

Agenda – Constitutional and Legislative Affairs Committee

Meeting Venue:

Committee Room 1 – Senedd

Meeting date: 30 September 2019

Meeting time: 13.30

For further information contact:

Gareth Williams

Committee Clerk

0300 200 6362

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1 Introduction, apologies, substitutions and declarations of interest
13.30

2 Health and Social Care (Quality and Engagement) (Wales) Bill:
Evidence session

13.30–14.30

(Pages 1 – 60)

Vaughan Gething, Minister for Health and Social Services

Janet Davies, Deputy Director Health and Social Services Group, Welsh Government

Rhian Williams, Policy Lead, Health and Social Care (Quality and Engagement) (Wales) Bill, Welsh Government

Catrin Gwyn, Lawyer, Welsh Government

CLA(5)–26–19 – Briefing 1

CLA(5)–26–19 – Paper 1 – Letter from the Minister for Health and Social Services to the Chair of the Health, Social Care and Sport Committee, 19 June 2019

CLA(5)–26–19 – Paper 2 – Letter from the Minister for Health and Social Services to the Chair of the Health, Social Care and Sport Committee, 8 July 2019

CLA(5)–26–19 – Paper 3 – Letter from the Minister for Health and Social Services to the Chair of the Health, Social Care and Sport Committee, 30 August 2019



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National
Assembly for
Wales

[Health and Social Care \(Quality and Engagement\) \(Wales\) Bill, as introduced](#)
[Explanatory Memorandum](#)

3 Wales' Changing Constitution: Evidence session 2

14.30–15.30

(Pages 61 – 77)

The Marquess of Salisbury, Constitution Reform Group

Sir Paul Silk, Constitution Reform Group

CLA(5)–26–19 – Briefing 2

4 Instruments that raise no reporting issues under Standing Order 21.2 or 21.3 but have implications as a result of the UK exiting the EU

15.30–15.35

Affirmative Resolution Instruments

4.1 SL(5)443 – The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No 2) Regulations 2019

(Pages 78 – 97)

CLA(5)–26–19 – Paper 4 – Report

CLA(5)–26–19 – Paper 5 – Regulations

CLA(5)–26–19 – Paper 6 – Explanatory Memorandum

5 Instruments that raise issues to be reported to the Assembly under Standing Order 21.7

15.35–15.40

5.1 SL(5)442 – Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens

(Pages 98 – 151)

CLA(5)–26–19 – Paper 7 – Report

CLA(5)–26–19 – Paper 8 – Code of practice

CLA(5)–26–19 – Paper 9 – Explanatory Memorandum

6 Paper(s) to note

15.40–15.45

**6.1 Letter from the Counsel General to the Chair of the Finance Committee:
Senedd and Elections (Wales) Bill**

(Pages 152 – 179)

**CLA(5)–26–10 – Paper 10 – Letter from the Counsel General to the Chair of
the Finance Committee, 20 September 2019**

**7 Motion under Standing Order 17.42 to resolve to exclude the
public from the meeting for the following business:**

15.45

**8 A procedure for Consolidation Bill scrutiny – consideration of key
issues**

15.45–16.00

(Pages 180 – 184)

CLA(5)–26–19 – Paper 11 – Key issues paper

Date of the next meeting– 7 October

Document is Restricted



Ein cyf/Our ref: MA-L/VG/0420/19

Dai Lloyd AM
Chair
Health, Social Care and Sport Committee
National Assembly for Wales
Cardiff Bay
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CF99 1NA

19 June 2019

Dear Dai,

The Health and Social Care (Quality and Engagement) (Wales) Bill

Following the introduction of the Health and Social Care (Quality and Engagement) (Wales) Bill into the National Assembly for Wales on 17 June 2019, please find enclosed a copy of the statement of policy intent.

This document indicates my policy intentions for regulations that will set out the procedure to be followed when the duty of candour (provided for within section 4 of the Bill) is triggered. The document is provided to support the Committee's scrutiny of the Bill.

I look forward to providing evidence to the Committee in due course.

I am copying this letter to the Chair of the Constitutional and Legislative Affairs Committee.

Yours sincerely,

Vaughan Gething AC/AM
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

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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.



Llywodraeth Cymru
Welsh Government

HEALTH AND SOCIAL CARE (QUALITY AND ENGAGEMENT) (WALES) BILL

Statement of Policy Intent for Subordinate Legislation

June 2019

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1. Introduction

The statement of policy intent set out the current policy approach for the subordinate legislation for the Health and Social Care (Quality and Engagement) (Wales) Bill; “the Bill”. The proposal will be subject to its own consultation and scrutiny process and therefore may be subject to change. This document has been prepared in order to assist Committees during the scrutiny of the Bill and should be read in conjunction with the Explanatory Memorandum and Explanatory Notes.

The Welsh Government considers that these subordinate legislation powers are essential:

- in order to prescribe matters of procedural detail; and
- provide the flexibility for matters which may require adjustment to facilitate effective implementation and operation.

The key purpose of the Bill is to introduce changes that:

- impose a new duty relating to improvement in the quality of health services on NHS bodies and the Welsh Ministers in relation to their health service functions;
- reform and ultimately strengthen the arrangements for the voice of citizens across health and social care, further connecting people with the organisations that provide them with services;
- place a duty of candour on NHS providers in Wales, requiring them to be open and honest when things go wrong; and
- strengthen the governance arrangements for NHS Trusts.

For ease of reference, this document combines those provisions which are intended to be dealt with as part of the same statutory instrument, for example, within a set of regulations.

In developing subordinate legislation, the Welsh Government will work closely with stakeholders in order to ensure the provisions are relevant, valid and proportionate.

2. Regulations to provide for a 'Candour Procedure'

REGULATIONS RELATING TO	A candour procedure
BILL PART	Part 3
SECTION	4(1) to 4(4)
METHOD OF BRINGING INTO FORCE	Negative
DESCRIPTION OF THE REGULATIONS	
<p>Part 3, Section 3 of the Bill sets out when the duty of candour applies.</p> <p>The duty applies to NHS bodies (which are defined in the Bill as Health Boards, Welsh NHS Trusts, Special Health Authorities (including NHS Blood and Transplant in relation to their Welsh functions) and primary care providers who provide care under arrangements with a Health Board.</p> <p>The duty is triggered when a service user to whom health care is being or has been provided by the NHS body suffers an adverse outcome. A service user is treated as having suffered an adverse outcome if the service user experiences, or if the circumstances are such that the service user could experience, any unintended or unexpected harm that is "more than minimal".</p> <p>The meaning of more than minimal will be set out in guidance issued by the Welsh Ministers under section 10 of the Bill. The guidance will be developed with the aid of stakeholders, including clinicians, to ensure that it is practical and fit for purpose. An outline of the contents of the guidance and the nature of the workshops that will be established to develop the detail has also been prepared for the committees' information.</p> <p>Part 3, Section 4 provides regulation-making powers which enable the Welsh Ministers to make provision about the procedure to be followed when the duty of candour is triggered.</p> <p>Section 4(1) requires Welsh Ministers to make regulations which specify a procedure which must be followed by NHS bodies in the event of the duty of candour being triggered.</p> <p>Section 4(2) sets out that regulations made under section 4(1) must require NHS bodies to give notification to the service user concerned, or someone acting on their behalf ("the service user"):</p> <ul style="list-style-type: none"> • that the duty has come into effect; • of the identity of a 'nominated individual' who will act as point of contact in respect of the candour procedure; and • any further enquiries carried out by an NHS body in respect of the circumstances in which the duty of candour came into effect. <p>Section 4(3) further requires the regulations to make provision:</p>	

- for an apology to be offered by the body;
- for the provision of support to the service user given notification described in subsection 2(a); and
- for the requirement to keep records.

Section 4(4) gives power to the Welsh Ministers to make any other provision in respect of the candour procedure which they consider appropriate.

WHAT CAN THE REGULATIONS ACHIEVE?

The regulations made under Section 4 will provide a framework for how NHS bodies subject to the duty will be required to act in order to discharge the duty.

Section 4 is prescriptive about the fundamental elements that the duty of candour procedure must contain in order to ensure the detail set out in the regulations contains essential elements such as prompt notification, an apology, the detail of further enquiries carried out by the body into the circumstances that caused the adverse event etc. However, enabling the Welsh Ministers to set the procedure in regulations maintains sufficient flexibility to ensure the procedure is workable and can respond to any potential need to change the procedure as a result of feedback and learning from the NHS and service users without the need to amend primary legislation.

The regulations will establish a procedure and lead to behaviours that support the key principle underpinning the duty of requiring NHS bodies to act in a way which is upfront, open and transparent when an “incident” occurs. This will help achieve a position of consistent and routine practice whereby openness and transparency with service users in relation to their care and treatment, becomes a normal part of the culture across NHS bodies in Wales.

It will also build on the “Being Open” principles that are embedded in the Putting Things Right¹ process (the process for managing concerns, including complaints and serious incidents within NHS Wales). The duty of candour procedure will be a key component of the Putting Things Right arrangements and this will require some amendments to the existing regulations that underpin the Putting Things Right process: the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 (“the PTR Regulations”) and the supporting guidance.

In particular, it is envisaged the PTR Regulations will be amended to ensure the duty of candour procedure is embedded in the Putting Things Right process and if the duty of candour procedure is triggered the requirements for a proportionate investigation set out in regulation 23 of the PTR Regulations will apply.

There will also be a need to make amendments to the existing PTR Regulations so that they comply with the requirements in section 4(2) of the Bill for the Welsh Ministers to make regulations that ensure a NHS body “on first becoming aware that

¹ Information about Putting Things Right [Internet]. Putting things right. 2018 [cited 4 April 2019]. Available from: <http://www.wales.nhs.uk/sites3/page.cfm?orgid=932&pid=50738>

the duty of candour has come into effect” to give notice to the service user or someone acting on the service user’s behalf.

Currently section 12(7) of the PTR Regulations applies when a member of staff has reported a concern about a patient’s treatment. Under section 12(7) the duty to notify a service user (or their representative) of the concern/incident only arises after the Body has conducted an initial investigation of the concern and where that investigation has demonstrated the patient has suffered moderate or severe harm or death.

The regulations made under section 4(2) of the Bill will move the act of notifying the service user forward to the point when the NHS body is first aware that the duty of candour has been triggered, rather than after the initial investigation has completed. This ensures all instances of harm will be disclosed to the service user who experienced the harm (or their representative) and supports lessons being learned to make the events which led to the incident being less likely to occur again in the same or a different setting.

Subject to consultation on the detail, it is intended the regulations will require the NHS body to make all reasonable efforts to contact the service user in order to comply with the duty to notify. The regulations will also deal with circumstances in which a service user is represented by another person. They will also require the NHS body to establish the service user’s preferred method of communication and, in the event the service user not wishing to receive any further communication in respect of the incident, to be respected by the body. This does not mean the investigation into the incident should stop (as there may be wider learning from the incident) but there will be no further involvement of the service user.

It is also intended that any notification requirements would require the body to provide the service user with an account of the incident that triggered the duty (based on the information that is available to the body at the time the duty is triggered). This would provide useful background to the information on any further enquiries the body intends to take into the circumstances of the incident that triggered the duty (which has to be part of the candour procedure by virtue of the requirements in section 4(2)(b)(ii) of the Bill).

Section 4(2)(b)(i) of the Bill provides the candour regulations must contain a provision which requires the NHS body to notify the service user or their representative of the identity of a person within the organisation who will be their point of contact should they have any questions as the candour procedure is followed. The identity of the person will vary depending on the nature of the incident in question. However, it is intended that the regulations will place a duty on NHS bodies to have regard to a number of matters including: (i) the nature and complexity of the incident and (ii) the severity of the incident when determining an appropriate point of contact. This will ensure that the nominated point of contact has the relevant

skills/experience to be able to answer any queries the service user may have. This encompass the ethos of the 'Being Open' approach², where communication is open, honest and occurs as soon as possible following an incident.

The regulations will further support a change in the way NHS bodies communicate with service users when something has gone wrong with their care, building on the "Being Open" principles established under the Putting Things Right process. The candour procedure established under the regulations will:

- change the nature of the communication with the service user - ensuring they are informed as soon as the Body is aware that the duty has been triggered;
- that the service user is appropriately supported, informed, and assured the issues which led to the incident occurring will be addressed and lessons learnt; and
- encourage communication between NHS bodies and service users.

Evidence shows often what service users and their families or carers most want after an incident occurs, is an apology; a willingness to explain what went wrong; and an open approach to learning from mistakes³. Section 4(3)(a) of the Bill acknowledges the importance of an apology to service users and their families by requiring NHS bodies to issue an apology as part of the candour procedure. It is intended the regulations will require an apology to be made at the start of the process when the triggering of the duty is notified to the service user. It is important to note that, for these purposes, apologising is not the same as the body admitting the adverse outcome suffered by the service user was as a result of the negligence of the body as an adverse outcome can be attributed to many causes. By apologising at the start of the process it is hoped that the Body and the service user can maintain a good relationship as they follow the candour procedure and beyond.

Regulations made under section 4(3)(b) are intended to outline the requirements to be placed on an NHS body to provide support when notifying a service user the duty has been triggered. This provision aims to ensure that support is offered to a service user and that the support offered is appropriate to the severity of the incident and their needs; allowing the level of support to vary as required. This will align to the requirement to assign an appropriate nominated individual (a member of staff) when the duty is triggered (as covered under section 4(2)(b)) by describing their role in providing support to a service user.

Regulations made under section 4(3)(c) allow the Welsh Ministers to set out the records NHS bodies must keep in relation to their discharge of the duty. Accurate and appropriate record keeping supports necessary quality assurance mechanisms which are needed to identify areas for learning and improvement; linking to the reporting duties outlined in sections 6, 7 and 8 of the Bill.

Section 4(4) provides the Welsh Ministers with the ability to make any other provision in relation to the candour procedure as the Welsh Ministers consider appropriate. It

² National Patient Safety Agency. Being Open [Internet]. 2009. Available from: <https://www.hsj.co.uk/download?ac=1293677>

³ NHS Wales Shared Services Partnership. Paper prepared for NHS Directors of Finance Forum, 2016 - reduction of lower value claims for LHBs and NHS Trusts reaching litigation in Wales.

is intended to consult before making the regulations and it may be that the consultation process highlights further related provisions that are required in order to make the candour procedure fit for purpose. This provision allows for changes to the procedure or for additional elements to be added to the procedure; ensuring it remains appropriate, proportionate and deliverable in achieving the policy intent.

WHY THE REGULATIONS ARE REQUIRED

Consideration was given to setting out the precise detail of the procedure to be followed by NHS bodies on the face of the Bill. However, this would not provide sufficient flexibility to amend the procedure as required - increasing the risk of the procedure not being fit for purpose. For example, the detail may need to be amended to be responsive to changes in the models of care and working practices, to learn from the experience of users of the procedure and to take into consideration how the procedure operates in more complex or unusual cases.

The regulations will be developed through a process of consultation with stakeholders and will be reviewed as required. This process will allow for regulations to be amended as necessary to reflect best practice and lessons learned, and address any possible omissions.

In adopting this approach we were also mindful of the fact that the detail of the procedure for the duty of candour is also set out in regulations (as opposed to primary legislation) in other jurisdictions where the duty of candour applies.

For instance in England⁴ the procedure is set out in regulation 20 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014, as amended by the Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2015.

Similarly, in Scotland section 22 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 adopts a similar approach as whilst section 22 sets out a range of matters that may be included in the candour procedure, the detail of the procedure is, again, left to regulations⁵.

The negative procedure is used because the regulations will be of a technical nature.

Other relevant information (work done to date, policy documents, Ministerial Statements etc.)

The regulations will be supported by guidance. It is the intention that guidance will also cover, amongst other things, instances where more than one provider has provided care to a single service user and more than one incident has occurred. The guidance will explain how we expect each NHS body involved in an “incident” will discharge its duty and to do this in respect of each incident.

⁴ See regulation 20 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (SI 2014/) as amended by the Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2015 (SI 2015/64)

⁵ The Duty of Candour Procedure (Scotland) Regulations 2018 (SI 2018/57).

The guidance will also consider scenarios when NHS bodies may wish to work together in discharging their duties jointly i.e. provide a single response to the service user or someone acting on their behalf.

3. Anticipated Timetable for Delivery

STATUTORY INSTRUMENT	ANTICIPATED WORK START DATE	ANTICIPATED DATE IN FORCE
Autumn 2021	Preparatory work will commence as the Bill progresses through the Assembly.	Spring 2022



Ein cyf/Our ref: MA-L/VG/0420/19

Dai Lloyd AM
Chair, Health, Social Care and Sport Committee
National Assembly for Wales
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8 July 2019

Dear Dai,

The Health and Social Care (Quality and Engagement) (Wales) Bill

Following my appearance before the Finance Committee on 3 July to discuss the financial aspects of the Bill, I thought it may be helpful to provide further information prior to my appearance before the Health, Social Care and Sport Committee on 11 July.

At Finance Committee, it became apparent that, while there is general support for the broad policy intent behind the proposals, there is interest in how the objectives and benefits will be realised specifically in relation to the duties of quality and candour.

Context for the Bill:

Quality must be at the heart of every aspect of health care provision, and placing quality in a prominent position in the NHS Wales Act, underlines the policy intent to ensure quality is at the heart of decision making in the health service in Wales. It also draws together the other changes included in the Bill including the duty of candour and strengthening the voice of the citizen to support quality improvement.

The Parliamentary Review of Health and Social Care in Wales in 2018, recommended the vision for health and care in Wales should aim to deliver against the four mutually supportive goals of the “Quadruple Aim”, which are to continually:

- improve population health and well-being through a focus on prevention;
- improve the experience and quality of care for individuals and families;
- enrich the well-being, capability and engagement of the health and social care workforce; and
- increase the value achieved from funding of health and care through improvement, innovation, use of best practice, and eliminating waste.

The provisions in the Bill aim to help realise these ambitions in a number of inter-connected ways by placing improvement in quality as the central concept underpinning the provisions within the Bill.

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The intent set out in the Bill aligns with the ‘Quadruple Aim’ by ensuring quality is a consideration across all the functions of health bodies in Wales. It will improve service user experience, communication and engagement between the NHS and its service users. Allowing us to build on the work that has already been undertaken to ensure NHS bodies in Wales are open and honest when things go wrong, and support the drive towards a system that is always learning and improving and has the trust and confidence of patients and service users.

Duty of quality:

Background:

NHS bodies have been under a duty to make arrangements for the purpose of improving the quality of health care since 2003, under section 45(1) of the Health and Social Care (Community Health and Standards) Act 2003 ("the 2003 Act").

Although this Act requires NHS bodies to make arrangements to monitor and improve the quality of health care, it has largely been interpreted as requiring NHS bodies to have quality assurance (control) arrangements in place to monitor and improve the quality of healthcare provided rather than a comprehensive focus on the three aspects of a quality system as described by the parliamentary review:

- quality planning;
- improvement; and
- control to ensure a focus on quality services at a wider population level.

The new provision places a focus on quality of services at a wider population level and embeds quality considerations so that they are at the heart of decision making processes.

The new provision is, therefore, about ensuring a whole system approach to quality, and not only to be simply related to clinical services which have assurance (control) arrangements in place or need to meet quality standards – it is and must be much wider to drive sustained quality improvements and outcomes.

Enacting a broader duty of quality in legislation, more in keeping with how we now want NHS bodies to work, will strengthen actions and decision making to drive improvements in quality that will focus on the outcomes for people of Wales.

Additionally, the Welsh Ministers have responsibility for oversight of the NHS in Wales and many of the policies that are developed by the Welsh Ministers, whether legislative or otherwise, have an impact on how NHS bodies in Wales operate. However the 2003 Act does not place a duty of quality on the Welsh Ministers in the exercise of their health related functions. The Bill addresses this gap.

Finally, the 2003 Act lacks any reporting mechanisms. Reporting mechanisms are beneficial as they allow bodies that are subject to the duty of quality to demonstrate how their functions have been exercised to secure improvement in the quality of services provided. Additionally, reporting also provides a mechanism for holding bodies to account as well as supporting evaluation and assessment of benefit over time and is a transparent way of demonstrating how the duty has been complied with.

Expected outcomes:

Reframing the duty of quality to require NHS bodies and the Welsh Ministers to exercise their functions with a view to securing improvements in the quality of services they provide will shift the focus of decision making and represent a further step on the journey towards ever-higher standards of person-centred health services in Wales.

It will require NHS bodies and the Welsh Ministers to think and act differently by applying the concept of “quality”, not just to services being provided, but to all decisions and arrangements within the context of the health needs of their populations.

The new duty reflects the fact that all parts of the system can contribute to quality improvement and outcomes. For example, Velindre NHS Trust who hosts NWIS (NHS Wales Informatics Service) can improve the quality of health services by improving its digital services and this in turn can improve the effectiveness of health services overall and the experience of the service user. The duty therefore reflects the quality of clinical services can be improved through improvements to backroom services such as these.

Another example might include reporting on actions taken to improve safety by reductions in hospital acquired infections or improvement in the detection of sepsis which will in turn result in improved outcomes for patients.

By requiring NHS bodies to consider the wider implications of how their decisions will improve health outcomes for their population, the proposed duty encourages Local Health Boards to work with their neighbours and cross sector partners to reduce unwarranted variation and health inequality. It will encourage the sharing of resources and expertise which will in turn unlock opportunities to improve the effectiveness, safety and quality of services.

This approach supports the five ways of working within the Future Generations 2015 Act. It encourages long-term thinking and integrated and collaborative action that works to achieve the well-being goal of a healthier Wales.

