by the Sentencing Act 2020 but an equivalent provision is contained in paragraph 24(2) of Schedule 22 to the 2020 Act. Section 32(4A) of the Animal Welfare Act 2006 inserted by clause 1(3) of the Bill will ensure that the appropriate penalties are available to magistrate's courts until the relevant provisions are commence.

### Clause 2: Extent, Commencement and Short Title

13. Clause 2 of the Bill provides for the Bill to extend to England and Wales and that the Bill will come into force two months after Royal Assent. This

clause states that the amendments do not apply to offences committed before the provisions of the Bill come into force. The clause also specifies the short title of the Bill.

14. Consent is required for the provisions in Clauses 1 and 2 of the Bill because they fall within the legislative competence of Senedd Cymru and do not relate to reserved matters in Schedule 7A to the Government of Wales Act 2006 as they relate to animal health and welfare.

### **Reasons for making these provisions for Wales in the Animal Welfare (Sentencing) Bill**

15. Animal welfare is a priority of the Welsh Government and it is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill for reasons of timing and coherence. The provisions of the Bill align with the Welsh Government policy objectives regarding the promotion of animal welfare. Taking them forward in this UK Bill will mean that the most serious animal cruelty offences in Wales are punishable at the same level as those in England.

### **Financial implications**

16. There are no direct financial implications for the Welsh Government or Senedd Cymru as a result of this Bill.

### **Conclusion**

17. It is the view of the Welsh Government that it is appropriate to deal with these provisions in this UK Bill as it ensures a comparative sentencing regime across England and Wales, and ensures clarity for enforcement agencies, the Courts and the public.

**Lesley Griffiths MS**  
**Minister for Environment, Energy and Rural Affairs**  
**February 2021**