The reporting requirement will require the Welsh Ministers (in relation to their health related functions) and NHS bodies to assess the improvement in outcomes achieved during the reporting year, demonstrating how we are improving the quality of health services in Wales. The requirement to report annually will make explicit how the delivery of the duty has led to improvements in quality, providing a baseline to measure and monitor future improvement, and adding to the openness and transparency of the system. The Welsh Minister's report will be laid before the Assembly allowing it to be scrutinised by Assembly Members and the public.

Duty of candour:

Background:

All health and social care providers have a shared goal to deliver high quality care.

It is important to recognise that various steps have already been taken with the aim of developing a “culture of openness” in the NHS. These include the introduction of new arrangements for handling complaints in the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011, better reporting and investigation of serious incidents, reviews of all deaths in hospitals and the publication of Annual Quality Statements by LHBs, NHS Trusts and the Welsh Government. Additionally, as in England and Scotland, we have also sought to learn lessons from real cases where harm has been

caused together with the recommendations of various reports and reviews.

It is therefore apparent that a great deal of work has been done to develop and support a culture of openness within the NHS in Wales. This work has placed health organisations in a favourable position to implement a more formal duty of candour, which is the next logical step in the series of measures already undertaken to improve quality and openness.

Expected outcomes:

There is evidence that increased openness, transparency and candour are associated with the delivery of higher quality health and social care. Organisations with open and transparent cultures are more likely to spend time learning from incidents, rather than responding defensively, and they are more likely to have processes and systems in place to support staff and individuals when things go wrong.

A statutory duty of candour, set at an organisational level for NHS bodies in Wales, will:

- help create a whole system approach to candour;
- promote a culture of openness and improve the quality of care within the health service by encouraging organisational learning, avoiding future incidents;
- reducing staff fear associated with institutional repercussions or blame;
- support NHS bodies to build on the work under the Putting Things Right process to embed candid behaviour, making openness and transparency with people in relation to their care and treatment a normal part of the culture across these bodies in Wales; and
- encourage organisational reflection and learning - requiring bodies to report on an annual basis.

Placing the duty at organisational level, helps create the conditions for individual health professionals to act with candour and should help provide the support of the body within which they work to be open and honest with individuals. This is something which has been welcomed by providers of NHS services.

Recent events in Cwm Taf provide real evidence for why an enhanced and strengthened duty of quality and an organisational duty of candour is needed. These duties will require Boards to be more transparent in their decision making, to actively consider quality and identify where improvements are needed and take steps to remedy them.

The duties are part of a suite of legislative and non-legislative measures which, taken together, put in place arrangements for improving and protecting the health of the population by placing improvement in quality as the central concept. It will not, on its own, prevent poor quality care but it will go some way to help ensure the health service has quality at the heart of its decision making and is continually improving and learning.

I look forward to providing evidence to the Committee in due course.

I am copying this letter to the Chairs of the Finance Committee and the Constitutional and Legislative Affairs Committee.

Yours sincerely,



Vaughan Gething AC/AM

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

Vaughan Gething AC/AM
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA-L/VG/0420/19

Dai Lloyd AM
Chair, Health, Social Care and Sport Committee
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30 August 2019

Dear Dai,

The Health and Social Care (Quality and Engagement) (Wales) Bill

Thank you for your letter dated 23 July setting out the matters on which I agreed to provide further information during my appearance before the Health, Social Care and Sport Committee on 11 July. I am pleased to include the following information which covers these areas and also provide further clarity and explanation on some other areas touched upon during the Committee session. I hope this will assist the Committee in its ongoing scrutiny.

The Welsh Government's *A Healthier Wales: Our Plan for Health and Social Care* outlines how quality will be key to making the health and social care system in Wales fit for the future and sustainable for the long term. Consequently, we have made quality improvement the central concept underpinning the provisions in the Bill.

However, the provisions included in the Bill only tell part of the overall story. As I explained before Committee, we have adopted the well accepted approach of only including provisions in the Bill where existing primary legislative powers are insufficient to enable us to achieve the policy intent. Therefore, the actions we as a government are taking to improve the quality of services must be viewed as a package of measures implemented through primary legislation, secondary legislation, directions and guidance.

In the White Paper, *Services Fit for the Future, Quality and Governance in Health and Care Wales*, we consulted on a number of proposals that have quality improvement at their heart. **Annex 1** sets out the work that is ongoing to deliver the proposals that do not appear on the face of the Bill because we are able to use our existing powers to deliver the change. The exception to this will be any fundamental changes to the legislative framework underpinning Healthcare Inspectorate Wales.

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Bill provisions

Duty of Quality

Turning to the provisions in the Bill, the Explanatory Memorandum sets out the evidence base for adopting a new, broader duty of quality¹ and the benefits the new duty will bring to individuals, healthcare professionals and NHS bodies². Improvements in quality will benefit patients on a population as well as an individual basis.

As we discussed, the new duty is broader in scope and different in nature to the current duty of quality within the Health and Social Care (Community Health and Standards) Act 2003. The new duty takes us beyond the current duty's rather narrow focus on service standards and quality of services provided to the individual. It will require NHS bodies and the Welsh Ministers (in relation to health matters) to exercise their functions in a particular way, considering how, through all the decisions they make, they can improve the quality of health services. Through this approach, quality improvement will become an embedded and integral part of their decision-making.

As explained to the Committee, the bodies subject to the duty will need to comply in a system-wide way, based on the internationally accepted definition that outlines six domains of health care quality³, put forward by the then Institute of Medicine.

As I have advised the Committee, it is intended that we will produce guidance to support and assist NHS bodies in the implementation of this duty. The nature of the guidance will be similar in many respects to that which supported the introduction of the Well-being of Future Generations (Wales) Act 2015. For example, it will include a range of case studies to show how NHS bodies could demonstrate they have applied the principles of quality in order to secure improvement. A draft outline for the guidance is enclosed at **Annex 2**.

Duty of candour

In relation to the duty of candour, this will build on work that has already been undertaken by the Welsh Government and the NHS in Wales to ensure our NHS providers are open and honest when things go wrong and will support the drive towards a system that is proactively learning and improving.

In the Explanatory Memorandum we have set out why an organisational duty of candour is required, the policy objectives we wish to achieve by its introduction and the purpose of the legislation⁴. There is evidence to demonstrate that increased openness, transparency and candour are associated with the delivery of higher quality health and social care⁵.

¹ See pages 10-16 and 50-51.

² See pages 66-67.

³ See page 11.

⁴ See pages 17 to 23.

⁵ World Health Organization, Organisation for Economic Co-operation and Development, and The World Bank. Delivering quality health services: a global imperative for universal health coverage. [Internet]. Geneva; 2018. Available from:

<https://apps.who.int/iris/bitstream/handle/10665/272465/9789241513906-eng.pdf?ua=1>

Department of Health and Social Care and The Rt Hon Jeremy Hunt MP. Good care costs less

[Internet]. GOV.UK. 2014 [cited 1 April 2019]. Available from:

<https://www.gov.uk/government/speeches/good-care-costs-less>

However, there are also purely human considerations behind my decision to introduce the duty. We know the overwhelming majority of providers of both health and social care want to deliver a high quality, safe and compassionate service. However, equally, we know that despite these intentions, from time to time, things can and do go wrong and people suffer harm.

In both health and social care, service users have an ongoing relationship with their care or treatment provider. How the provider reacts when something goes wrong can have a huge impact on the quality of that vital relationship and the level of trust the service user has in the organisation. The introduction of the duty of candour for NHS providers will extend and strengthen the framework for informing and supporting individuals who experience an adverse outcome and will help to preserve the integrity of that ongoing relationship.

I have already provided the Committee with the Statement of Policy Intent for the regulations required at section 4 of the Bill that will set out the duty of candour procedure⁶. In addition to this, enclosed at **Annex 3** is a draft outline of the statutory guidance, which will be produced and published to support the introduction of the duty. The regulations, will be the subject of consultation and scrutiny by the Assembly. This work will be developed with the aid of a working group comprised of clinicians, other professionals concerned and lay representatives.

I have also, in **Annex 4**, set out how the duty is approached in England, Scotland and social care here in Wales. This includes our rationale for the approach taken in the Bill.

Sanctions

In the Committee sessions to date, we have also discussed why I am not proposing to introduce a bespoke sanctions regime to support the duties of quality and candour. This is because we are aiming to create a culture where improvements in quality and an ethos of openness, transparency, learning and improvement are paramount. I support placing an emphasis on creating the right environments for change and systems leadership, which is wider than financial incentives and blunt sanctions alone. The mandatory annual reports, providing an account of how NHS bodies and providers have responded to the duties, will add to existing sources of intelligence used by the Wales Audit Office and Healthcare Inspectorate Wales to assess the governance and delivery of quality services. Any concerns will be raised and considered under the NHS Escalation and Intervention Arrangements.

In the wider context, one of the actions within *A Healthier Wales* was to introduce a range of 'levers for change'. These are being developed with a focus on creating the conditions for systems and behaviour change.

A report by the Wales Centre for Public Policy "Supporting Improvement in Health Boards"⁷ published in April 2019 recognises that a whole systems approach is required to improve performance (in its widest sense) by health boards, supported by the right conditions and environment for change.

⁶ <http://www.senedd.assembly.wales/documents/s90279/Statement%20of%20Policy%20Intent.pdf>

⁷ <https://www.wcpp.org.uk/wp-content/uploads/2019/04/Supporting-improvements-in-health-boards.pdf>

The learning from the report will be considered as the proposals for Levers for Change evolve and are applied in tandem with the establishment of the NHS Executive.

Citizen Voice Body

In relation to the Citizen Voice Body provisions, we spent some time at Committee considering the current structure of the Board of CHCs in Wales, appointments to the Board and how voluntary members are appointed to the local Community Health Councils. Comparisons were drawn and questions were asked about how the Board of the proposed new Citizen Voice Body will be appointed and what arrangements will be in place for the recruitment of volunteer members. **Annex 5** summarises the current CHC arrangements and those proposed for the Citizen Voice Body.

In addition, as part of my commitment to set out to the Committee what guidance we intend to issue, I enclose at **Annex 6** a draft outline of my key expectations for how the Citizen Voice Body will operate. This outline takes full account of the fact that the new Body, given the nature of the functions it will exercise, will be operationally independent of the Welsh Government.

Implementation timescales

It is anticipated, that if passed, the Bill will receive Royal Assent in April 2020.

As indicated in the Regulatory Impact Assessment, we intend to commence the provisions that will bring the new duty of quality into force in summer 2021. This will give us sufficient time to ensure the guidance, as outlined at Annex 2, is developed in partnership and is fit for purpose and that all staff have completed the training that is necessary to successfully implement the duty. It is also our intention to commence the power to appoint Vice Chairs of NHS Trusts at this time.

For the duty of candour, we are working towards a commencement date in spring 2022. Before we can bring the duty into force we will prepare and consult upon the candour procedure regulations and, as explained in Annex 3, we will also make the necessary amendments to the existing Putting Things Right regulations. Again we will need to ensure that all staff complete the necessary training and the statutory guidance is finalised prior to commencing these provisions. As previously stated, within the Explanatory Memorandum, it is also our policy intention to bring forward regulations under the Care Standards Act 2000 to place a duty of candour on regulated providers of independent health care in Wales. We will also consult on these and the intention is to bring them into force at the same time as the candour provisions in the Bill.

In terms of the Citizen Voice Body, it is intended to establish the new Body with operational effect from October 2021. As with the establishment of any new Body, it will take time to engage with staff over staff transfers, source appropriate accommodation and follow due procurement process for contracts, including for ICT and services.

I look forward to providing further evidence to the Committee in due course.

I am copying this letter to the Chairs of the Finance Committee and the Constitutional and Legislative Affairs Committee.

Yours sincerely,

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

Vaughan Gething AC/AM
Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol
Minister for Health and Social Services

Areas consulted on in the White Paper but not brought forward in the Bill	How will this be taken forward?
<p>Health board membership and composition; and the role of the board secretary</p>	<p>Health Boards and NHS Trusts are now operating in a different landscape to when they were first established. The long term plan - "A Healthier Wales" looks to bolster and reinforce the existing planning (IMTP) system, but advocates for a transformation in the way health and care services are delivered in Wales. Legislation such as the Well-being of Future Generations 2015 has also set the path for a shift in the way services are delivered in Wales and NHS Boards must be organised in such a way they can most effectively meet future challenges.</p> <p>Changes to NHS Board membership and composition will require amendment to existing regulations and establishment orders. Board structures should reflect organisational structures which, in turn, should reflect what and how health and care services are provided for and accessed by patients. Any changes to board structures, however, should be managed carefully, so not to compound issues we are looking to remedy. Therefore, changes to overall board size and composition of NHS bodies needs to be considered within the wider context and systems. Further policy work is being undertaken on this basis with the purpose of developing a series of options for consideration and discussion with partner organisations. We want to progress with involving and engaging key stakeholders in the development of policy on future proposals. We can consider then what we need to do, if anything, about the membership and composition of boards, with a view to taking forward any required changes to secondary legislation by Spring 2021. Any changes to the regulations will be subject to a separate Explanatory Memorandum and Regulatory Impact Assessment and consultation.</p> <p>With regard to NHS Board Secretaries, the role of the Board Secretary is crucial to the ongoing development and maintenance of a strong governance framework within boards and is a key source of advice and support to the Chair and other board members. The Board Secretary acts as the guardian of good governance. We are investigating, through engagement with the NHS, how Model Standing Orders may be amended to provide a clearer role for the Board Secretary, support the integrity of the role and prevent the role from being compromised. We are taking this work forward with a view to introducing any changes in 2020/21.</p>
<p>Reform of the Inspectorates/ Healthcare regulation and inspection; and</p>	<p>We want to ensure the system of regulation and inspection across health and social services is aligned and future-proofed in order to provide the relevant assurances to support improvement within organisations from a person-centred perspective. There should be a consistent approach to inspection and to examining the quality and safety of services received. People expect the</p>

common standards	<p>inspectorates to work together where health and care services overlap.</p> <p>Work has begun to scope the legislative requirements mapping out the regulatory gaps and considering the type of inspectorate / regulator needed; whether light touch/compliance-focussed/supports improvement etc. and how the context will align to A Healthier Wales and proposals for integration and the new citizen voice body. To ensure the legislative framework is fit for purpose and will meet the need of continually evolving healthcare service provision, it was determined that this area would be considered separately.</p> <p>In the interim, we intend to utilise existing powers to incrementally develop HIW's capacity and capabilities, to achieve a more sustainable position, allowing it to be ready to respond to any future new legislative framework. Work is already underway to enable this and further proposals, when developed, will be subject to full consultation.</p> <p>As part of this we can again consider whether HIW should be established as an independent body and indeed whether it should merge with CIW, to further support the integration of health and social care.</p>
Joint complaints handling	<p>The consultation on the White Paper indicated that there was some support for the idea of joint investigations, but many respondents appeared not to have grasped the proposal related to complaints that span health <u>and</u> social care.</p> <p>Officials will be further engaging with NHS Wales organisations, local government and other bodies to discuss ways of making the process simpler for people who have complaints that span both areas.</p> <p>In particular, consideration will be given to utilising existing legislative powers to enable a person who wishes to make a complaint about health and social services matters to only have to make one complaint to trigger both procedures.</p>
Service change	<p>In the area of service change, further work determined that proposals can be delivered under existing powers using a mixture of guidance and ministerial directions.</p> <p>The current guidance needs fundamental change to ensure it is fit for the future. The new service change policy needs to work in the context of the changing legislative landscape, including the Well-being of Future Generations (Wales) Act 2015, and the Bill provisions on quality and the replacement of the CHCs with the new Citizen Voice Body. It will also need to be framed to take account of the recommendations of the Parliamentary Review of Health and Social Care and the Welsh Government's response to those recommendations in "A Healthier Wales".</p> <p>The intention is to bring new guidance into force to coincide with the establishment of the new Citizen Voice Body in Autumn 2021.</p>

HEALTH AND SOCIAL CARE (QUALITY & ENGAGEMENT) (WALES) BILL

DRAFT OUTLINE: GUIDANCE ON THE DUTY OF QUALITY FOR NHS BODIES

Background

The Health and Social Care (Quality & Engagement) (Wales) Bill (“the Bill”) includes a duty of quality (“the duty”) that requires NHS bodies – local health boards, NHS Trusts and special health authorities – in Wales to exercise their functions view to securing improvement in the quality of health services.

This includes, but is not limited to:

- (a) the effectiveness of health services;
- (b) the safety of health services; and
- (c) the experience of individuals to whom health services are provided.

In order to comply with the duty, NHS bodies will need to demonstrate that they are outcome focused when making decisions across their functions and, as part of the reporting process mandated within the Bill, will have to assess the extent to which they have led to an improvement in outcomes. This means that NHS bodies will have to be able to evidence how the actions they have taken have resulted in improved outcomes for service users.

This aims to ensure a whole system approach to quality, replacing the current duty within Section 45(1) of the Health and Social Care (Community Health and Standards) Act 2003 which has been too narrowly interpreted as simply relating to clinical services and putting assurance (control) arrangements in place to monitor these.

Enacting this broader duty of quality, more in keeping with how we now want NHS bodies to work, will strengthen actions and decision making to drive improvements in quality that will focus on the outcomes for the people of Wales.

Welsh Ministers will also be under this duty in respect of their health related functions.

This document sets out a draft outline for those areas we would expect the guidance for NHS bodies to cover.

Whilst the primary audience of this guidance will be those to whom it will apply, i.e. all staff within NHS bodies, including Board Members, its development will be informed by the views of, and it will be written in such a way as to be understood by, service users (and the wider public).

Introduction

This section will set the overall context for the new duty and how it is a key lever in helping realise the expectations and vision set out in *A Healthier Wales* and its key emphasis on driving change and improvement. Notably a whole system approach that will be equitable, delivering the same high quality of care and achieving more equal outcomes for everyone in Wales.

It will particularly describe the overall quality framework that bodies must have in place to help achieve and evidence this: quality planning, improvement and control (assurance).

In order for NHS bodies to act in the desired way there needs to be a clear understanding of the duty. This involves understanding that the new duty is broader than the current duty in the 2003 Act and more in keeping with how we now want NHS bodies to work. This will strengthen actions and decision making to drive improvements in quality.

This section would specifically provide:

- an overview of the duty;
- an explanation as to why the duty is being introduced and the key policy objectives, including how it helps to achieve a system-wide focus on quality and continuous improvement;
- a high level overview of how the duty builds on the existing quality assurance infrastructure within the Welsh NHS;
- how it is intended the duty would form part of the Welsh Government's wider and continuous approach towards a health and social care system that is always striving to secure improvement in the quality of services, and therefore outcomes for service users; and
- how it supports the five ways of working under the Well-being of Future Generations (Wales) Act 2015, by encouraging long-term thinking and collaborative action.

Aim of the guidance

This section would explain the aims and purpose of the guidance. It would include detail on:

- how the Bill (Act) and guidance should be read together, to fully understand the expectations of the duty;
- how implementation of the duty should be supported by training and processes within NHS bodies; and
- how the guidance has been developed in partnership with clinicians, patients and members of the public, so as to contain illustrative examples and case studies and to ensure it is clear and capable of being understood by all.

It would also address the key implementation issues which may be experienced as a result of the introduction of the new duty, including learning from other parts of the UK (where comparable), and would provide good practice case studies where appropriate.

Finally, it could also include information about how the guidance will be reviewed and updated.

Understanding the meaning of 'quality'

This section would further describe what is meant by 'quality' as to ensure the intent of the Bill is fully understood, in a practical sense.

This would need to cover details on:

- the definition of quality in the context of the duty i.e. the internationally accepted

definition embracing six domains: safe, effective, person centred, equitable, efficient and timely.

- how it should apply i.e. to whole processes and across all functions of an NHS body, within the context of the health and well-being needs of their populations;
- what it means for considerations and decisions made by Boards, as well as what it means for frontline staff in their day to day work; and
- how the new duty is broader in scope and different in nature to the current duty of quality in Section 45 of the Health and Social Care (Community Health and Standards) Act 2003.

How will the duty work in practice?

The new duty will require NHS bodies to exercise their functions in a particular way and consider how they can improve quality on an ongoing basis when they exercise all of their functions. Improving quality will have to become embedded and an integral part of their decision-making. This section would provide supporting detail on how the duty is intended to work in practice.

It will provide details on:

- how the quality of all services should be considered at a wider population level – embedding quality considerations at the heart of decision-making processes;
- how broadening the consideration of quality will encourage bodies to:
 - work with their neighbouring health boards and cross-sector partners to reduce unwarranted variation and health inequality, including tackling inequity within its open population and working with partners to address this; and
 - promote the sharing of resources and expertise which will in turn unlock more opportunities to improve the effectiveness, safety and quality of services.
- the need for NHS bodies to become much more outcome-focused when making decisions and to think in a different way when considering what steps they will take to secure improvements in services – including how they deliver improvements which create services that influence the whole life course, improving health and well-being outcomes, reducing health inequalities and ultimately reducing demand on statutory services;
- how the duty applies to NHS bodies that do not directly provide clinical services – reflecting the impact that improvements in the quality of health services can be achieved through improvements to backroom services, such as procurement processes or ICT capability; and
- how it is expected that NHS bodies should include within local commissioning arrangements the need for data on quality/outcomes from their providers.

It will also illustrate how complying with the duty will contribute to and influence the existing quality assurance infrastructure and inform quality planning and improvement priorities.

This should inform:

- progress towards the national objectives associated with the Well-being of Future Generations (Wales) Act 2015;
- NHS bodies' own Quality and Safety Committees and Board meetings;
- the annual NHS planning process - Integrated Medium Term Plans (IMTPs);
- progress against the NHS delivery and outcome framework requirements; and
- compliance with health and care standards and relevant guidance, set by the Welsh Ministers.

Finally, this section will also need to provide illustrative examples and case studies around how organisations could apply the principles of duty in order to secure improvement. For example a visible difference will be within Board and Committee papers and minutes, as decisions made by NHS bodies will be clearly documented so as to demonstrate how they are being informed by service improvement considerations. This will help contextualise and reinforce any learning points.

The duty to report

The reporting requirements represent a considerable step forward, as the existing duty has no such reporting requirement, and should be seen as an important lever in further increasing transparency and accountability of NHS bodies in regard to their decisions, identified priorities and the allocation of resources to do so. It is an important mechanism in helping to address the findings of the OECD quality review in 2016 where they concluded that LHBs were showing less innovation and fewer radical approaches to system change and quality improvement than might have been expected.

The reports will need to make explicit how the delivery of the duty has led and will continue to lead to improvements in quality - including an assessment of the extent of any improvement in quality outcomes including the effectiveness and safety of services, along with the patient experience, achieved during the reporting period. This will also enable improvements in quality to be monitored over time with milestones set as required where improvements are likely to a number of years to secure the anticipated improvements in outcomes.

This section would therefore provide guidance on how NHS bodies can demonstrate they have complied with the duty via their annual quality reports, mandated in the Bill. This section will therefore provide details on:

- the timescale for the reports to be produced and how and where they should be published;
- the format in which the reports should be published;
- further details on the expected content of the report, for example, including how key decisions and actions taken within the reporting period have led to service improvements and better outcomes and how the NHS body intends to secure improvement in identified areas over the next year (or more); and
- how NHS bodies should record, maintain and monitor improvements in services and outcomes so as to be able to reference robust evidence in demonstrating how they have complied with the duty and secured improvements in outcomes for service users.

This section would also explain how the new reports will replace and build on the current Annual Quality Statements, to reflect that the new reports will become a whole system document – one which has a wider focus and greater rounded evidence to demonstrate quality improvement across an organisation and in some cases across organisational boundaries, where the provision of services are arranged through other NHS bodies within Wales.

Staff training and support

Moving NHS bodies to a position where they are more routinely and actively focusing on quality and continuous improvement is likely to involve a combination of leadership, cultural and behavioural changes. The Explanatory Memorandum at paragraphs 180-189 detail a range of training and resources to embed these new ways of working at all levels. This section would outline our expectations of NHS bodies in relation to changes required, including signposting training and support for staff in respect of the duty.

It may also provide an overview of what NHS bodies should consider when developing any local policies to support the duty.

FAQs

This section would set out a series of anticipated common questions, supported by answers. It could also reference any training or additional information for further learning.

HEALTH AND SOCIAL CARE (QUALITY & ENGAGEMENT) (WALES) BILL

DRAFT OUTLINE: STATUTORY GUIDANCE ON THE DUTY OF CANDOUR

Background

The Health and Social Care (Quality & Engagement) (Wales) Bill (“the Bill”) includes the power to make regulations which detail the process to be followed by NHS bodies when the duty of candour has been triggered. The regulations, which will be the subject of public consultation, will be supported by statutory guidance.

The intention is to convene a working party made up of clinicians (representing primary, secondary care) and service user representatives to collaborate in the development of the statutory guidance to ensure it is complete, relevant, clear and accessible to the service and the public.

Evidence demonstrates that increased openness, transparency and candour are linked with the delivery of higher quality health and social care. It shows organisations with open and transparent cultures are more likely to spend time learning from incidents, rather than trying to hide or be overly defensive about issues, and they are more likely to have processes and systems in place to support staff when things go wrong.

For patients, when something goes wrong, the majority of individuals and their loved ones want to be told honestly what happened, receive appropriate after-treatment care and support, be reassured that everything is being done to learn from what went wrong and trust that the same thing won’t happen again. The duty of candour will help achieve this.

The proposed duty of candour will require NHS bodies to follow a set process when an adverse outcome occurs and the duty is triggered. The duty is placed at organisational level which will help create the conditions for health professionals to discharge their professional duties of candour by ensuring they have support of the organisation they work for. In order for organisations to meet the obligations placed on them in the Bill, all staff will need to act in a way that complies with the duty. All NHS bodies will need to have comprehensive policies and procedures in place to enable staff to do so effectively.

This document sets out a draft outline for those areas we would expect the statutory guidance to cover.

Introduction

In order to create a whole system approach to candour; encourage organisational learning; encourage staff to speak openly about concerns and to support NHS bodies to build on the work underpinned by Putting Things Right¹, there must be a fundamental understanding of the intent behind the duty of candour. Therefore, this section of the guidance would seek to set out the legislative framework and explain the policy intent behind the duty in a straight forward and accessible way.

¹ Information about Putting Things Right [Internet]. Putting things right. 2018 [cited 4 April 2019]. Available from: <http://www.wales.nhs.uk/sites3/page.cfm?orgid=932&pid=50738>

This section would provide:

- an overview of the duty of candour (“the duty”) within the Bill and the supporting regulations which set out the procedure to be followed when the duty is triggered;
- how it is intended the duty would form part of the Welsh Government's wider and continuing approach towards a health and social care system that is always listening, learning and improving - which has the trust and confidence of service users and their families;
- an explanation as to why the duty is being introduced and the key policy objectives, including how it helps to achieve a system-wide approach to being open and honest when things go wrong;
- details of how the duty builds on the “Being Open” principles that are embedded within the existing Putting Things Right arrangements (which set out process for managing concerns, including complaints and serious incidents within NHS Wales); and
- how the guidance has been co-produced with clinicians and patient representatives and contains illustrative examples and case studies to ensure it is clear and able to be understood by all.

This section would also explain that the duty is ultimately to serve service users by ensuring that when an adverse outcome occurs, service users are informed, provided with an apology and offered support, and subsequently provided with feedback on investigations and the steps taken to prevent a recurrence, and separately to ensure organisational learning.

It would also underline the importance of ensuring staff who have provided treatment that has triggered the duty can also receive support from their employer.

The new duty aims to foster and promote a culture of openness and learning within NHS organisations. It is not about preventing bullying, victimization or harassment, nor is it about protecting whistleblowers. The law, guidance and best practice in relation to these matters are dealt with in separate legislation and within existing NHS processes and procedures. However, it is anticipated the duty will make it easier for individual staff members to be open and honest with service users when things go wrong and to receive support to enable this.

Aim of the guidance

This section would explain the aims and purpose of the guidance. It would also explain that, in accordance with section 10 of the Bill, when exercising any functions connected with the duty of candour, an NHS body must have regard to guidance issued by the Welsh Ministers.

This section would explain how the guidance aims to provide a framework of best practice that would assist providers of NHS services in the implementation of the duty. It would seek to guide NHS providers to develop local policies, guidance and procedures to support local implementation of the duty in a manner that is tailored to the particular services they provide. Ultimately being open with patients and their representatives, when things go wrong, should feel like the right thing to do.

It would also address the key implementation issues which may be experienced as a result of the introduction of the new duty, including learning from other parts of the UK, and would provide good practice case studies where appropriate.

This section will include detail on:

- how the guidance and regulations have been developed in collaboration with the Wales Partnership Forum (which is made up of representatives from the NHS workforce, employers and Welsh Government) and Trade Union engagement with a view to it being used as an 'All-Wales model' in support of a consistent approach throughout health board areas;
- how the Act, regulations and guidance should be read together, and how the duty will be aligned with the Putting Things Right arrangements; and
- how the duty is designed to create an environment that is supportive of staff with concerns, feeling able to raise these with their employer and be sure they would not suffer any detriment as a result of voicing those concerns.

It could also include information about how the guidance would be reviewed and updated.

Finally, it will explain how the duty is separate from the All Wales Staff Raising Concerns (Whistleblowing) Policy², which is in place in every Local Health Board and NHS Trust in Wales.

Trigger for the duty

The Bill sets out two conditions which must be met for the duty to be triggered:

- the person to whom health care is being or has been provided by a NHS body has suffered an adverse outcome; and
- the health care was or may have been a factor in the service user suffering that outcome.

A service user is to be treated as having suffered an adverse outcome if he or she experiences or the circumstances are such that he or she could experience any unexpected or unintended harm that is more than minimal.

The guidance would provide clarity on the range of circumstances under which the duty can be triggered and what this would mean for the people to whom the duty applies.

We have pursued a deliberate policy of not defining what "more than minimal" harm means on the face of the Bill or in regulations. Instead, we have learned from the experience of England and Scotland where attempts were made in legislation to define the thresholds of harm needed to trigger their duties. We intend to define what is meant by more than minimal harm in the guidance.

² NHS Confederation employment policy and procedures [Internet]. [Cited 25 July 2019]. Available from: <https://www.nhsconfed.org/regions-and-eu/welsh-nhs-confederation/nhs-wales-employers/our-work/employment-policy-and-procedures>

There are a number of reasons for this. Firstly we think it is right the threshold that triggers the duty should be developed with the assistance of a working group comprised of clinicians and service users. Secondly, the description of 'more than minimal harm' is complex due to the range and nature of care provided across the NHS. It is possible to provide a much more meaningful definition, backed by illustrative examples and case studies, in guidance. The key aim is to ensure the definition is fit for purpose across all NHS settings, assists in the successful implementation of the duty and is accessible to service users and clinicians. Ultimately it is to promote a culture of openness and honesty with services users and enable staff to focus on learning and improvement.

It is expected the threshold would be developed having regard to existing definitions of harm currently in use in the NHS in Wales such as those used in the National Reporting and Learning System³ (the system for reporting patient safety incidents in England and Wales), or if applicable, its successor system.

It is also intended that the guidance will provide worked examples of cases where the duty will be triggered. The intention here is to provide a range of examples from the obvious through to scenarios where the application of the duty is, perhaps, less obvious. Here, for example, the guidance will make it clear the duty is triggered not only when more than minimal harm is known to have occurred but in cases where such harm might occur in the future. Two examples may include:

- If a person suffers a fall and a fracture is not identified on the x-ray while in A&E, but is identified on a review of the x-ray a week later. In this case the duty of candour would be triggered at the point at which the body becomes aware the x-ray results showed a fracture not when it is known whether the patient has suffered harm from the failure to make a timely diagnosis. A person suffers an adverse outcome if that person suffers more than minimal harm or the circumstances are such that the person could experience any unintended or unexpected harm that is more than minimal. Clearly in the example mentioned there is potential for the delay in treatment to have caused more than minimal harm that was unintended or unexpected and so the duty is triggered.
- An error in the administration of medication on discharge may not result in a patient suffering immediate harm. However the duty of candour would be triggered at the point at which the body becomes aware of the error not when they become aware of any harm being suffered by the patient. Again this is because a medication error, unless it is very minor, clearly has the potential to cause unexpected or unintended harm that is more than minimal.

This section could also address some of the particular circumstances that may arise in triggering the duty, and how the NHS body should deal with them, such as:

- if the adverse outcome triggering the duty is brought to the attention of the NHS provider by the patient or their family member/advocate;
- the case is 'borderline' and a judgement is required as to whether the threshold has been met, and the duty triggered;
- where there is more than one NHS provider involved in an incident;

³ Patient safety Welsh Government services and information [Internet]. GOV.WALES. 2019 [cited 25 July 2019]. Available from: <https://gov.wales/patient-safety>

- where more than one incident or a chain of events has occurred;

Finally, the guidance would need to provide detail on when the duty will not be triggered. Such instances would include:

- when a near miss has occurred. A “near miss” is an event that might have resulted in more than minimal harm to the patient but the error that would have caused the harm is noticed and rectified before harm can be caused. By their very definition, near misses are not covered by the duty of candour as there is no potential for any harm to be caused to the patient. However, it is important to learn from near misses and the guidance will clearly signpost the action that NHS bodies need to take to respond to and learn from near misses to prevent recurrence; or
- when harm occurs as a result of the medical condition itself and is solely attributable to the person’s underlying illness or condition.

Notification

It is commonly recognised that when things go wrong, patients and their families expect three things:

- be told honestly what happened;
- to know what would be done to deal with the harm caused; and,
- to know what would be done to prevent the same thing happening again.

These expectations are the cornerstone of the duty of candour and form the basis underpinning the ‘candour procedure’ which would be set out in regulations. It is expected the regulations would set out detail such as the form, content and timing of the notification, such as:

- the timescale for the notification to be given;
- how the notification should be provided;
- detail of what should be included e.g. that the duty has come into effect and what this means;
- the identity of the ‘nominated individual’ who will be the service user’s point of contact in respect of the notification;
- detail of any further enquiries or reviews to be carried out by an NHS provider in respect of the circumstances in which the duty came into effect;
- the need to keep records; and
- the requirement to report annually on the discharge of the duty.

In support of these regulations, it is expected the guidance would provide further supporting detail on how the duty is aligned with other processes, such as the Serious Incident Framework contained within the Putting Things Right guidance⁴.

It is also expected that the guidance will need to cover how the notification element of the duty works in practice. This may include detail on apologising and where a service user or their representative can obtain further information, for example:

⁴ Putting Things Right guidance [Internet]. Putting things right. 2018 [cited 4 April 2019]. Available from: <http://www.wales.nhs.uk/sitesplus/documents/861/Healthcare%20Quality%20-%20Guidance%20-%20Dealing%20with%20concerns%20about%20the%20NHS%20-%20Version%203%20-%20%20CLEAN%20VERSION%20-%202020140122.pdf>

- apologising - what an apology means in the context of the duty, when to apologise and how to deliver a meaningful apology; and
- further enquiries – the need to offer the service user, or their representative, the opportunity to express their views, for example considering any questions they would wish to have answered through a review of the circumstances.

It will also include detail on the types of records which should be kept.

It may also address some of the particular circumstances that may arise during the notification process:

- the identification of an appropriate representative for notification purposes (“notified individual”) in cases where this is not the service user themselves e.g.:
 - where the service user is a child or lacks mental capacity;
 - where a provider is unable to contact the service user;
 - where the service user does not wish to be contacted; and
 - where the service user has died.
- best practice advice on determining who should be the nominated point of contact for the NHS provider. They would be responsible for ongoing communication with the service user or their representative:
 - including where more than one NHS provider is involved in an event – namely that a single nominated individual should act on behalf of all relevant organisations
 - situations where it may be deemed reasonable or necessary for Local Health Boards to provide support and assistance to, primary care providers to help them discharge the duty.
- if other than the nominated point of contact, determining who is the appropriate person to notify the individual of the triggering of the duty – this may involve:
 - consideration of the nature of the incident;
 - their relationship with the service user or their representative;
 - the skills and experience of the nominated point of contact; and
 - any specific requirements the service user or their representative may have, such as preferred method or language of communication, appropriate to their age, level of understanding and taking into account any specific conditions which may be relevant.
- how the notification process would work if the adverse outcome triggering the duty is brought to the attention of the NHS body by the patient or their family member/advocate.
- what to do if some information is not yet available or if the NHS provider needs information from the service user, or their representative, as part of their enquiries; and
- instances where there is a delay in notification.

Support for the service user at the notification stage

Some service users may find it distressing to learn an adverse outcome they have experienced may have been the result of treatment they received, and there will also be situations where some service users may have difficulty understanding the information provided in the notification.

This section of the guidance will seek to outline how a provider of NHS services can

ensure it is offering appropriate and proportionate support to service users as part of the notification process. This may include:

- when it may be appropriate for an NHS provider to offer support to a service user, even though in many cases it will not be required;
- practical examples of the nature and level of the support and remedial care that may be appropriate in different circumstances;
- how some service users may have difficulty understanding information provided in the notification;
- an explanation of how the duty links to the arrangements currently in operation as part of Putting Things Right; and
- sign posting to support services such as specialist advice and advocacy or arranging communication support or interpreters.

Communication with the notified individual post notification

Effective communication is about more than just exchanging information. This section of the guidance would seek to provide guidance for NHS bodies on how they should maintain communication with service users, or their families, post notification to ensure messages are clear, avoiding, wherever possible, frustration and conflicts. It could include details on:

- engaging with the service user, or their representative, to discuss the content of the notification;
- understanding and managing expectations around the further enquiries or reviews the NHS provider should undertake and communicating realistic timescales;
- ensuring that appropriate support, where needed, has been put in place
- making arrangements for ongoing communication including involvement in any subsequent inquiry/review;
- communicating the outcomes or results of any further inquiries /reviews;
- how to handle requests for further information from the service user, or their representative;
- where the service user, or their representative, contacts someone other than the 'nominated individual';
- how to conduct communications where more than one NHS provider is involved in the inquiries;
- signposting to the Putting Things Right arrangements and advocacy support;
- what to do if the service user, or their representative, decides to take legal action following notification; and
- the requirement to keep records.

Enquiries/ reviews

All cases in which there is an adverse outcome that triggers the duty will require some level of inquiry or review to be undertaken, in order for the body to understand and explain what has happened and why. In line with Putting Things Right principles, an enquiry/investigation that is proportionate to the harm caused will need to be conducted.

This section would make links to the Putting Things Right guidance which includes serious incident reporting requirements, and would clarify the steps to be taken by a NHS provider under the duty when either inquiries or an investigation is required as a result of an adverse outcome experienced by a service user. The Putting Things Right regulations will be amended to ensure the duty of candour procedure is embedded within its process.

This section would also outline the intent behind the duty; namely that investigations should not be used to highlight individual failures or apportion blame, but to enable learning and improvement. It would provide guidance in support of investigations being conducted in keeping with this intent, including how they can be used as tools to support organisational reflection and learning and to help ensure openness and honesty is a normal part of organisational culture across the NHS in Wales.

It would also provide guidance on how bodies can document investigations to collate the types of evidence required to demonstrate compliance with the duty while ensuring a supportive environment whereby all staff in NHS Wales are actively encouraged to be open and honest and feel safe and supported when indicating the duty should be triggered.

Reporting

This section would highlight how being open and honest:

- provides opportunities for both the reporting body and other providers to learn from what happened;
- contributes to generating the cumulative data and evidence required to drive improvement; and
- encourages decisions about services to be based on what matters most – the outcome for current and future service users and their families.

Requiring bodies to report on an annual basis will encourage individuals and organisations to reflect and learn; promoting a culture of openness and transparency in the system, which will in turn promote patient trust in the health service; and provide an annual baseline to help identify where services need support to improve with a view to avoiding future incidents.

This section would provide guidance for NHS bodies on the reporting requirements under the duty as set out within the Act. This would include further details on:

- whom the duty to report falls upon, including in circumstances where more than one NHS body was involved in the provision of the care and treatment;
- when to produce the report i.e. as soon as practicable after the end of each financial year;
- the content of the report including, as required within the Bill, how many times the duty has been triggered, a brief description of the circumstances in which the duty came into effect, and any steps taken by the provider with a view of preventing similar circumstances arising in the future;
- the requirement for primary care providers to prepare a report and supply this to any Local Health Boards they have arrangements with to provide NHS care;
- collation and incorporation of primary care providers' annual reports within those produced by a Local Health Board;
- alignment with the annual Putting Things Right Report; and
- the requirements for publication of the report and to make it easily accessible.

This section may also set out the processes for record keeping, including that all incidents triggering the duty should be recorded on local incident management systems in line with their local policies, and are coded as triggering the duty.

This section may also set out:

- how Local Health Boards and NHS Trusts should use the data gathered, through reporting annually on candour, to help inform the new annual quality reports; and
- how providers of NHS care can evidence they are promoting a culture that encourages candour and learning that stems from it.

Separately, this section would set out that the expectation that NHS providers should include, within local commissioning arrangements, the need for data on candour from the provider.

Staff support and training

When something has gone wrong, the feelings of staff should not be forgotten as although an investigation will be carried out sensitively, staff may feel they are at fault and consequently be less ready to ask for assistance if they are feeling under pressure or distressed. Whilst some investigations can be handled quickly, some can take months. In these circumstances, an organisation must be aware of the impact this may have on the wellbeing of their employees.

This section would outline our expectations of NHS providers in relation to providing support for staff on an ongoing basis; providing an overview of what providers should consider when developing local policies for managers of staff involved in traumatic/stressful events and the staff themselves. It would reinforce how the health and wellbeing of the NHS workforce is paramount to delivering effective patient care and fulfilling the visions set out in A Healthier Wales and in particular the Quadruple Aim. For example this could include signposting:

- the intended training, additional materials and supporting documentation which would be publicly available (details of these are contained within the Regulatory Impact Assessment supporting the Bill at paragraphs 261-279);
- well-being support for staff who may have been involved in incidents that result in harm; and
- how NHS providers can work collaboratively with Trade Unions to ensure that staff feel confident to raise concerns freely.

Technical section

This section would explain what is meant by the term “NHS body” in the Bill i.e. which bodies are subject to the duty of candour. It would also explain which organisation is responsible for complying with the duty in situations where one body provides services on behalf of another body.

It would also explain that the Welsh duty of candour applies in relation to treatment provided by NHS providers in Wales. However, if a Health Board makes arrangements for a Welsh resident to receive NHS care in England, it is the English duty of candour that would apply.

It would also make clear that the triggering of the duty does not mean the treatment provided was negligent. Section 2 of the Compensation Act 2006 which applies in relation to England and Wales provides that an apology, offer of treatment or other redress shall

not of itself amount to an admission of negligence or breach of statutory duty.

FAQs

This section would set out a series of anticipated common questions, supported by answers. It could also reference any training or additional information for further learning.

This section could use case studies to help contextualise and reinforce any learning points.

How the duty of candour operates in other UK countries

The duty of candour in the Bill seeks to provide an overarching framework which will be underpinned by regulations and guidance. It is purposely prescribed in this way as we have learnt from the duties already in place in England and Scotland i.e. in Scotland a large amount of detail is contained within primary legislation, making it unduly inflexible.

A table showing the different legislative approaches taken in England, Scotland and the Bill:

	England	Scotland	Bill
Powers	Primary legislation Health and Social Care Act 2008	Primary legislation Part 2 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016	Primary legislation
Trigger	Regulations Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 20	Regulations Duty of Candour Procedure (Scotland) Regulations 2018	Regulations and statutory guidance developed with the assistance of clinicians and service users.
Procedure			
Notification			
Threshold			

English duty of candour:

The regulatory system in England is significantly different compared to Wales. In England, the duty of candour is imposed in regulations that apply to all services registered by the Care Quality Commission (“CQC”). Under the Health and Social Care Act 2008 (“HSCA 2008”), all providers of “regulated activities” must be registered with the CQC and must comply with the requirements of registration. “Regulated activities” are activities that relate to the provision of health and adult social care and that are set out in the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (SI 2014/2936).

The CQC monitors compliance with registration requirements. This registration includes the nomination of a ‘Registered Person’ who is ultimately accountable –this would usually be the Chief Executive or another senior officer.

The English duty of candour is applied only to this Registered Person. However the guidance supporting this duty explains that: *“the approach taken hopes to encourage a culture of openness and transparency within health and social care services, at all levels within organisations”*.

Whilst this approach to the duty is different to what is proposed in the Bill, it intends to achieve the same effect – an organisation-wide duty of candour. The difference in approach is simply due to the fact that in Wales we do not register NHS bodies or require the nomination of a registered person.

Scottish duty of candour:

In Scotland a duty of candour was provided for in Part 2 of the Health (Tobacco, Nicotine etc. and Care) (Scotland) Act 2016 (the Scottish Act). The duty came into force on 1 April 2018.

The duty itself is placed on the face of the Scottish Act in section 21. Section 21 describes incidents which give rise to the duty of candour procedure. The Scottish duty of candour applies to a 'registered person', which is defined within Section 25 of the Scottish Act as including a health board or someone entering into a contract with a health board to provide health services (i.e. primary care providers). This is consistent with the approach taken in Bill as it places the duty at an organisational level.

Social care duty of candour:

In Wales, the duty of candour in social care is set out within regulations made under sections 27 and 28 of the Regulation and Inspection of Social Care (Wales) Act 2016 (the Act). For example, within the Regulated Services (Service Providers and Responsible Individuals) (Wales) Regulations 2017 ("the 2017 Regulations"), Regulation 13 requires providers of regulated services to act in an open and transparent way with individuals (service users) and their representatives. Regulation 83 places the same duty on a service provider's designated 'Responsible Individual' who in respect of a body corporate, under section 21(2) of the Act, must be a 'director or similar officer' of the body.

This regulatory duty is supported by statutory guidance which further clarifies expectations, including that service providers have policies and procedures in place to support a culture of openness and transparency, and ensure that all staff are aware of and follow them. These requirements and expectations underpin inspections undertaken by Care Inspectorate Wales. This approach seeks to embed a service-wide culture of honesty and openness – not just when things go wrong.

In addition there are a number of other requirements in the 2017 Regulations which support the duty, such:

- having systems in place to record incidents (and complaints);
- the keeping of records and a requirement to document events that would be classed as harm events; and
- that continuous improvement is demonstrated via quality of care reviews, undertaken at least every six months.

During the Health, Social Care and Sport Committee evidence session on 11 July, it was suggested that the duty of candour in social care is more specific than the duty proposed within the Bill. The approach taken in social care is broadly aligned with the Bill's candour provisions, in that it provides organisational requirements placed on the service provider and/or responsible individual - demonstrating that service providers have a culture of

improvement through continuous analysis of incidents, notifiable incidents, safeguarding matters, whistleblowing, concerns and complaints.

Cross border care:

In terms of cross border care, we have considered the application of the duty of candour within the Bill on Welsh patients who receive healthcare in England and vice versa.

Where a Welsh resident receives care from a service in England the duty of candour in England will apply rather than the Welsh duty. This arrangement will be reciprocal for English residents accessing NHS services in Wales.

The system has to operate in this way or we would have providers being subject to both the English and Welsh duties when a patient from one country receives treatment in the other, generating unnecessary duplication.

Duty of Candour Bill provision

The duty within the Bill is placed on NHS bodies and primary care providers at an organisational level and not placed on individual health care staff. However, in practice, in order to ensure the legal duty is being discharged organisations must ensure that all staff, including managers, clinicians and administrators, act in a way which complies with the duty. All organisations will need to have a comprehensive policy in place setting out how it will operate and comply with the duty and how it will expect and support its staff to do so.

An organisational duty will ensure that it is a priority, at every level within an organisation, to help achieve the behavioural change necessary to successfully implement the duty. This will support an environment, not only where professionals are acting in an open and honest manner but where organisations are actively encouraging and are receptive of this behaviour.

Whilst professional ethics and obligations are crucial, they are insufficient by themselves to ensure a culture of candour throughout an organisation and, in any case, not all staff are covered by such professional duties. Placing the duty at an organisational level helps create the conditions for all staff – clinical and administrative – both to act and be supported to act in an open and candid manner.

As set out above the approaches taken in England and Scotland to the duty of candour, and that taken in social care in Wales, align to the intent of the Bill in that they all seek to achieve an organisational approach to candour.

Furthermore, enabling the Welsh Ministers to set out the candour procedure in regulations maintains sufficient flexibility to ensure the procedure is workable and can respond to any potential need to adapt, as a result of feedback and learning from both the NHS and service users, without the need to amend primary legislation. For example, the detail may need to be amended in response to changes in models of care and working practices, to learn from the experiences of service users and to take into consideration how the procedure operates in more complex cases.

The threshold of harm that needs to be met before the duty of candour will be triggered is set within Section 3(4) of the Bill, as harm which is ‘more than minimal’. However, it is considered that in order to define this in a way that is comprehensive, is straightforward to apply to different types of care and is presented in a way that is understood by both clinicians and users of services the description of this will be covered in statutory

guidance, provided for in Section 10 of the Bill. A working group will be established to develop the guidance, which will include clinicians, other professionals concerned and lay representatives. This will help ensure it is clear to both providers and service users what level of harm must occur before the duty of candour is triggered.

Both England and Scotland have produced guidance to support their duty of candour legislation. Compared to England, Scotland took a much more prescriptive approach which included the inclusion of case studies. We have learnt from this inclusion of practical examples and will use it as a model to frame the planned guidance in Wales so that our expectations in different circumstances are clearly understood.

A draft outline of this planned statutory guidance to support the duty of candour has been produced and is enclosed at **Annex 3**.

Change in approach to appointing board members

Current position with Community Health Councils (CHCs)

CHC Board Members

The national CHC Board is comprised of 12 members:

- the chair and two independent members are appointed by the Welsh Ministers through the public appointments process;
- seven members are the persons elected as chair of each of the seven regional CHCs⁵; and
- two CHC staff members, who are employed by Powys Teaching Health Board. These are the chief executive of the Board of CHCs and a CHC staff member who is appointed by fellow CHC staff members.

Volunteer members

Under the current CHC arrangements, the Welsh Ministers appoint 50% of volunteer members through the public appointments process, 25% are appointed by local authorities and 25% by voluntary organisations. They are appointed for a term of up to four years and may serve a maximum of two terms. In addition, CHCs may appoint co-opted members (who do not have voting rights) for a maximum period of two years.

It is becoming increasingly difficult to attract volunteer members. We know from having spoken to applicants and from discussions with the CHCs that many people find the public appointments process, which requires a formal application process and panel interview, off-putting and many able would-be candidates are deterred from applying.

In recent years we have struggled to recruit sufficient members to fill Welsh Minister-appointed vacancies on CHCs. In 2017/18 we appointed 43 members which was insufficient to fill the 55 vacancies across Wales. In our 2019 recruitment we only had 8 applicants for 34 vacancies which meant we had to extend the application period for a further four weeks. The extension only yielded a further 13 applicants.

The low number of applicants persists despite investment on funding adverts in both the print media and online and concerted efforts by both the CHCs and Welsh Government to publicise the vacancies and encourage applications.

Bill proposals

Board of Citizen Voice Body

The Bill proposes that the Welsh Ministers appoint the Board of the Citizen Voice Body. Concerns were raised at Committee and in Plenary that this approach may compromise the independence of the new Body. However, the precedent for Ministerial appointment to

⁵ In accordance with regulation 15 of the Community Health Councils (Constitution, Membership and Procedures) (Wales) Regulations 2010, the members of a CHC must elect one of their number to act as chair for a period of up to three years.

Welsh Government Sponsored Bodies is well established with, for example, the Welsh Ministers appointing the Boards of Social Care Wales, Qualifications Wales and the Higher Education Funding Council for Wales.

In addition, all appointments will be governed by the Governance Code on Public Appointments which requires all Ministerial appointments to public bodies to be the subject of open and fair competition, with appointment based on merit. The ultimate responsibility for appointments to the Body rests with the Welsh Ministers who are accountable to the National Assembly for Wales.

Paragraph 2 of Schedule 1 to the Bill governs appointments and provides that the Board shall be comprised of a Chair, a Deputy Chair and at least 7 but no more than 9 members in total.

Volunteer members of the Citizen Voice Body

As an independent body corporate, the new Body will have the power to appoint its own volunteer members. The members appointed by the Body will not be subject to the public appointments process, nor will there be imposed limits on the amount of time a person can serve as a member. Therefore, with the new Body we are removing some of the current actual and perceived barriers to membership. This has been welcomed by the current CHCs.

We have already spoken to the Wales Council for Voluntary Action and they have agreed to give us the benefit of their experience and lend us their help and support in developing a volunteering model for the new Body that is sustainable, [builds on existing networks] and helps to attract volunteers that are representative of the users of health and social services.

We have also spoken to the Patient and Client Council in Northern Ireland, a body that exercises similar functions as to those intended for the Citizen Voice Body. They have established a successful membership model that may provide a useful precedent. Their model operates on a number of levels with a large online membership who support calls for evidence, complete consultations, surveys etc. and members who are physically present and active in the work of the Body.

An active, committed and representative volunteer member base is essential to support the work of the new Body and, as set out above, consideration is already being given to how, when we are establishing the Body, we can ensure, from the outset, the membership model is fit for purpose.

As set out at paragraph 505 of the Explanatory Memorandum, in order to support the establishment of the new Body the intention is to set up an Implementation Board. One of the workstreams will be tasked with consideration of the volunteer membership model and will be comprised of representatives from the current CHCs, the WCVA, when appointed, the senior team of the new Body and other key stakeholders, including Welsh Government. As well as recruitment of members, this group will also look at matters such as training needs of volunteers.

Expectations for the Operation of the Citizen Voice Body

The Citizen Voice Body (“the Body”) needs to play a vital role in ensuring the citizen voice is represented in all matters related to health and social services at a national, regional and local level.

The Body will need to engage with and develop constructive relationships with partners in Wales. That includes members of the public, health boards, trusts, special health authorities, local authorities, Regional Partnership Boards, Public Service Boards, the inspectorates, statutory commissioners, Social Care Wales, the third sector and others to ensure the voice of the citizen is represented and heard.

It will be especially important for the Body to develop strong relationships with its partners so they can share knowledge and learning of the outcomes that emerge from the views they obtain from people.

The Body will need to work with, rather than replace, fora that already exist for representing the views of citizens in matters related to health and social care, such as Citizen Panels established under the Regional Partnership Boards.

A key part of the Body’s role will be to gather and represent the views of citizens with a view to providing those with responsibility for the provision of health and social care with information on the views and experience of service users to help drive improvement and achieve better outcomes.

Legal Framework

- It will be established as a Body corporate, able to employ staff and enter into contracts and leases.
- Its functions are set out on the face of the Bill.
- The Board is appointed by the Welsh Ministers through the public appointments process.
- The chief executive has accounting officer status. Welsh Ministers will specify the accounting officer’s responsibilities in relation to the Body’s accounts and finances.
- The Auditor General for Wales will supply the external audit function.
- The Body has the power to appoint its own volunteer members, outside the public appointments process.

Remit Letter

- Like all Welsh Government Sponsored Public Bodies, the Body will have a remit letter.
- The remit letter will set out the funding the Body is to receive from Welsh Government.
- The letter will also set out the “key deliverables” for the Body in terms of, for example, delivering its functions across health and social care services, providing services to the population of Wales on a local and national basis; being an

organisation that is ambitious and learning and supports a culture of learning and improvement amongst staff and members etc.

- Given the nature of the functions the Body will exercise and due to the requirement in paragraph 19 of Schedule 1 to the Bill for the Body to set its objectives and priorities for the year following consultation, the remit letter will respect the need for the Body to be operationally independent, for example, having freedom to determine for itself areas for thematic reviews and engagement etc.

Annual Plan and Annual Report

- Paragraph 19 of Schedule 1 to the Bill requires the Body to produce an annual plan setting out how it proposes to exercise its functions during the coming year.
- The expectation is that the Body will give equal weight to the exercise of its functions across both health and social services.
- The plan must include a statement of the Body's objectives and priorities for the year.
- The Body is under a duty to consult with such persons it considers appropriate on its proposed objectives and priorities.
- Paragraph 20 of Schedule 1 requires the Body to produce an annual report setting out how it has exercised its functions during the year. A copy of the report must be given to the Welsh Ministers and a copy laid before the National Assembly for Wales so the actions of the Body are open to scrutiny.

Implementation Board

- The target date for establishing the new Body is 1 October 2021.
- There will not be any time lapse between the abolition of the CHCs and the establishment of the new Body. The clear expectation is for CHCs and health bodies to operate on a "business as usual basis" until the new Body is established.
- To facilitate the establishment of the new Body, an Implementation Board will be established. The core group will be comprised of representatives from Welsh Government, Powys Teaching University Health Board (as employer of CHC staff), representatives from the current CHC and, when appointed, the Board and chief executive of the new Body.
- Individual work streams will be established to consider matters such as transfer of staff, accommodation, IT procurement, volunteer membership, governance etc.
- The core group will be supplemented with people with expertise in the areas covered by the individual work streams.

Location/accommodation

- The Bill does not prescribe a structure for the Body.
- We want the Body to have the ability to determine where it needs offices, based on its own assessment of need.
- The expectation is that the Body will be organised in such a way as to enable it to perform its functions at a local as well as a national level.

- The regulatory impact assessment bases the Body's accommodation needs and costs on current CHC accommodation location and costs: 12 offices of varying sizes across Wales.
- Current thinking, and this will be the subject of discussion at the Implementation Board, is that the new Body needs a different accommodation strategy to the CHCs. CHC offices are often based on industrial parks which are not particularly accessible to the population who wish to use their services. Going forward there is merit in exploring smaller town centre premises for the Body's offices and/or co-locating the Body's offices with other providers of public services such as community hubs or libraries. This will make the Body more accessible to the public.

Relationship with partners

- The Body will need to establish itself as a key partner in the health and social care fields. It will need to agree with partners such as the inspectorates, health boards, local authorities, the voluntary sector, Regional Partnership Boards, Social Care Wales, the Commissioners etc how it will work with them.
- This is something that Welsh Government can help to facilitate as part of the Implementation Board arrangements: assisting the Body to make connections with partners.
- High level discussions have already been held with the inspectorates (HIW and CIW) who are supportive of the potential for partnership working agreements between themselves and the new Body. The partnership agreements would cover matters such as information sharing and escalation of concerns.
- The expectation is for NHS bodies and local authorities to have clear arrangements in place for making use of the information provided to them by the Body. NHS bodies would, for example, need to have clear systems in place to ensure any feedback on patient experience/quality of services received from the Body was reported to and considered by their Quality and Safety Committees.
- The Welsh Government, drawing on the experience of those involved in the Implementation Board, can also produce guidance on how Health Boards, Trusts, Special Health Authorities and Local Authorities can fulfil their duty under section 17 of the Bill to promote the activities of the Body.
- There are some legislative changes that Welsh Ministers propose to make to help frame the relationship between the Body and existing partners who work in the areas of health and social care as a positive one of partnership and co-operation:
 - The Body will have the status of "other partner" on Public Service Boards (PSBs) established under the Well-being of Future Generations (Wales) Act 2015. 'Other partners are individuals or bodies considered to be important providers and representatives of public services. A PSB must seek the advice of their other partners and involve them in the activities of the PSB in the manner, and to the extent, that the board considers appropriate. This may include seeking their partners' advice on, or involving them in, the preparation, implementation and delivery of local well-being plans. The Body will therefore be able to comment on PSBs action plans from both a health and social services perspective, adding a greater integrated focus.

- Regional Partnership Boards (RPBs) are established under the Social Services and Well-being (Wales) Act 2014 to oversee the partnership arrangements put in place between health boards and local authorities for the delivery of integrated and sustainable care and support services. It is proposed to amend the Care and Support (Area Planning) (Wales) Regulations 2017 and the Care and Support (Population Assessments) (Wales) Regulations 2015 to require bodies under partnership arrangements to consult with the Citizen Voice Body in the preparation of these assessments and plans. The Body will therefore have a key role in supporting the RPBs by ensuring the population assessments are continually informed by information gathered by the Body on the views of the public. To do this, the Body will also need to make linkages with the Citizen Panels that support the work of the RPBs.

Complaints advice and assistance

- The Body will be able to provide complaints advice and assistance to a broader range of people than the current CHCs.
- Stakeholders with whom we have discussed the Bill, have indicated it would be useful if there was guidance to set out:
 - which complaints the Body is able to assist with;
 - which it cannot;
 - circumstances when the Body may need to co-operate with other providers of advice and assistance; and
 - arrangements for signposting people to other options for advice and support.

The expectation will be that the Body will provide information to inform the public, seeking views from the voluntary sector.

Membership

- As a Body corporate, the Body is able to recruit its own volunteer membership, outside the public appointments process.
- It is important to have the membership model up and running from the outset as the Body will need the support of its volunteers to perform its functions.
- Consequently, it is intended that the Implementation Board will assist in the development of the model.
- Officials have approached the Wales Council for Voluntary Action who have agreed to lend their support in the development of a model that is sustainable and aims to attract volunteers who are representative of users of health and social services.

Representations

- The Body has the power to make representations to a Health Board, Trust, Special Health Authority or Local Authority about any matter connected with the provision of a health service or social services.
- Those bodies are placed under a legal duty to “have regard” to the representations. The legal duty to have regard to representations and the development of appropriate mechanisms for taking the substance of the representations into account will ensure the voice of the citizen is built into the decision making process and heard by and listened to by decision makers
- This means that the representations **must** be taken into account by these bodies when they are exercising functions relevant to the representations.
- The expectation is that NHS bodies and local authorities will consider how each representation is best taken into account. This may involve sharing representations with Quality and Safety Committees, or scrutiny committees or sharing relevant representations with partners such as RPBs and PSBs so that the voice of service users is truly embedded and taken into account in the decision making process. Representations may, for example, relate to service changes proposed by NHS bodies or local authorities and may also be taken account in relation to the planning process, they could also take the form of thematic reviews of services.
- The expectation is that the Body will not make representations about matters relating to identifiable individuals. Concerns about care or treatment of individuals should be made through the relevant complaints procedure.
- The new duty of quality in the Bill places a duty on NHS bodies to exercise their functions with a view to securing improvement in the quality of health services. Quality includes, but is not limited to, quality in terms of the experience of individuals to whom health services are provided. There are clear linkages between the way NHS bodies can demonstrate quality improvement and consideration of representations from the Body.
- The expectation is that the Body will engage with and develop constructive relationships with NHS bodies and local authorities and having regard to representations will form part of the on-going and continuous engagement with these bodies. CHCs have called for NHS Bodies and local authorities to be required to formally respond to representations made by the Body. Officials have met and are engaging with the Board of Community Health Councils in Wales to further discuss this.

Visiting

The clear expectation is that the Body will be able to access service users at the point of delivery of care for the purposes of seeking their views about matters related to health and social services. This is one of many ways that the new Body will be able to seek the views of the public.

Officials have had constructive discussions with the Board of Community Health Councils in Wales over the summer to explore how the CHCs currently use their power of entry and to discuss how we might enable access to health and social care premises for the Body. These discussions are ongoing.

Document is Restricted

Agenda Item 4.1

6(5)43 The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No 2) Regulations 2019

Background and Purpose

These Regulations amend the following subordinate legislation relating to animals and plant health:

- Trade in Animals and Related Products (Wales) Regulations 2011 ("the TARP Regulations")
- Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019
- Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019

Most notably, these Regulations:

- insert a definition of "the published nomenclature list" into the TARP Regulations to account for the introduction of a list of animal products, published by the Secretary of State, which specifies products for the purposes of determining the selection of consignments that must be submitted to veterinary checks at a border inspection post;
- amend import procedures, requiring animal health certificates to be made available for checks at a border inspection post.

Procedure

Affirmative

Technical Scrutiny

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

Merits Scrutiny

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

Implications arising from exiting the European Union

The most notable thing about these Regulations is that they reflect the fact that the Secretary of State, with the consent of the Welsh Ministers, the Scottish Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, can publish product lists to ensure that movement of animals and animal products will continue without disruption after exiting the EU, while also maintaining biosecurity levels.

Therefore, these Regulations reflect what appears to be a UK-wide common framework, that has been agreed between the relevant governments, in the area of trade in animals and animal products.

Government Response

No government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

19 September 2019



Draft Regulations laid before the National Assembly for Wales under paragraph 1(9) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2019 No. (W.)

**EXITING THE EUROPEAN
UNION, WALES**

ANIMALS, WALES

PLANT HEALTH, WALES

**The Rural Affairs (Miscellaneous
Amendments) (Wales) (EU Exit)
(No. 2) Regulations 2019**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the power conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies arising from the withdrawal of the United Kingdom from the European Union.

These Regulations make amendments to legislation relating to animals and plant health.

Regulation 2 makes amendments to the Trade in Animals and Related Products (Wales) Regulations 2011 (“the TARP Regulations”).

Regulation 2(2) omits the definition of “product” from the TARP Regulations. It also inserts a definition of “the published nomenclature list” into the TARP Regulations to account for the introduction of a list of animal products, published by the Secretary of State, which specifies products for the purposes of determining the selection of consignments that must be submitted to veterinary checks at a border inspection post. Additionally, it makes provision for the purpose

of interpreting references to an EU Directive in the TARP Regulations and associated EU instruments.

Regulation 2(3) inserts references to the Faroe Islands and Greenland into regulation 4 of the TARP Regulations, which provides for how trade with a number of specified territories is to be treated for the purpose of the TARP Regulations.

Regulation 2(4) and (5) substitute references in the TARP Regulations to EU legislation for references to the published nomenclature list.

Regulation 2(6) makes amendments to regulation 15 of the TARP Regulations, which relates to import procedures. Among those changes is a substitution that imposes a requirement on the person responsible for a consignment to arrange for the consignment and a health certificate to be submitted for checks at the border inspection.

Regulation 2(7) makes provision so that the composite products and foodstuffs listed by the Secretary of State as being exempt from veterinary import checks are not subject to Part 3 of the TARP Regulations, which itself provides for the importation into Wales of any animal or product specified in Commission Decision 2007/275/EC from a country outside the EU.

Regulation 3 amends regulation 28(c) of the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019 which, in part, omits article 21(7) of the Plant Health (Wales) Order 2018. Regulation 28(c) is amended to reflect that article 21(7) has been omitted by the Plant Health (Wales) (Amendment) (No. 2) Order 2019.

Regulation 4 makes a minor amendment to a previous statutory instrument, namely the Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019 in the field of animal health and welfare. The amendment removes an erroneous provision in that instrument relating to regulation 20(1)(a) of the African Horse Sickness (Wales) Regulations 2013 (S.I. 2013/1662 (W. 158)) which has been identified as being in conflict with a similar amendment in an EU exit instrument.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

Draft Regulations laid before the National Assembly for Wales under paragraph 1(9) of Schedule 7 to the European Union (Withdrawal) Act 2018, for approval by resolution of the National Assembly for Wales.

DRAFT WELSH STATUTORY
INSTRUMENTS

2019 No. (W.)

**EXITING THE EUROPEAN
UNION, WALES**

ANIMALS, WALES

PLANT HEALTH, WALES

**The Rural Affairs (Miscellaneous
Amendments) (Wales) (EU Exit)
(No. 2) Regulations 2019**

Made

*Coming into force in accordance with
regulation 1(2)*

The Welsh Ministers, in exercise of the power conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the European Union (Withdrawal) Act 2018⁽¹⁾, make the following Regulations.

In accordance with paragraph 1(9) of Schedule 7 to that Act, a draft of this instrument has been laid before and approved by a resolution of the National Assembly for Wales.

In accordance with paragraph 4(a) of Schedule 2 to that Act, the Welsh Ministers have consulted the Secretary of State with regard to the amendment of the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019⁽²⁾ and the Rural Affairs, Environment, Fisheries and Food (Miscellaneous

(1) 2018 c. 16.

(2) S.I. 2019/674 (W. 130).

Amendments and Revocations) (Wales) Regulations 2019(1).

Title and commencement

1.—(1) The title of these Regulations is the Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No. 2) Regulations 2019.

(2) Save for regulation 2 which comes into force on exit day, these Regulations come into force immediately before exit day.

Amendment of the Trade in Animals and Related Products (Wales) Regulations 2011

2.—(1) The Trade in Animals and Related Products (Wales) Regulations 2011(2) are amended as follows.

(2) In regulation 2—

(a) in paragraph (1)—

(i) omit the definition of “product” (“*cynnyrch*”);

(ii) at the appropriate place, insert the following definition—

““the published nomenclature list” (“*y rhestr cyfundrefn enwi gyhoeddedig*”) means the list of products published and amended from time to time by the Secretary of State, specifying products by reference to the relevant nomenclature for the purposes of determining the selection of consignments that must be submitted to veterinary checks at a border inspection post.”;

(b) after paragraph (2) insert—

“(3) For the purposes of any reference to a Directive in these Regulations, any EU instrument to which that Directive refers, or to which any EU instrument referred to by that Directive refers, and which is a reference to that instrument as it has effect from time to time, is to be read as a reference to the instrument as it has effect immediately before exit day.”

(3) In regulation 4, after “Trade with” insert “the Faroe Islands, Greenland,”.

(4) In regulation 9, for “Commission Decision 2007/275/EC, as last amended by Commission Implementing Decision (EU) 2016/1196” substitute “the published nomenclature list”.

(5) In regulation 12(4), for “Chapter 3 of Annex I to Commission Decision 2007/275/EC, as last amended

(1) S.I. 2019/463 (W. 111).

(2) S.I. 2011/2379 (W.252), amended by S.I. 2019/463 (W. 111). There are other amending instruments but none are relevant.

by Commission Implementing Decision (EU) 2016/1196” substitute “Chapter 3 (fish and crustaceans, molluscs and other aquatic invertebrates) of the published nomenclature list,”.

(6) In regulation 15—

- (a) in paragraph (1), in the words before subparagraph (a), for the words from “documentation” to “Schedule 1” substitute “relevant health certificate published by the Welsh Ministers or (as the case may be) the Secretary of State”;
- (b) in paragraph (3)(a), for “requirements relating to it in the relevant” substitute “conditions of trade relevant to it in any retained EU law or other European Union”.

(7) In Schedule 3, in paragraph 6(1), for “Annex II to Commission Decision 2007/275/EC” substitute “the list of composite products and foodstuffs exempt from veterinary import checks published by the Secretary of State”.

Amendment of the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019

3. In the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019, in regulation 28(c), for “paragraphs (7) and (8)” substitute “paragraph (8)”.

Amendment of the Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019

4. In the Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019, omit regulation 13.

Name

Title of Minister, one of the Welsh Ministers

Date

The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No 2) Regulations 2019

Explanatory Memorandum

This Explanatory Memorandum has been prepared by the Department for Economy, Skills and Natural Resources and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No. 2) Regulations 2019.

I have made the statements required by the European Union (Withdrawal) Act 2018. These statements can be found in Part 2 of the Annex to this Memorandum.

Lesley Griffiths AM

Minister for Environment, Energy and Rural Affairs

17 September 2019

1. Description

The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No. 2) Regulations 2019 (“this Instrument”) corrects deficiencies in Welsh statutory instruments which arise as a result of the UK’s exit from the European Union (EU). This Instrument will ensure the statute book in Wales remains up to date and operable once the UK withdraws from the EU.

Regulations 3 and 4 of this Instrument, which make amendments to the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019 and the Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019 respectively, will come into force immediately before exit day.

Regulation 2 of this instrument, which amends the Trade in Animals and Related Products (Wales) Regulations 2011, will come into force on ‘exit day’.

‘Exit day’ is defined in section 20(1) of the European Union (Withdrawal) Act 2018 (“the 2018 Act”) as 31 October 2019 at 11.00 pm.

This Instrument amends:

- the Trade in Animals and Related Products (Wales) Regulations 2011,
- the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019, which in turn amend the Plant Health (Wales) Order 2018,
- The Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019, which in turn amend the African Horse Sickness (Wales) Regulations 2013.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

This Instrument does not amend primary legislation. The amendments in this Instrument are corrective and technical in nature and do not introduce policy changes.

The changes made by this Instrument are necessary to ensure the effective and correct functioning of the statute book following the UK’s exit from the EU.

A draft of this instrument is laid before the National Assembly for Wales under paragraph 1(9) of Schedule 7 to the 2018 Act, for approval by resolution of the National Assembly for Wales. The Welsh Government were not in a position to make the amendments contained in this instrument by the deadline for laying Brexit related Regulations by way of the Negative Procedure, hence why they are laid subject to the Affirmative Procedure.

3. Legislative background

This Instrument is being made using the powers conferred by paragraph 1(1) of Schedule 2 and paragraph 21 of Schedule 7 to the 2018 Act.

This Instrument is laid subject to the draft affirmative procedure in accordance with paragraph 1(9) of Schedule 7 to the 2018 Act.

In accordance with the requirements of the 2018 Act the Minister for Environment, Energy and Rural Affairs, has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

4. Purpose and intended effect of the legislation

The corrective and technical changes made by this Instrument are necessary to ensure the statute book in Wales is fully operable following the UK's exit from the EU. The amendments address deficiencies which arise as a result of the UK's withdrawal from the EU, and update references to European legislation.

4.1 What did the domestic regulations do before exit day?

A summary of the domestic Regulations subject to amendment is set out in the following paragraphs.

The Trade in Animals and Related Products (Wales) Regulations 2011

The Trade in Animals and Related Products (Wales) Regulations 2011 establish a system for trade with other EU Member States in live animals and genetic material and for the importation of live animals, genetic material, products of animal origin and animal by-products from outside the European Union. These regulations provide a statutory framework for the enforcement of Council Directives 89/662/EEC and 90/425/EEC concerning veterinary checks in intra-Community trade, and Council Directives 91/496/EEC and 97/78/EC which lay down the principles

governing the organization of veterinary checks on animals entering the Community from third countries. The regulations ensure that veterinary controls on EU trade and imports of live animals and animal products are safe with regard to animal and public health, and that they meet the specific import conditions laid down in the relevant EU legislation.

The Plant Health (Wales) Order 2018

The Plant Health (Wales) Order 2018 implements Council Directive 2000/29/EC on protective measures against the introduction and spread of organisms harmful to plants or plant products and related European Union plant health legislation.

The Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019

The Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019 update references in a number of pieces of secondary legislation including domestic legislation relating to animal health and welfare, namely the African Horse Sickness (Wales) Regulations 2013 (S.I. 2013/ 1662) which includes measures to combat African horse sickness disease. The proposed amendment made by this Instrument corrects an erroneous provision relating to regulation 20 (1) (a) of the African Horse Sickness (Wales) Regulations 2013 (S.I. 2013/ 1662) which has been identified as being in conflict with a similar amendment in an EU Exit instrument.

4.2 Why is it being changed?

After EU-Exit, without amendment certain provisions will be inoperable and, as a result, existing law will either be unclear or will not function effectively. This Instrument therefore uses powers in the 2018 Act to make predominantly technical changes to the above legislation to ensure that it remains coherent and continues to function correctly after the UK has left the EU. This will provide clarity to producers, enforcement bodies and industry stakeholders.

There is also an imperative to ensure the legislative framework supports the industry to respond to any immediate impacts that may arise from our withdrawal from the EU. For example, changes in labelling requirements

that make reference to the 'UK' in place of the 'EU' should be introduced in manner that allows producers a fair opportunity to adjust without unduly committing an offence.

The Plant Health (Wales) Order 2018

This Instrument includes provision that makes a consequential amendment to regulation 28(c) of the Plant Health (Amendment) (Wales) (EU Exit) Regulations 2019 which, in part, omits article 21(7) of the Plant Health (Wales) Order 2018. Regulation 28(c) is amended to reflect that article 21(7) has been omitted by the Plant Health (Wales) (Amendment) (No. 2) Order 2019.

The Trade in Animals and Related Products (Wales) Regulations 2011

This instrument makes further operability amendments to the Trade in Animals and Related Products (Wales) Regulations 2011 in addition to those previously inserted by the Trade in Animals and Related Products (Amendment) (Wales) (EU Exit) Regulations 2019.

Given the biosecurity implications of the subject matter, the amendments made are also intended to secure regulatory alignment with other devolved administrations (see similar amendments made to the English and Northern Irish equivalents of Trade in Animals and Related Products (Amendment) (Wales) (EU Exit) Regulations 2019 by the Trade in Animals and Animal Products (Legislative Functions) and Veterinary Surgeons (Amendment) (EU Exit) Regulations 2019).

This instrument also takes account of operability changes made to retained EU legislation by the Import of and Trade in Animals and Animal Products (Amendment etc.) (EU Exit) Regulations 2019 (itself as amended by the Animal Health, Alien Species in Aquaculture and Invasive Non-native Species (Amendment) (EU Exit) Regulations 2019).

Most notably, as a result of further operability amendments to the retained EU Commission Decision 2007/275/EC the Secretary of State with the consent of the Welsh Ministers, the Scottish Ministers and the Department of Agriculture, Environment and Rural Affairs in Northern Ireland can publish product lists to ensure that movement of animals and animal products on arrival into the UK will continue without disruption, whilst maintaining current biosecurity levels, following the UK's withdrawal from the EU. This is reflected in this instrument.

The Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendment)

This Instrument includes provision to correct an erroneous provision in regulation 13 of the Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019 relating to regulation 20 (1) (a) of the African Horse Sickness (Wales) Regulations 2013 (S.I. 2013/ 1662) which has been identified as being in conflict with a similar amendment in regulation 11 (2) of the Exotic Diseases in Animals (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019. The effect of the proposed correction is to leave in place the changes to regulation 20(1)(a) of the African Horse Sickness (Wales) Regulations 2013 made by regulation 11 (2) of the Exotic Diseases in Animals (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/371 which removes reference to African horse sickness being “*officially confirmed for the purpose of Council Directive 92/35/EEC...*”. If the provision were left in place, it would mean that that the presence of the virus could be confirmed in a member State but not in another part of the UK. The amendments made by S.I. 2013/371 have effect (by omitting reference to the Directive) so that if the presence of the African horse sickness virus is suspected or confirmed anywhere outside Wales, the Welsh Ministers may declare zones if they consider there is a risk of it spreading to Wales. Regulation 13 of the Rural Affairs, Environment, Fisheries and Food (Miscellaneous Amendments and Revocations) (Wales) Regulations 2019 erroneously updated the Directive omitted by S.I. 2013/371.

4.3 What will it now do?

This Instrument will ensure the Welsh regulations being amended continue to be relevant and operable after the UK leaves the EU.

Transitional provisions have been included where necessary to provide producers with a reasonable period in order to adapt to potential new requirements in labelling and to continue to place existing stocks on the market without committing an offence, if the UK withdraws from the EU on a ‘no deal’ basis. The changes included in this Instrument ensure the provisions are relevant regardless of the actual date of EU exit.

5. Consultation

There is a requirement under paragraph 4 of Schedule 2 to the 2018 Act to consult with the Secretary of State on any provisions that are due to come into force prior to exit day. In accordance with this requirement, a letter notifying the Secretary of State of the amendments included in

regulation 3 was issued on 5 September 2019. In addition, the Secretary of State was notified of the amendments in regulation 4 on 12 September 2019.

6. Regulatory Impact Assessment (RIA)

It was not considered necessary to carry out a regulatory impact assessment for this instrument as no impact on the business, public or voluntary sectors are foreseen. The Regulations only introduce minor technical corrections. This is in line with the Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments

Annex: Statements under the European Union (Withdrawal) Act 2018

Part 1: Table of Statements under the 2018 Act

This table sets out the statements that may be required of the Welsh Ministers under the 2018 Act. The table also sets out those statements that may be required of Ministers of the Crown under the 2018 Act, which the Welsh Ministers have committed to also provide when required. The required statements can be found in Part 2 of this annex.

Statement	Where the requirement sits	To whom it applies	What it requires
Appropriateness	Sub-paragraph (2) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement to explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	<p>A statement to explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them.</p> <p>A statement that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under</p>

			the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement to explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g. whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2	A statement setting out the 'good reasons' for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Applies to Ministers of the Crown exercising powers in sections 8(1), 9 and paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority. Welsh Ministers have committed to make the same statement when exercising powers in Schedule 2 or paragraph 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority	A statement to explain why it is appropriate to create such a sub-delegated power.
Urgency	Sub-paragraph (2) and (8) of	Welsh Ministers exercising powers in	A statement

	paragraph 7, Schedule 7	Part 1 of Schedule 2 but using the urgent procedure in paragraph 7 of Schedule 7	
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Part 2: Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

Not applicable/required.

2. Appropriateness statement

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the The Rural Affairs (Miscellaneous Amendments) (Wales) (EU Exit) (No 2) Regulations 2019 do no more than is appropriate. This is the case because the Regulations largely correct technical deficiencies in the Welsh legislation that will arise on exit of the EU. The Regulations ensure that the Welsh statutory instruments included remain up to date and continue to operate effectively in Wales once we leave the EU. This is in line with government policy.”

3. Good reasons

The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this draft instrument, and I have concluded they are a reasonable course of action”. This is because the provisions ensure that protections provided by the Welsh regulations included continue to be operable after the UK leaves the European Union.”

4. Equalities

4.1 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement(s):

“The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.”

4.2 The Minister for Environment, Energy and Rural Affairs, Lesley Griffiths, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, Lesley Griffiths, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010”.

5. Explanations

The explanations statement has been made in paragraph 4 (Purpose & intended effect of the legislation) of the main body of this explanatory memorandum.

6. Criminal offences

Not applicable/required

7. Legislative sub-delegation

Not applicable/required.

8. Urgency

Not applicable/required.

Agenda Item 5.1

SL(5)442 – Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens

Background and Purpose

This Code of Practice ("the Code") is issued under section 14 of the Animal Welfare Act 2006 ("the Act"). It applies to all Meat Chickens and Meat Breeding Chickens for which a person is responsible.

The existing Code of Practice reflected the science and legislation in force at the time. A review was required to capture any changes in those areas and to ensure the standards being advised are still appropriate. It also replaces the interim guidance for keepers of conventionally reared meat chickens in relation to the Welfare of Farmed Animals (Wales) Regulations 2007 as amended by the Welfare of Farmed Animals (Wales) (Amendment) Regulations 2010, issued in 2011.

The purpose of the Code is to ensure that those who are responsible for an animal are aware they have a legal duty to take reasonable steps to ensure welfare needs are met. The Code of Practice explains what you need to do to meet the standard of care the law requires.

Breach of a provision of the Code is not an offence in itself but, if proceedings are brought against someone for a welfare offence under the Act, the Court may take into account the extent to which they have complied with the Code in deciding whether they have committed an offence or have met the required standard of care.

Procedure

Negative.

The Code of Practice is issued under section 14 of the Act, which allows the National Assembly for Wales to publish practical guidance in respect of any provision under the Act. The power to publish guidance was transferred from the Assembly to Welsh Ministers by paragraph 30 of Schedule 11 of the Government of Wales Act 2006. Section 16 of the Act requires that a draft of the Code is published, consulted on, and any consultation responses are considered. These steps have been taken.

There is a transitional provision in paragraph 34 of Schedule 11 of the Government of Wales Act 2006 that states where there is a corresponding function exercisable by a Minister of the Crown, the relevant Parliamentary procedure applies to any function conferred on Welsh Ministers. The Minister of the Crown must use the negative procedure, set out by section 15 of the Act, and so the Code is being laid using the negative resolution procedure; the Assembly may resolve that the Code be annulled no later than 40 days after it is laid.

Scrutiny under Standing Order 21.7

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

1. At page 14 of both the English and Welsh versions of the code, the reference to paragraph 2(1) of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 notes that animals kept in husbandry systems in which their welfare requires frequent human attention must be thoroughly



inspected “*at least twice a day*”. In fact, the Regulations state that the inspection must only be “*at least once a day*”. This reference is therefore incorrect in the code.

2. On page 39 of both the English and Welsh versions of the code, under the heading “*Free range and organic systems*”, Council Regulation (EC) No 843/2007 is referenced. However, this appears to be incorrect; there is a Commission Regulation (EC) No 843/2007 but it is no longer in force.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.7 in respect of this code. The Code is made using domestic powers.

Government Response

A government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

18 September 2019





Llywodraeth Cymru
Welsh Government



Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens

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Preface

This preface is not part of the code; instead, it explains the code's role and the broad considerations on which it is based.

This code applies to Wales only. It replaces the Code of Recommendations for the Welfare of Livestock: Meat Chickens and Breeding Chickens, issued in 2002. It also replaces the interim guidance for keepers of conventionally reared meat chickens in relation to the Welfare of Farmed Animals (Wales) Regulations 2007 as amended by the Welfare of Farmed Animals (Wales) (Amendment) Regulations 2010, issued in 2011.

The legal text in boxes throughout this document is not part of this Code but highlights relevant legislation. The text in these boxes is the law as it stands on the date that this Code is published (please see the final page for the date of the publication). You should be aware that any of the legal requirements quoted here could change. You should check that these are an accurate statement of the law as it currently stands. See Annex 1 for a list of other relevant legislation.

This Code is made under the Animal Welfare Act 2006. The Act makes owners and keepers responsible for ensuring that the welfare needs of their animals are met, have a suitable environment, are fed an appropriate diet and are protected from pain, injury, suffering and disease.

The principle legislation referred to in this code are the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) and the Mutilations (Permitted Procedures) (Wales) Regulations 2007, which implement Council Directive 98/58/EC concerning the protection of animals kept for farming purposes and Council Directive 2007/43/EC which lays down the minimum rules for the protection of chickens kept for meat production.

Section 14 of the Animal Welfare Act 2006 states:

- 14 (1) The appropriate national authority may issue, and may from time to time revise, codes of practice for the purpose of providing practical guidance in respect of any provision made by or under this Act.
- (2) The authority responsible for issuing a code of practice under subsection (1) shall publish the code, and any revision of it, in such manner as it considers appropriate.
- (3) A person's failure to comply with a provision of a code of practice issued under this section shall not of itself render him liable to proceedings of any kind.
- (4) In any proceedings against a person for an offence under this Act or an offence under regulations under section 12 or 13 –
 - (a) failure to comply with a relevant provision of a code of practice issued under this section may be relied upon as tending to establish liability, and
 - (b) compliance with a relevant provision of such a code of practice may be relied upon as tending to negative liability.

Section 3 of the Animal Welfare Act 2006 states:

- 3 (1) In this Act, references to a person responsible for an animal are to a person responsible for an animal whether on a permanent or temporary basis.
- (2) In this Act, reference to being responsible for an animal include being in charge of it.

- (3) For the purposes of this Act, a person who owns an animal shall always be regarded as being a person who is responsible for it.
- (4) For the purposes of this Act, a person shall be treated as responsible for any animal for which a person under the age of 16 years of whom he has actual care and control is responsible.

Regulation 6 of the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- (1) A person responsible for a farmed animal-
 - (a) must not attend to the animal unless he is acquitted with any relevant code of practice and has access to the code while attending to the animal: and
 - (b) must take all reasonable steps to ensure that a person employed or engaged by him does not attend to the animal unless that other person-
 - (i) is acquainted with any relevant code of practice;
 - (ii) has access to the code while attending to the animal; and
 - (iii) has received instruction and guidance on the code.
- (2) In this section, a 'relevant code of practice' means a code of practice issued under section 14 of the Animal Welfare Act 2006 or a statutory welfare code issued under section 3 of the Agriculture (Miscellaneous Provisions) Act 1968 (1) relating to the particular species of farmed animal to which a person is attending.

This code is intended to help all those who care for meat chickens and meat breeding chickens to practice a good standard of stockmanship.

Without good stockmanship, animal welfare can never be adequately protected. Adherence to these recommendations will help keepers to maintain the standards required in order to comply with legislation.

Those who care for chickens should demonstrate:

- Caring and responsible planning and management
- Skilled, knowledge and conscientious stockmanship
- Appropriate environmental design
- Considerate handling and transport
- Humane slaughter

The welfare of meat chickens and meat breeding chickens is considered within a framework that was developed by the Farm Animal Welfare Committee (FAWC) and known as the 'Five Freedoms'. These form the guiding principles for the assessment of welfare within any system, together with the actions necessary to safeguard welfare within the constraints of an efficient livestock industry. The Five Freedoms should be considered in conjunction with FAWC's three essentials of stockmanship.

The Five Freedoms are:

1. **Freedom from Hunger and Thirst** by ready access to fresh water and a diet to maintain full health and vigour.
2. **Freedom from Discomfort** by providing an appropriate environment including shelter and a comfortable resting area.
3. **Freedom from Pain, Injury or Disease** by prevention or rapid diagnosis and treatment.
4. **Freedom to Express Normal Behaviour** by providing sufficient space, proper facilities and company of the animals' own kind.
5. **Freedom of Fear and Distress** by ensuring conditions and treatment to avoid mental suffering.

The Three Essentials of Stockmanship are:

1. **Knowledge of Animal Husbandry** – Sound knowledge of the biology and husbandry of farm animals, including how their needs may be best provided for in all circumstances.
2. **Skills in Animal Husbandry** – Demonstrable skills in observation, handling, care and treatment of animals, and problem detection and resolution.
3. **Personal Qualities** – Affinity and empathy with animals, dedication and patience.

During on-farm welfare inspections carried out by the Animal and Plant Health Agency (APHA, exercising Welsh Minister functions) and Local Authorities, inspectors will assess compliance against legislation and this Code. Not complying with the welfare-related legislation outlined in the boxes throughout this Code is an offence. In cases that go to court for prosecution, whether someone has met the requirements of this Code, or not, can be used to help establish a person's liability.

There may be other legislation and requirements which are not outlined in this Code but that you must be familiar with and comply with.

Section 4 of the Animal Welfare Act 2006 states:

(1) A person commits an offence if-

- (a) an act of his, or a failure of his act, causes an animal to suffer
- (b) he knew, or ought reasonably to have known, that the act, or failure to act, would have that effect or to be likely to do so,
- (c) the animal is a protected animal, and
- (d) the suffering is unnecessary.

(2) A person commits an offence if-

- (a) he is responsible for an animal,
- (b) an act, or failure to act, of another person causes the animal to suffer,
- (c) he permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening, and
- (d) the suffering is unnecessary

(3) The considerations to which it is relevant to have regard when determining for the purposes of this section whether suffering is unnecessary include-

- (a) whether the suffering could be reasonably have been avoided or reduced;
- (b) whether the conduct which caused the suffering was in compliance with any relevant enactment or any relevant provisions of a license or code of practice issued under an enactment;
- (c) whether the conduct which caused the suffering was for a legitimate purpose, such as-
 - (i) the purpose of benefiting the animal, or
 - (ii) the purpose of protecting a person, property or another animal;
- (d) whether the suffering was proportionate to the purpose of the conduct concerned;
- (e) whether the conduct concerned was in all the circumstances that of a reasonably competent and humane person.

- (4) Nothing in this section applies to the destruction of an animal in an appropriate and humane manner.

Section 9 of the Animal Welfare Act 2006 states:

- (1) A person commits an offence if he does not take such steps as are reasonable in all the circumstances to ensure that the needs of an animal for which he is responsible are met to the extent required by good practice.
- (2) For the purposes of this Act, an animal's needs shall be taken to include -
- (a) its need for a suitable environment,
 - (b) its need for a suitable diet,
 - (c) its need to be able to exhibit normal behaviour patterns,
 - (d) any need it has to be housed with, or apart from, other animals, and
 - (e) its need to be protected from pain, suffering, injury and disease.

Suggested sources of additional information are included at the end of this Code. These sources of further information are relevant to the welfare of meat chickens and meat breeding chickens but are for information only and should not be considered to be part of the Code of Practice.

This Code has been issued by the Minister for Environment, Energy and Rural Affairs.

Introduction

This Code (which applies in Wales only) covers all parts of the meat chicken production sector, including breeding birds and grandparent stock under all types of husbandry systems.

Legal text in the boxes has been colour coded. The welfare requirements for all meat chicken producers are in blue, and the additional welfare requirements for keeping conventionally reared meat chickens are in red. The additional requirements for conventionally reared meat chickens (required by the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended)) do not apply to hatcheries or when fewer than 500 chickens or meat breeding chickens are kept; they also do not apply where

birds are reared to extensive indoor, free range or organic marketing standards. Although not a legal requirement, the additional welfare provisions for conventionally reared meat chickens, for example on lighting and litter, can help to ensure bird welfare when applied to all systems of production. The Council of Europe's recommendations concerning meat chickens and grandparent stock, where not covered in legislation, are included in this Code.

For ease of reference, the table below summarises the various legal provisions relating to animal welfare on farm for different types of meat chicken production systems.

Type of meat chicken production system	Animal Welfare Act 2006	Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) Schedule 1	Welfare of farmed Animals (Wales) regulations 2007 (as amended) Schedule 5A
Holdings with <500 chickens	✓	✓	
Meat breeding chickens	✓	✓	
Hatcheries	✓	✓	
>500 birds conventionally reared, stocking density up to 33kg/m ²	✓	✓	✓
>500 birds conventionally reared, stocking density more than 33kg/m ² up to 39kg/m ²	✓	✓	✓
^a Free range chickens, maximum stocking density 27.5kg/m ²	✓	✓	
^a Extensive indoor chickens, maximum stocking density 25kg/m ²	✓	✓	
^b Organically reared chickens, maximum stocking density 21kg/m ²	✓	✓	

a. As referred to in points (b), (c), (d), (e) of Annex V to Commission Regulation (EC) No 543/2008 which sets out detailed rules in regards to the marketing standards for poultry meat for the application of the Single CMO Regulation (EC) No 1308/2013.

b. In accordance with the relevant EU Organic Regulations – Council Regulation (EC) No 834/2007 and Commission Regulation (EC) No 889/2008.

No person should operate or set up a meat chicken or meat breeding chicken unit unless the welfare of all the birds can be safeguarded to the fullest extent possible. This can be achieved by ensuring that the buildings and equipment, the skills and abilities, and the numbers of keepers are appropriate to the husbandry system and number of birds to be kept.

The relevant animal welfare legislation applies to owners as well as any person looking after the chickens on their behalf, wherever the chickens are located. A written protocol should clearly set out for all parties their responsibilities in respect of welfare. However, the obligations imposed by the law will still apply.

Paragraph 29 of Schedule 1 to the Welfare of Farmed Animals Wales Regulations 2007 states:

29. Animals may only be kept for farming purposes if it can reasonably be expected, on the basis of their genotype or phenotype, that they can be kept without any detrimental effect on their health or welfare.

The strains of bird selected must be suitable for the production system. In particular, care must be taken in the production of birds with extended growing periods (for example organic, free range etc.) to use suitable strains and required feeding regimes.

Definitions

For the purposes of this Code definitions of terms used in this Code are summarised below. Some of these (marked with an asterisk) are taken directly from the relevant legislation, whilst others are included to provide an explanation for the purposes of the Code.

‘breeding chicken’ means an animal of the species *Gallus gallus* whose progeny are either parent stock or meat chickens

‘conventionally reared meat chicken’ means an animal of the species *Gallus gallus* that is kept for meat production, other than one:

- (a) that is on a holding with fewer than 500 such animals or with only breeding stocks of such animals
- (b) that is on a hatchery
- (c) in relation to which the term “Extensive indoor (barn reared)”, “Free range”, “Traditional free range” or “Free range – total freedom” can be used within the meaning of point (b), (c), (d) or (e) of Annex V to Commission Regulation 543/2008/EC which sets out detailed rules as regards the marketing standards for poultry meat for the application of the Single CMO Regulation (EU) 1308/2013, or
- (d) that is organically reared in accordance with the relevant EU organic regulations – Council Regulation 834/2007/EC and Commission Regulation (EC) 889/2008.

‘cumulative daily mortality rate’(*) means the sum of daily mortality rates

‘daily mortality rate’(*) means the number of chickens which have died in a house on the same day, including those that have been culled either for disease or because of other reasons, divided by the number of chickens present in the house on that day, multiplied by 100

‘flock’(*) means a group of chickens which are placed in a house of a holding and are present in this house at the same time

‘grandparent stock’ means an animal of the species *Gallus gallus* whose progeny are parent stock

‘holding’(*) means a production site on which chickens are kept

‘house’(*) means a building on a holding where a flock of chickens are kept

‘injurious pecking’ is redirected foraging behaviour to the feathers and skin of other birds and encompasses gentle and severe pecking, vent pecking and cannibalism

‘keeper’(*) means any natural or legal person responsible for or in charge of chickens in terms of contract or by law whether on a permanent or temporary basis

‘laparoscopy’ is the examination of the abdominal cavity by insertion of an instrument called a laparoscope

‘meat chicken’ means an animal of the species *Gallus gallus* kept for meat production

‘mutilation’ is a procedure which involves interference with the sensitive tissues or bone structure of an animal, otherwise than for the purpose of its medical treatment

‘owner’(*) means any natural or legal person or persons owning the holding where chickens are kept

‘parent stock’ means an animal of the species *Gallus gallus* whose progeny are meat chickens

‘stocking density’(*) means the total live weight of chickens in kg which are present in a house at the same time per square metre of usable area

‘total mortality rate’ is the total number of birds that died or were culled during a flock’s whole rearing period, divided by the original number of birds placed on the first day, multiplied by 100

‘usable area’(*) means, in relation to conventionally reared meat chickens, a littered area accessible to the chickens at any time.

Section 1: Recommendations applying to all husbandry systems

Stockmanship and staffing

All meat chickens – including breeding birds and those at hatcheries

Paragraph 1 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

1. Animals must be cared for by a sufficient number of staff who possess the appropriate ability, knowledge and professional competence.

Conventionally reared meat chickens

Paragraph 2 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

2. (1) A keeper must hold a certificate recognised by the Welsh Ministers for the purposes of Article 4(3) or (4) of Council Directive 2007/43/EC (3) (certificates of completion of training courses or equivalent experience).
- (2) The Welsh Ministers must publish from time to time, in such a way as the Welsh Ministers considers appropriate, a list of certificates recognised by the Welsh Ministers for the purposes of sub-paragraph (1).

Stockmanship is one of the most important influences on the welfare of chickens. It is essential that sufficient well-motivated and competent personnel are employed to carry out all necessary tasks. Staff should be well managed and supervised, fully conversant with the tasks they will be required to undertake and competent in the use of any equipment.

Keepers of all meat chickens, meat breeding birds and those handling birds in hatcheries, including those employed by contractors, should be appropriately trained before being given responsibility for animals. This requires the acquisition of specific stockmanship skills which may be developed on-site with an experienced person or by a suitable training provider and in some cases may include in-class training.

All keepers should have a full and demonstrable understanding of the welfare needs and basic biology of the birds.

As a minimum, they should be able to:

- recognise whether or not the birds are in good health
- understand the significance of behavioural changes in the birds, and
- appreciate the suitability of the total environment for the birds' health and welfare.

Whilst under the supervision of others and before being given sole responsibility for animals, keepers should have demonstrated competence and understanding, including on-farm practical ability, to ensure that they are capable of safeguarding birds under all foreseeable conditions. A good keeper will have a compassionate and humane attitude, will be able to anticipate and avoid many potential welfare problems and have the ability to identify those that do occur and respond to them promptly.

In order for birds to become accustomed to the stockman's presence without fear, there should be frequent, quiet but close approach from an early age so that birds are not unduly frightened.

Young birds should be given appropriate early experience of management practices and environmental conditions to enable them to adapt to the husbandry systems that they will encounter later in life. For example, early exposure to particular feeding, watering systems, natural light, perches and litter may be beneficial.

Meat chickens bred for farming purposes should not be used to achieve any other purpose, including public spectacles or demonstrations, if such use is likely to be detrimental to their health or welfare.

All keepers who are given responsibility for the care of conventionally reared meat chickens at any point in time, including holiday cover, part time and temporary staff, must have a certificate attesting to completion of a recognised training course or have been granted Grandfather Rights under the Defra scheme (now closed for new applications). The training course must cover in particular the areas covered by Annex IV to Council Directive 2007/43/EC:

- (a) Annexes I and II
- (b) physiology, in particular drinking and feeding needs, animal behaviour and the concept of stress
- (c) the practical aspects of the careful handling of chickens and catching, loading and transport
- (d) emergency care for chickens, emergency killing and culling, and
- (e) preventive bio-security measures.

These are areas in which all flock keepers, regardless of system of production, should receive training. The minimum qualification sufficient to comply with the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) is the Level 2 diploma in Work-based Agriculture (Poultry Production), ensuring that the mandatory units have been completed. Qualifications approved

in other administrations within the UK and in other countries may also be recognised by Defra, for example the Level 3 in Northern Ireland Diploma in Work-based Agriculture (Poultry Production) and the SVQ Level 2 Agriculture (Poultry) in Scotland.

Owners and keepers of chickens under all husbandry systems, including those with Grandfather Rights, are encouraged to take formal training regularly to keep their knowledge and skills up to date.

Training should continue throughout the duration of employment of all keepers, and suitable refresher courses should be undertaken regularly. Wherever possible, the training should be of a type which leads to formal recognition of competence. As welfare risks may vary according to the rearing system, such training should be specific to the system used.

Catching and handling

The catching and handling of birds without causing them injury or stress requires skill. It should only be undertaken by competent persons, i.e. those who have been appropriately trained for the task and have received clear guidance and instructions from the owner or keeper. Responsibility for the management of the operation should be clearly allocated. All those in contact with birds should comply with the required biosecurity as stipulated by the owner/keeper. (See page 17.)

Mechanical bird collection systems may have advantages for welfare. Only systems that the manufacturer has shown to be satisfactory from the point of view of bird health and welfare should be used. Where they are utilised, operators must be competent in their use and be vigilant for signs of stress or smothering, just as with manual catching. Such systems should be regularly monitored and their effect on bird health and welfare regularly evaluated.

High standards must be applied during catching and handling irrespective of the potential economic value of the birds. Surplus meat chickens, including breeders at the end of lay awaiting disposal, should be treated as humanely as those intended for retention or sale.

Catching and handling should be carried out quietly and confidently exercising care to avoid unnecessary struggling which could bruise or otherwise injure the birds. Panic among the birds should be avoided in order to minimise the risk of injury. Catching should take place in low or blue light to minimise fear responses. The light should be returned to a minimum of 20 lux without delay if any birds remain in the house after thinning. A gradual increase in light intensity at this time, similar to a dawn or dusk period, could reduce the risk of back scratching. Where there is concern that returning the lights to 20 lux will result in compromised bird welfare, a temporary reduction in lighting level is permitted on a case by case basis, but only as a result of following veterinary advice on each occasion. (See page 23.)

Birds must be caught with care and should be lifted directly into the transport module. Catching should either be by holding them around the body, or, if by the legs then by both legs. If birds need to be carried, this should either be by holding them around the body or by both legs. No catcher should carry by the legs more than three chickens (or two adult breeding birds) in each hand. Birds must not be carried by the wings or by the neck.

Feed and water

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 22 to 27 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

22. Animals must be fed a wholesome diet which is appropriate to their age and species and which is fed to them in sufficient quantity to maintain them in good health, to satisfy their nutritional needs and to promote a positive state of well-being.
23. Animals must not be provided with food or liquid that contains any substance that may cause them unnecessary suffering or injury and must be provided with food and liquid in a manner that does not cause them unnecessary suffering or injury.
24. All animals must have access to feed at intervals appropriate to their physiological needs (and, in any case, at least once a day), except where a veterinary surgeon acting in the exercise of his profession otherwise directs.
25. All animals must either have access to a suitable water supply and be provided with an adequate supply of fresh drinking water each day, or be able to satisfy their fluid intake needs by other means.
26. Feeding and watering equipment must be designed, constructed, placed and maintained so that contamination of food and water and the harmful effects of competition between animals are minimised.
27. (1) No other substance, with the exception of those given for therapeutic or prophylactic purposes or for the purpose of zootechnical treatment, may be administered

to animals unless it has been demonstrated by scientific studies of animal welfare or established practice that the effect of that substance is not detrimental to the health or welfare of the animals.

Conventionally reared meat chickens

Paragraph 6 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 6 (1) Drinkers must be positioned and maintained in such a way that spillage is minimised.
- (2) Feed must be either continuously available or meal fed.
- (3) Feed must not be withdrawn from chickens more than 12 hours before the expected slaughter time.

All birds, including breeding birds, must have daily access to feed. When introducing birds to a new environment, the keeper should ensure that the birds can easily find feed and water.

Suitable, correctly balanced nutrition, designed specifically for the age and strain of the bird, is important for rearing healthy meat chickens. Feed management practices should incorporate nutritional guidance for strain type provided by the breeder's recommendations and company supplying the birds, in addition to any veterinary advice, to avoid development of certain conditions such as ascites, sudden death syndrome and lameness.

Whilst environment and genetics should also be considered as part of managing the conditions listed in the above paragraph, control of growth rate by careful nutrient management, whilst not impacting overall on final body weight, may reduce their incidence. However, any changes in diet quantity or quality should be managed collaboratively with nutrition specialists and veterinary advisers.

Any changes in diet should be introduced gradually and with appropriate veterinary/ specialist advice. Sudden changes in the type, quantity and make-up of feed should generally be avoided.

Feed and water should be replaced on a regular basis to ensure it does not become stale or contaminated. Suitable provision must be made for supplying water in freezing weather conditions.

The distance any bird should have to travel in a house to reach feed should not be more than 4 metres and to reach water should not be more than 3 metres. However, in some situations, such as some outdoor production systems, it may be necessary for the birds to travel further. In these situations, all birds must be adequately cared for with necessary adaptations made to the stocking density, feeding and drinking space, and the distribution of feeders and drinkers, to allow for such movements.

Feed must not be withheld from conventionally reared meat chickens for more than 12 hours before expected slaughter time. Prior to transport, water should be provided up to the start of the catching procedure. Transporters of meat and breeding chickens must minimise the length of the journey and carry out transport without delay.

Provided chicks arrive at their destination within 72 hours after hatching and the journey time is not more than 24 hours, then feed and water need not be provided in transit. However, if any of these periods are exceeded then feed and water must be provided.

Where possible, water metres should be fitted to each house to enable daily monitoring of water usage. A water metre is a useful management tool; daily records of water consumption provide an early warning of potential problems.

Daily access to water throughout the period of lighting and a sufficient number of drinkers, correctly maintained, well distributed and adjusted for height and pressure, should be provided. In longer poultry houses and in those with greater floor slopes, water pressure regulators should be provided if spillage or leakage is considered a problem.

Leakage or spillage from the water drinkers can significantly increase the moisture content of the litter with a negative impact on litter quality and thus bird health. Leaks should therefore be fixed as soon as possible. Litter replacement may be necessary in the short term in badly affected areas, in conjunction with raised ventilation and temperatures to remove large amounts of excess moisture. However, long term solutions should be found and specialist advice should be sought where appropriate. (See page 24)

Health

Inspection and humane culling

All meat chickens – including breeding birds and those at hatcheries

Paragraph 2 (1) and (2) of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 2 (1) ...animals kept in husbandry systems in which their welfare depends on frequent human attention must be thoroughly inspected at least twice a day to check that they are in a state of well-being.
- (2) ...animals kept in husbandry systems in which their welfare does not depend on frequent human attention must be inspected at intervals sufficient to avoid any suffering.

Paragraph 3 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 3. Where animals are kept in a building, adequate lighting (whether fixed or portable) must be available to enable them to be thoroughly inspected at any time.

A health and welfare plan should be implemented for each farm which should set out health and husbandry activities covering the whole of the production cycle. The plan should be developed with appropriate veterinary advice, regularly reviewed against performance and updated accordingly, at least annually.

The plan should also establish management procedures and control measures to reduce the risk of infections and injury and include an effective vaccination programme. Antibiotics must not be used routinely but only for treatment purposes as prescribed by a veterinary surgeon when specific disease or infection has been diagnosed to avoid a welfare issue.

The plan should also include the use of welfare outcome assessments to assess and monitor the ongoing welfare of the birds on the farm. Welfare outcomes are measured at the slaughterhouse as part of the trigger system (see page 16).

Conventionally reared meat chickens

Paragraph 11 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 11 (1) A keeper must ensure that all chickens kept on the holding are inspected at least twice a day.
- (2) Special attention must be paid to signs indicating a reduced level of animal health or welfare.
- (3) Chickens that are seriously injured or show evident signs of health disorder (including those having difficulties in walking, severe ascites or severe malformations), and are likely to suffer, must receive appropriate treatment or be culled immediately.

As part of the plan, keepers should establish in advance the best course of action to take should problems be identified and ensure that veterinary and other expert advice is available when needed.

In the case of conventionally reared meat chickens, a systematic inspection of all flocks must be undertaken at least twice each day at appropriate intervals, in order to reduce the risk of a welfare problem developing. It is recommended that keepers of all other meat and breeding chickens carry out such an inspection at least twice a day. Young birds, in the first few days of life, should be inspected at least three times a day.

Flock inspection should include an assessment of body condition, any growth variation within the flock, locomotion, gait, respiration, condition of plumage, indications of head or vent pecking, condition of droppings, eyes, skin, beak, legs, feet and claws, and where appropriate, combs and wattles. Any departure from the norm may indicate a problem which should be given immediate remedial attention.

In order to ensure a thorough inspection, the keeper should walk close enough to every bird to encourage it to move, taking care not to frighten the birds with sudden, unaccustomed movement, noise or changes in light levels. The aim should be to pass close enough to the birds to see them clearly and for them to be disturbed and so move away. This will enable the identification of any individual that is sick, injured or weak for appropriate action to be taken by the keeper.

Health and welfare inspections may be linked with other visits to the poultry houses but each inspection should be undertaken as a separate, specific procedure.

Light levels during inspection must be sufficient to ensure that the birds being inspected are clearly visible during that inspection.

While it may not be generally possible to examine each bird individually during routine inspection, a good indication of flock health should be gained on each occasion. Where birds are not being fed on ad lib diets, inspection is particularly effective at feeding time when any birds which are not fit will be slow to feed and can be identified. Individual examination should be made of those birds for which the overall inspection indicates this to be necessary.

Chickens that are injured or show signs of health disorder (including those having difficulties in walking, or reaching food or water, or that have severe ascites or severe malformations), and are likely to suffer, must receive appropriate treatment or be

humanely culled immediately. Dead birds seen during an inspection should be removed from the house without delay and disposed of appropriately.

When any bird is killed at a hatchery or on farm this must be carried out using a permitted method in accordance with the relevant legislation and the procedures included in the health and welfare plan.

Monitoring and follow-up at the slaughterhouse

Conventionally reared meat chickens

Paragraphs 14 and 15 of Part 3, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

- 14 (1) For the purposes of Section III (food chain information) of Annex II to Regulation 853/2004, the daily mortality rate and cumulative daily mortality rate and the hybrid or breed of chickens from a flock with a stocking density in excess of 33 kilograms per m² of usable area is treated as relevant food safety information.
- (2) A food business operator operating a slaughterhouse must –
 - (a) under the supervision of the official veterinarian, record the number of chickens from such a flock that are dead on arrival at the slaughterhouse; and
 - (b) provide that information on request to the official veterinarian.
- 15 (1) An official veterinarian conducting controls under Regulation 854/2004 in relation to chickens must evaluate the results of the post-mortem inspection to identify possible indications of poor welfare conditions in their holding or house of origin.

- (2) If the mortality rate of the chickens or the results of the post-mortem inspection are consistent with poor animal welfare conditions, the official veterinarian must communicate the data to the keeper of those chickens and to the Welsh Ministers without delay.

All meat chickens undergo ante and post-mortem assessment at the slaughterhouse. For conventionally reared meat chickens the results of these assessments are fed into the “trigger system” which was designed in collaboration with Defra, the meat chicken industry, independent poultry veterinary surgeons, welfare organisations and delivery bodies, and has been operating in slaughterhouses since 2010. The system monitors all batches of conventionally reared meat chickens and uses the results of post-mortem inspections carried out at the slaughterhouse to identify possible welfare problems on farm.

The post-mortem conditions currently monitored by the system are listed in Annex 3. The system involves two processes:

Process 1 is designed to identify situations where levels of a condition are exceptionally high, and Process 2 is designed to identify situations where mortality levels are unusually high and, additionally, where the levels of a range of other conditions are above average. Different pre-defined thresholds, known as “trigger levels”, exist for these two processes.

When these thresholds are exceeded, a trigger report is generated and sent to the owner/keeper of the birds. The owner/keeper should consider how best to reduce these levels in future flocks and, where appropriate, seek advice from a veterinary surgeon or another specialist. APHA uses the trigger report information to identify farms at highest risk of non-compliance with animal welfare legislation, and targets inspections to those farms identified as being at highest risk.

Keepers of conventionally reared meat chickens reared above a stocking density of 33 kg/m² of usable area must provide the cumulative daily mortality rate (CDMR) of each house of birds and the hybrid or breed of those birds on the food chain information report. All keepers of conventionally reared meat chickens are encouraged to provide these data as well as the stocking density of the birds at the point of depopulation. CDMR is defined as the sum of daily mortality rates. The daily mortality rate is the number of chickens that have died in a house on the same day, including those that have been culled either because of disease or other reasons, divided by the number of chickens present in the house on that day, multiplied by 100.

The total mortality (i.e. the number of deaths and culls recorded throughout the production cycle divided by the number of birds placed, expressed as a percentage) and cumulative daily mortality figures should not be far apart, but if thinning takes place or if the mortality is high, then the two figures could be quite different. A worked example is provided in Annex 4.

Disease control and biosecurity

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 5 and 6 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

5. Any animals which appear to be ill or injured must be cared for appropriately and without delay; where they do not respond to such care, veterinary advice must be obtained as soon as possible.
6. Where necessary, sick or injured animals must be isolated in suitable accommodation with, where appropriate, dry comfortable bedding.

Conventionally reared meat chickens

Paragraph 12 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

12. After the final depopulation of a house and before a new flock is introduced –
- (a) any part of a house, and any equipment or utensil, which has been in contact with chickens must be thoroughly cleaned and disinfected; and
 - (b) all litter must be removed and clean litter provided.

A disease challenge may first be noticed by a change in water consumption, a reluctance to eat, changes in droppings, changes in litter quality or in the general behaviour of the flock. A marked change in water use should be thoroughly investigated. Veterinary attention should be sought at an early stage in any outbreak of disease so that the cause can be determined and appropriate action taken.

Measures to control diseases caused by external parasites should be taken by using the appropriate parasiticides. It is particularly important to take measures to prevent the establishment of red mite infestation in breeding chicken flocks. These measures must not cause harm to the birds.

All those in contact with birds should practice strict hygiene regarding footwear changes or disinfection and hand washing procedures, in particular when moving between each house, to limit potential introduction and spread of disease. If farm staff keep their own birds at home they should be extra vigilant for signs of disease and even more careful about biosecurity both at home and on the farm. Where possible, waterfowl (i.e. geese and ducks) should be kept separate from other poultry species.

It is recommended that the site be managed so that all houses are empty at the same time to facilitate effective cleaning, disinfection and disinfestation. An “all in – all out” approach with periods when there are no birds on site will also act to provide a disease break. Where multi-age sites are unavoidable, they should be managed according to a regular routine in which the youngest flocks are attended to first, and so on, through to the oldest.

Once empty, bird accommodation should be first dry cleaned to remove organic material, washed and then disinfected. Used litter from conventionally reared meat chickens must be removed from the house and should be removed from the site before re-stocking so as to reduce the risk of carryover of disease. This practice should also be followed for all other meat chickens and breeding birds.

When planning new sites, consideration should be given to providing the maximum possible distance between the proposed site and existing sites to improve biosecurity. A useful guide is the 3km distance that defines the radius of a Protection Zone in the control of notifiable diseases such as highly pathogenic avian influenza. The distance between houses on a site should also be considered, along with the proximity to wild bird sources. (See page 19.)

Inspectors should, wherever possible, comply with the required biosecurity as stipulated by the owner/keeper (and which may be subject to change under changing disease challenges) including personal/private bird contact.

Leg health

Leg disorders with associated lameness can be a key cause of poor welfare in meat chickens. There are many causes of leg disorders leading to poor leg health including those linked to nutrition, microbial infection and genetics. Nutritional deficiencies and imbalances including calcium, phosphorus and vitamin D

can lead to an increase in bone deformities and lameness. Lameness can also be caused by bone or joint infection, so effective prevention and control of viral and bacterial disease plus good litter management are essential.

Welfare and health considerations, in addition to productivity, should be taken into account when choosing a strain for a particular purpose or production system. In line with this, meat chickens should stem from broad breeding programs, which promote and protect health, welfare and productivity. Keeping birds in line with appropriate growth curves that optimise these criteria, particularly with regard to leg health, should be considered.

Keepers should monitor all birds for signs of lameness, leg weakness or abnormal gait on a daily basis as part of the inspection process. When recording mortalities and culls it is useful to record the cause so that lameness can be monitored within and between flocks. For conventionally reared meat chickens, the cause for culls must be recorded and any bird which is suffering should be humanely culled without delay.

Keepers should be particularly vigilant when the risk of lameness is highest, such as towards the end of the production cycle and during the summer months when bird activity may be at its lowest.

Certain management practices can limit or reduce the risk of lameness in a flock. Increasing the activity of meat chickens in the day and encouraging proper rest at night, for example through manipulation of the lighting patterns (increasing light intensity during light periods combined with a longer uninterrupted dark period), can help prevent lameness. Increased activity during the day can also be achieved by enriching the environment, reducing stocking density and the provision of natural light.

If leg disorders develop, management and husbandry practices must be immediately assessed. Any changes required should be instigated as soon as practically possible and where appropriate following veterinary and technical advice of the breed supplier.

If a problem arises with managing litter and bird health, the farmer may choose to grow meat chickens below their maximum performance by making changes to the feed composition, feed structure and feeding routine. This should be carried out with appropriate consideration of the implications for the bird and with appropriate veterinary and technical advice. In addition, the effects of dietary change on litter condition should be closely monitored.

Lameness may develop as a result of infections acquired in the parent flock or hatchery. High standards of biosecurity and hygiene in the parent flock, in the handling of the eggs, at the hatchery and in subsequent handling and transport of the chicks should be maintained.

Prior to crating and loading, an assessment of birds' fitness to travel must be undertaken. Careful consideration should be given by the keeper as to whether any lame birds are legally fit to travel for the proposed journey. If they are not, they should be humanely culled on farm. Birds with severe and painful conditions such as advanced plantar necrosis are unfit for transport. Small or emaciated birds that are likely to be culled on arrival at the slaughterhouse should not be transported but be culled on farm at the time of depopulation.

Buildings and accommodation

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 11 and 12 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

11. Materials used for the construction of accommodation, and in particular for the construction of pens, cages, stalls and equipment with which the animals may come into contact, must not be harmful to them and must be capable of being thoroughly cleaned and disinfected.
12. Accommodation and fittings for securing animals must be constructed and maintained so that there are no sharp edges or protrusions likely to cause injury to them.

Advice on health and welfare aspects should be sought from a knowledgeable advisor and veterinary surgeon before any new buildings are planned or when existing buildings are modified. It is important to ensure that the design of housing and equipment is suitable for the intended use. New methods of husbandry equipment or accommodation for meat and meat breeding chickens are available, for example the use of biomass and underfloor heating. New technologies should only be used when comprehensively tested and found satisfactory for bird health and welfare. Consideration should be given to avoiding the incorporation of equipment which could pose a significant risk of introduction and spread of disease between houses or between farms.

When new accommodation for meat and meat breeding chickens is planned, a suitable site should be selected taking into consideration the risks from outside environmental factors such as noise, light, vibration and atmospheric pollution and from predators.

Where appropriate, advantage should be taken of natural features to provide shelter and to protect birds from predators, rodents and other animals. (See page 17.)

Ventilation, temperature and heat stress

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 13 and 18 to 21 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

13. Air circulation, dust levels, temperature, relative air humidity and gas concentrations must be kept within limits which are not harmful to the animals.
18. All automated or mechanical equipment essential for the health and well-being of the animals must be inspected at least once a day to check that there is no defect in it.
19. Where defects in automated or mechanical equipment of the type referred to in paragraph 18 are discovered, these must be rectified immediately or, if this is impossible, appropriate steps must be taken to safeguard the health and well-being of the animals pending the rectification of those defects including the use of alternative methods of feeding and watering and methods of providing and maintaining a satisfactory environment.
20. Where the health and well-being of the animals is dependent on an artificial ventilation system –
 - (a) provision must be made for an appropriate back-up system to guarantee sufficient air renewal to preserve the health and well-being of

the animals in the event of failure of the system; and

- (b) an alarm system (which will operate even if the principal electricity supply to it has failed) must be provided to give warning of any failure of the system

21. The back-up system referred to in paragraph 20(a) must be thoroughly inspected and the alarm system referred to in paragraph 20(b) tested at least once every seven days in order to check that there is no defect, and, if any defect is found at any time, it must be rectified immediately. Conventionally reared meat chickens

Conventionally reared meat chickens

Paragraph 8 (1) and (2) of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 8 (1) Ventilation must be sufficient to avoid overheating.
- (2) Ventilation, in combination with heating systems, must be sufficient to remove excessive moisture.

For birds being stocked at the higher densities (i.e. above 33kg/m²) paragraph 5 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states in addition to paragraph 8 (1) and (2):

- 5. The keeper must –
 - (a) maintain and, on request, make available to the Welsh Ministers, documentation in the house giving a detailed description of the production systems, in particular information on technical details of the house and its equipment, including –
 - (i) a plan of the house including the dimensions of the surfaces occupied by the chickens;

- (ii) ventilation and any relevant cooling and heating system (including their location), and a ventilation plan, detailing target air quality parameters (such as airflow, air speed and temperature);
- (iii) feeding and watering systems (and their location);
- (iv) alarm and backup systems in the event of a failure of any equipment essential for the health and well-being of the chickens;
- (v) floor type and litter normally used; and
- (vi) records of technical inspections of the ventilation and alarm systems;

- (b) keep up to date the documentation referred to in subparagraph (a);
- (c) ensure that each house is equipped with ventilation, and if necessary, heating and cooling systems designed, constructed and operated in such a way that –
 - (i) the concentration of ammonia does not exceed 20 parts per million and the concentration of carbon dioxide does not exceed 3,000 parts per million, when measured at the level of the chickens' heads;
 - (ii) when the outside temperature measured in the shade exceeds 30°C, the inside temperature does not exceed the outside temperature by more than 3°C; and
 - (iii) when the outside temperature is below 10°C, the average relative humidity measured inside the house during a continuous period of 48 hours does not exceed 70%.

Ventilation rates, air distribution and house conditions must at all times be adequate to provide sufficient fresh air appropriate for the age of the birds, without draughts, and keep the litter dry and friable. Air quality, including dust level and concentrations of carbon monoxide, should be controlled and kept within limits where the welfare of the birds is not negatively affected.

The ventilation appropriate to the growth profile of the flock should be documented and available as guidance for the keeper.

Chicks should be placed in a pre-heated house or with brooders when they arrive and their behaviour monitored carefully. Young chicks are particularly susceptible to extremes of temperature and an even distribution of the chicks in the house will indicate that they are thermally comfortable. After 4-5 weeks birds can tolerate a fairly wide range of temperatures but every effort should be made to avoid creating conditions which will lead to chilling, huddling and subsequent smothering. In addition, low temperatures have been associated with increased susceptibility to conditions such as ascites.

In less well insulated buildings stocked at the higher densities, additional heat, coupled with a higher level of ventilation, may be required to reduce relative humidity levels below 70%.

Birds should not be exposed to strong, direct sunlight or hot, humid conditions long enough to cause heat stress as indicated by prolonged panting. Housing affects the birds' ability to maintain their normal body temperature but under any management system ambient temperatures high enough to cause prolonged panting may occur, particularly when humidity is relatively high. All accommodation should therefore be designed so that its ventilation is adequate to protect the birds from overheating under any weather conditions that can reasonably be foreseen. Attention should be paid to air throughput, distribution and

especially increasing air speed at bird level during periods of hot weather.

Owners and keepers should plan ahead to avoid heat stress. It is their responsibility to ensure that appropriate measures are taken, based on the design of the building, its locality and the predictable maximum temperature/humidity, to avoid heat stress. During periods of high temperatures and humidity, consideration should be given to reducing the planned stocking density at the time of ordering or placing day-old chicks.

During hot and humid conditions, the birds should be checked more frequently, but not disturbed unduly.

Portable back-up fans can help to increase ventilation during periods of hot and humid weather. The air temperature within a building may be reduced by improved insulation and the correct use of evaporative cooling of incoming air, taking care to avoid a combination of high temperature and high humidity. Spraying of cold water on the roof should be considered as a last resort and only when temperature and humidity levels are excessive. The heat output of the birds may be reduced by lowering stocking density or changing the feeding patterns.

Additional ventilation requirements for conventionally reared meat chickens stocked above 33 kg/m²

For flocks stocked at densities in excess of 33 kg/m², it is suggested that an air speed of at least 1 m/second be provided over as much of the floor area as is possible in conventionally ventilated buildings. In buildings with tunnel ventilation capability, the suggested air speed is at least 2 m/second. For naturally ventilated buildings, inlets and outlets should be sufficiently large to allow as high an air speed as possible over the birds. Free-standing fans can be introduced to provide additional air movement at bird level.⁷⁸ The keeper must have available for each house the following documented information:

- (i) information on the technical details of the ventilation and, if relevant, the cooling and heating system including their location, the size of the inlets and outlets and fan numbers, size and anticipated performance
- (ii) a ventilation plan, and
- (iii) records of technical inspections of the ventilation and alarm systems.

The ventilation plan should provide details of the operational parameters such as airflow, air speed and temperature that will ensure that:

- (i) the concentration of ammonia (NH_3) does not exceed 20 parts per million measured at the level of the chickens' heads
- (ii) the concentration of carbon dioxide (CO_2) does not exceed 3,000 parts per million at the level of the chickens' heads
- (iii) the inside temperature, when the outside temperature measured in the shade exceeds 30°C , does not exceed this outside temperature by more than 3°C , and
- (iv) the average relative humidity measured inside the house during 48 hours does not exceed 70% when the outside temperature is below 10°C . It is recommended that relative humidity be measured daily and the average should not exceed 70% when the outside temperature is continually below 10°C for any 48 hour period.

Evidence that the plan is meeting these operational requirements may be provided by maintaining a record of direct measurements of NH_3 , CO_2 , relative humidity and temperatures.

Continuous measurement of CO_2 and NH_3 is not required but, as a minimum, measurements of CO_2 and NH_3 should be taken when there is risk of excessive build-up of these agents. Usually for CO_2 this is during brooding and for NH_3 during periods of maximum stocking density, especially during colder weather.

The plan should also include details of the alarm and back-up systems and a procedure for dealing with heat stress. (See page 25.)

The ventilation plan should be revised whenever there are any major changes to the structure of the house or to the ventilation system.

It is recommended that, between crops, a visual inspection be made of the air inlets and fans. Heaters, temperature probes and the control system should also be checked to ensure they are functioning correctly. It is also advisable to carry out periodic safety checks on the electrical and gas installations. A record of these technical inspections of the ventilation and alarm systems must be made.

Lighting

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 14 to 16 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

- 14. Animals kept in buildings must not be kept in permanent darkness.
- 15. Where the natural light available in a building is insufficient to meet the physiological or ethological needs of any animals being kept in it, appropriate artificial lighting must be provided.
- 16. Animals kept in buildings must not be kept without an appropriate period of rest from artificial lighting.

Conventionally reared meat chickens

Paragraph 10 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 10 (1) All houses must have lighting with an intensity of at least 20 lux during the lighting periods, measured at bird eye level and illuminating at least 80% of the usable area.
- (2) A temporary reduction from that lighting level is permitted where necessary following veterinary advice.
- (3) Within 7 days from the time when the chickens are placed in the house and until 3 days before the expected time of slaughter, the lighting must follow a 24-hour rhythm and include periods of darkness lasting at least 6 hours in total, with at least one uninterrupted period of darkness of at least 4 hours, excluding dimming periods.

All meat chickens should be housed at light levels which allow them to see clearly and which stimulate activity. This can be achieved by lighting systems using natural or artificial lighting or a combination of both, maintained and operated to give a minimum light of 20 lux at bird eye height over at least 80% of the usable area. If light levels are reduced at thinning to keep birds calm, the light should be returned to a minimum of 20 lux without delay if any birds remain in the house after thinning. A gradual increase in light intensity at this time, similar to a dawn or dusk period, could reduce the risk of back scratching. Where there is concern that returning the lights to 20 lux will result in compromised bird welfare, a temporary reduction in lighting level is permitted on a case-by-case basis but only as a result of following veterinary advice on each occasion.

Conventionally reared meat chickens must be given a period of darkness lasting at least 6 hours in each 24 hour period, with at least one uninterrupted period of darkness of at least 4 hours, excluding dimming periods. It is good practice for all meat chickens to be reared to this standard and preferably the period of darkness provided should be uninterrupted, lasting at least 6 hours in a 24 hour rhythm. Keepers should be mindful that the lights being switched back on after the dark period is likely to lead to a significant increase in bird activity which may cause problems such as back scratching. Greater attention to management practices will therefore be required to ensure that the birds' welfare is maintained when the light is restored. For example, sufficient feeders and drinkers should be available to allow all birds to eat and drink at the same time following the period of rest. Attention will also need to be paid to litter condition, particularly under nipple drinker lines, which could become wet due to the number of birds drinking at the same time. If this is the case, the addition of more litter should be considered.

A "dawn and dusk" light provision with gradual increases and reductions in lighting may help manage the change in activity levels of the birds. Buildings that expose birds to natural daylight can effectively provide this transition and the natural wavelength light spectrum may have additional beneficial effects on bird behaviour. However, there should be a facility to reduce exposure to natural daylight if bird welfare is compromised by high light levels, for example, scratching or injurious pecking, or for specific management procedures, for example, catching.

In the first 7 days following placing of the birds in the house, chicks should be provided with sufficient lighting to ensure that they can easily find feed and water.

Litter

All meat chickens – including breeding birds and those at hatcheries (except for conventionally reared)

Regulation 5 of the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 5 (1) A person responsible for -
- (a) poultry (other than those kept in the systems referred to in Schedules 2 to 4) kept in a building must ensure that they are kept on, or have access at all times to, well-maintained litter or a well-drained area for resting.

Conventionally reared meat chickens

Paragraph 7 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

7. All chickens must have permanent access to litter which is dry and friable on the surface.

Meat breeding chickens spend their lives in contact with litter and their health and welfare are linked to its quality. Conditions such as hock burn, foot pad lesions and breast blisters are usually consequences of poor litter quality. Well-designed equipment and high standards of management are important if good litter quality is to be maintained. The ventilation capacity should be sufficient to remove excess moisture. The feed composition should be well balanced to avoid problems with wet or sticky droppings. Specialist advice should be sought and acted on and stocking density should be reduced in subsequent flocks if poor litter quality cannot be rectified. (See page 27.)

The material that is used as litter must be selected to ensure that it is of an appropriate quality. It must be suitable to provide a

dry bedding material and must not contain anything that could be toxic or cause injury to the chickens. For conventionally reared meat chickens, litter must be friable (loose) and dry on the surface, and this is recommended for all systems of production.

Measures should be taken to minimise the risk of mould and mite infestation. Litter should be inspected frequently for signs of deterioration, especially in those areas of the house at risk, such as under drinkers or near the walls, and appropriate action should be taken to rectify any problem. Litter should also be inspected to ensure it does not become excessively wet or dusty. A drinker system which minimises water spillage should be used, such as water nipples with drip cups positioned at an appropriate height for all birds. Nipple drinkers without cups may be used if they are well managed and the water pressure is checked frequently to ensure there is no leakage.

Automatic or mechanical equipment

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 18 to 21 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

- 18. All automated or mechanical equipment essential for the health and well-being of the animals must be inspected at least once a day to check that there is no defect in it.
- 19. Where defects in automated or mechanical equipment of the type referred to in paragraph 18 are discovered, these must be rectified immediately or, if this is impossible, appropriate steps must be taken to

safeguard the health and well-being of the animals pending the rectification of those defects including the use of alternative methods of feeding and watering and methods of providing and maintaining a satisfactory environment.

20. Where the health and well-being of the animals is dependent on an artificial ventilation system –

- (a) provision must be made for an appropriate back-up system to guarantee sufficient air renewal to preserve the health and well-being of the animals in the event of failure of the system; and
- (b) an alarm system (which will operate even if the principal electricity supply to it has failed) must be provided to give warning of any failure of the system.

21. The back-up system referred to in paragraph 20(a) must be thoroughly inspected and the alarm system referred to in paragraph 20(b) tested at least once every seven days in order to check that there is no defect, and, if any defect is found at any time, it must be rectified immediately.

Conventionally reared meat chickens

Paragraph 9 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

9. In all houses –
- (a) the sound level must be minimised; and
 - (b) ventilation fans, feeding machinery or other equipment must be constructed, placed, operated and maintained in such a way that they cause the least possible amount of noise.

All equipment and services, including feed hoppers, feed chain and delivery systems, drinkers, ventilating fans, heating and lighting

units, fire extinguishers and alarm systems should be cleaned, inspected and maintained regularly and kept in good working order. Generators or other energy backup systems must also be available and tested and maintained regularly.

Ventilation, heating, lighting, feeding, watering and all other equipment or electrical installation should be designed, sited and installed so as to avoid risk of injuring the birds.

All automated equipment upon which the birds' welfare is dependent should incorporate a fail-safe or standby device and an alarm system to warn the keeper of failure. Defects must be rectified immediately or other temporary measures taken to safeguard the health and welfare of the birds until the problem has been rectified. Alternative ways of feeding and of maintaining a satisfactory environment should therefore be ready for use.

Environmental enrichment

The process of environmental enrichment ultimately provides the bird with more choice in its activities, which can be more easily provided in some systems than others.

Environmental enrichment can improve bird health and welfare by reducing disturbances, aggression, injurious pecking, fear responses and stress and improving leg health by increasing the level of physical exercise.

Providing birds with straw bales, perches, low barriers and pecking objects (such as brassicas, scattered whole grain and bales of shavings), can significantly increase the amount of time the birds spend standing, walking and running; reduce the amount of time birds spend sitting and resting; and reduce injurious pecking and the number of aggressive interactions between birds.

Stocking density and freedom of movement

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 9 and 10 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

9. The freedom of movement of animals, having regard to their species and in accordance with good practice and scientific knowledge, must not be restricted in such a way as to cause them unnecessary suffering or injury.
 10. Where animals are continuously or regularly tethered or confined, they must be given the space appropriate to their physiological and ethological needs in accordance with good practice and scientific knowledge.
- (2) Notification must be made in such manner and form as the Welsh Ministers may require.
 - (3) Notification (including notification of any change) must be given at least 15 working days before stocking at that density or changed density takes place.
 - (4) In this paragraph “working day” means a day other than a Saturday or a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in Wales and Wales under the Banking and Financial Dealings Act 1971.
5. The requirements of this paragraph are that the keeper must –
 - (a) maintain and, on request, make available to the Welsh Ministers, documentation in the house giving a detailed description of the production systems, in particular information on

Conventionally reared meat chickens

Paragraphs 3 to 5 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

- 3 (1) Unless sub-paragraph (2) applies, the stocking density must not exceed 33 kilograms per m² of usable area.
 - (2) A stocking density in excess of 33 kilograms and up to 39 kilograms per m² of usable area may be used if the requirements of paragraph 5 are complied with.
 - 4 (1) A keeper must ensure that the Welsh Ministers are notified of the intended stocking density of each house where it is intended to keep chickens at a density in excess of 33 kilograms per m² of usable area, and of any subsequent change to that notified density.
- (2) A stocking density in excess of 33 kilograms and up to 39 kilograms per m² of usable area may be used if the requirements of paragraph 5 are complied with technical details of the house and its equipment, including –
 - (i) a plan of the house including the dimensions of the surfaces occupied by the chickens;
 - (ii) ventilation and any relevant cooling and heating system (including their location), and a ventilation plan, detailing target air quality parameters (such as airflow, air speed and temperature);
 - (iii) feeding and watering systems (and their location);

- (iv) alarm and backup systems in the event of a failure of any equipment essential for the health and well-being of the chickens;
- (v) floor type and litter normally used; and
- (vi) records of technical inspections of the ventilation and alarm systems;
- (b) keep up to date the documentation referred to in subparagraph (a);
- (c) ensure that each house is equipped with ventilation and, if necessary, heating and cooling systems designed, constructed and operated in such a way that –
 - (i) the concentration of ammonia does not exceed 20 parts per million and the concentration of carbon dioxide does not exceed 3,000 parts per million, when measured at the level of the chickens' heads;
 - (ii) when the outside temperature measured in the shade exceeds 30°C, the inside temperature does not exceed the outside temperature by more than 3°C; and
 - (iii) when the outside temperature is below 10°C, the average relative humidity measured inside the house during a continuous period of 48 hours does not exceed 70%.

Various factors need to be taken into account to promote good welfare when setting and monitoring stocking densities. The observance of any particular maximum stocking density is important but cannot, by itself, ensure the welfare of the birds. There is a close relationship between stockmanship, litter management, environmental control and stocking density. Birds will be maintained in good condition only if the balance is right and the onus is on the owner/keeper to demonstrate that welfare is not compromised whatever the stocking density.

The decision to stock at a particular density should be made on a house basis and should take account of house-specific management factors. There are several management factors that should influence the keeper's decision to stock at a particular density. These include the health and welfare measures of previous flocks, such as reports from the slaughterhouse, and the limitations of the environmental controls within a house, which may vary by season and weather conditions. In order to stock conventionally reared meat chickens above 33kg/m² there must be compliance with the additional factors set out in legislation.

Irrespective of the type of system, all meat chickens should have sufficient freedom of movement to be able, without difficulty, to stand normally, turn around and stretch their wings. They should also have sufficient space to be able to sit without interference from other birds.

Appropriate advice should be taken if problems occur, in particular in conditions of excessive heat or humidity due to inadequate ventilation and poor litter quality. If disease or environmental problems arise in a particular building or system, reducing the stocking density in subsequent flocks may lessen the likelihood of recurrence. Consideration should be given in advance of predicted hot weather to stocking at a reduced density.

Thinning is stressful for the birds and should be avoided. If thinning is undertaken, it should be carried out with care to maintain biosecurity and to ensure minimal disturbance to birds whose feed and water have been temporarily withdrawn. A written protocol should specify procedures to minimise the effect on the birds and the biosecurity risk, including the risk of introducing zoonotic diseases into the flock, and procedures to minimise feed and water withdrawal.

For conventionally reared meat chickens, notification to the Welsh Ministers of intended stocking density of each house was made in 2010 via a form sent by APHA to all known keepers. If keepers change the stocking density of birds reared in a house from that notified in 2010 or build new houses, APHA must be notified 15 working days before the birds are placed. This notification should be made by sending the form referenced at Annex 2.

Mutilations

All meat chickens – including breeding birds and those at hatcheries

Section 5 of the Animal Welfare Act 2006 states:

- 5 (1) A person commits an offence if–
- (a) he carries out a prohibited procedure on a protected animal;
 - (b) he causes such a procedure to be carried out on such an animal.
- (2) A person commits an offence if–
- (a) he is responsible for an animal,
 - (b) another person carries out a prohibited procedure on the animal, and he permitted that to happen or failed to take such steps (whether by way of supervising the other person or otherwise) as were reasonable in all the circumstances to prevent that happening.
- (3) References in this section to the carrying out of a prohibited procedure on an animal are to the carrying out of a procedure which involves interference with the sensitive tissues or bone structure of the animal, otherwise than for the purpose of its medical treatment
- (4) Subsections (1) and (2) do not apply in such circumstances as the appropriate national authority may specify by regulations.

The Mutilations (Permitted Procedures) (Wales) Regulations 2007 allow veterinary surgeons or other persons permitted to carry out the procedures under the Veterinary Surgeons Act 1966 or the Veterinary

Surgeons (Exemptions) Order 1962, to carry out a number of permitted procedures on specified animals, including poultry.

Conventionally reared meat chickens

Schedule 4 (A1) of the Mutilations (Permitted Procedures) (Wales) Regulations 2007 states:

- A1. None of the procedures listed in the section on birds in Schedule 1, apart from beak trimming (see paragraph 5), may be performed on –
- (1) conventionally reared meat chickens.

All mutilations of chickens are banned under the Animal Welfare Act 2006.

The Mutilations (Permitted Procedures) (Wales) Regulations 2007 exempts certain procedures (see Annex 5) from this ban, provided that they are carried out by a person permitted to carry out the procedure and:

- in accordance with the relevant requirements in the schedules
- in such a way as to minimise the pain and suffering it causes to the animal
- in hygienic conditions, and
- in accordance with good practice.

Mutilations can cause pain to chickens and should only be carried out where necessary to avoid a worse welfare outcome. They should only be applied after having sought appropriate advice on possible alternative interventions in each case and not as a routine practice.

Beak trimming

All meat chickens – including breeding birds and those at hatcheries

Paragraph 5 (1) to (3) of Schedule 4 to the Mutilations (Permitted Procedures) (Wales) Regulations 2007 states:

- 5 (1) For all poultry, the beak trimming procedure must be performed using e.g. for breeding stock a suitable instrument.
- (2) For all poultry, any subsequent haemorrhage from the beak must be arrested by cauterisation.
- (3) For all poultry the procedure must be performed on –
 - (a) both the upper and lower beaks, with not more than one third of each removed, or
 - (b) the upper beak only, with not more than one third removed

Consideration should be given to environmental enrichment as a means of avoiding the necessity to beak trim. Possible methods of environmental enrichment should be risk assessed against introduction of pathogens and include the provision of straw bales or brassicas or scattering of whole grain. (See page 25.) Nutritional deficiencies in feed should be investigated as a possible cause of any incident of injurious pecking.

Beak trimming of meat chickens is not recommended and should not be necessary because they are normally slaughtered before reaching sexual maturity. However, if necessary, this should be done using infra-red technology before 10 days of age, preferably at day old. Beak trimming of older birds should only be carried out in an emergency when advised by a veterinary surgeon. (See page 36 for guidance on beak trimming of breeding birds.)

Conventionally reared meat chickens

Paragraph 5 (6) of Schedule 4 to the Mutilations (Permitted Procedures) (Wales) Regulations 2007 states:

- 5 (6) For conventionally reared meat chickens the procedure –
 - (a) may only be performed in order to prevent feather pecking and cannibalism;
 - (b) may not be performed on birds which are aged 10 days or over;
 - (c) must be carried out by a person who has been provided with suitable and sufficient information, instruction and training so that they are qualified to perform the procedure; and
 - (d) must only be carried out following a consultation and on the advice of a veterinarian.

Record Keeping

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 7 and 8 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

7. A record must be maintained of-
 - (a) any medical treatment given to animals: and
 - (b) the number of mortalities found on each inspection of animals carried out in accordance with...
 - (iv) in any other case, paragraph 2(1) or (2) of this schedule.
8. The record referred to in paragraph 7 must be retained for a period of at least three years from the date on which the medical treatment was given, or the date of the inspection, and must be made available to an inspector on request.

- (e) the number of chickens remaining in the flock following the removal of chickens for sale or slaughter.
- (2) The record must be retained for at least 3 years.

Additional records are required for conventionally reared meat chickens and these can be found in the “Ventilation, temperature and heat stress” and “Monitoring and follow-up at the slaughterhouse” sections of this Code.

As well as these record keeping requirements, a number of other legislative provisions exist for record keeping on farm. These are set out in Annex 1.

Conventionally reared meat chickens

Paragraph 13 of Part 2, Schedule 5A to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

- 13 (1)
 - (a) A keeper must maintain, for each house, a record of –
 - (b) the number of chickens introduced; the usable area;
 - (c) the hybrid or breed of the chickens (if known);
 - (d) the number of chickens found dead, with an indication of the causes (if known), as well as the number of chickens culled with cause, on each inspection; and

Contingency planning

Measures should also be put in place for contingency planning following an assessment of possible hazards. Such plans should deal with events such as:

- the disruption of feed, power or water supply, including failure of automated systems
- heat stress
- natural disasters such as flooding
- fires
- arrangements for allowing rapid entry to locked buildings in case of emergency, for example by providing clear instruction on emergency contact details
- arrangements for dealing with restrictions placed in case of notifiable disease, including dealing with delays in moving birds to slaughter and the compulsory temporary housing of free-range birds, and
- arrangements for both killing and disposal of flocks when depopulation is required in the event of notifiable disease or due to contamination of feed or pasture with toxins.

Section 2: Additional recommendations for free range systems

All meat chickens – including breeding birds and those at hatcheries

Paragraph 17 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) states:

17. Animals not kept in buildings must, where necessary and possible, be given protection from adverse weather conditions, predators and risks to their health and must, at all times, have access to a well-drained lying area.

Land on which free range birds are kept for prolonged periods may become “fowl sick”, i.e. contaminated with organisms which cause or carry disease to an extent which could seriously prejudice the health of the birds on the land. Birds should be routinely monitored to check for signs indicative of a build-up of pathogens on the land.

The time taken for land to become fowl sick depends on the type of land and stocking density. Appropriate measures should be taken to prevent fowl sickness or to provide a new ranging area by moving the housing (in the case of portable units) or by rotating the ranging area outside fixed buildings.

Sufficient housing should be available to the birds at all times. It may be necessary to exclude birds from the range, for example in bad weather or in the event of a compulsory housing order (Avian Influenza Protection Zone) being issued during a notifiable disease outbreak, if there is a danger that their health and welfare will be compromised.

Birds should be encouraged to use the outdoor area. Provision of adequate, suitable and properly managed vegetation, overhead cover forming corridors leading out from the house and distributed around the range and a supply of fresh water away from the house, will help induce the birds to range. Feed should not be routinely provided outdoors but, where this is unavoidable, measures should be taken to avoid attracting wild birds, rodents and other animals into the flock. If ponds are located on or near to the range area, they should be fenced off and/or netted to discourage wild birds, in particular water fowl, from landing.

Factors such as soil type, drainage, size of colony and frequency of flock rotation are very important in deciding the number of birds that a particular area can carry. Heavy, poorly drained soil can support fewer birds than land which is light and well drained.

Section 3: Additional recommendations for meat breeding and grandparent chickens

Breeding birds for meat chickens have been selected for a balance of many traits, including those relating to the production of fertilised eggs and those relating to the production of chicken meat. Consequently, their husbandry requirements are quite different from those of their progeny. Highly competent stockmanship, a high standard of housing and equipment and good control of the environment are essential.

Breeding procedures

All meat chickens – including breeding birds and those at hatcheries

Paragraphs 28 and 29 of Schedule 1 to the Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) state:

- 28 (1) Natural or artificial breeding or breeding procedures which cause, or are likely to cause, suffering or injury to any of the animals concerned, must not be practiced.
- (2) Sub-paragraph (1) does not preclude the use of natural or artificial breeding procedures that are likely to cause minimal or momentary suffering or injury or that might necessitate interventions which would not cause lasting injury.
29. Animals may only be kept for farming purposes if it can reasonably be expected, on the basis of their genotype or phenotype, that they can be kept without any detrimental effect on their health or welfare.

Birds should come from balanced breeding programmes, promoting and protecting health, welfare and production goals simultaneously.

Identification of birds should be encouraged, to enable future feedback of information within the breeding pyramid and better application of breeding for welfare, based on data from the supply chain.

Husbandry measures and practices on the breeding farm should be designed to minimise floor eggs and heavily soiled eggs should not be sent as hatching eggs. Littered nests are preferred by breeding females and may reduce the number of floor eggs if litter substrate is placed in a nest, whatever the base type (metal, wood, rubber mat).

Surplus chicks and embryos in hatchery waste or resulting from on-farm hatching should be killed humanely by a trained and competent person and in accordance with the specific welfare at the time of killing legislation.

Feed and water

The rearing and management of meat breeding chickens is a careful balance of appropriate feeding and light management in the puberty phase and appropriate management in lay, so that birds achieve an optimal growth and maintain persistency of lay.

In the rearing phase, an appropriate growth curve for the breed should be followed. During rearing, feed intake should be balanced to avoid birds being fed too much which could lead to excessive weight gain, increases in mortality and seriously compromised health, welfare and production.

However, if feed intake is restricted too much, the birds are likely to experience stress and hunger. Balancing the control of feed intake, with growth and feed type, is necessary to ensure the optimal transition of the birds into adulthood.

With breeder hens and active cockerels in the reproductive phase, feed supply should be continuously adjusted to real production so that the birds thrive and produce well, and do not lose weight. It is particularly important that the needs of the individual birds should be catered for and the flock carefully monitored by experienced staff with the appropriate skills.

Birds must be offered food at least daily throughout the production cycle with the exception of the day of transportation as they travel more comfortably with an empty crop. Increased feed should be given to breeding birds on the day before travel and water should be made available up to the time of catching.

Particular attention should be paid to ensure that all birds get an appropriate quantity of the feed made available to avoid undue competition. Feeding equipment should be capable of delivering small quantities rapidly, accurately and evenly to all birds in the house and the amount of trough space allocated should allow adequate access to feed for all birds intended to be fed. Feed should have good physical qualities, for example hard pellets. Scatter feeding reduces displacement behaviours and increases foraging. If feed is scattered, it should be distributed over a sufficient area to allow access for all birds to be fed.

In addition to routine daily checks, the body weight and condition of the birds should be systematically monitored on a weekly basis. Prompt, appropriate adjustments should be made to feed allocation according to what is found.

The nutritional quality of breeding chicken feed must be carefully monitored and controlled, especially with regard to micronutrients and protein. It is advisable to check nutritional content of rations to confirm it contains the right specification especially if any problems arise. The keeper should be particularly vigilant after changes in feed batches.

During the first 6 weeks of life, feed levels should be adequate to ensure good skeletal development. The level of feed intake throughout rearing should be managed to achieve a steady daily growth rate and not be less than that recommended in the breeders' manuals.

Birds whose feed quantity is controlled may show increased drinking and displacement behaviour such as environmental pecking (for example pecking at the empty feeder and the wall or "spot" pecking). (See page 36.) Higher water intakes can impact negatively on litter quality. Increasing the fibre content of the feed increases the time taken for birds to consume their food and can reduce their water intake, thereby improving litter condition. This has no negative impact on subsequent egg production, weight or quality of the breeding birds.

It may be necessary to manage the supply of water in relation to the feeding system and programme to reduce excessive drinking and to maintain litter quality. However, an adequate supply of fresh drinking water must be provided each day. When access to water is time limited it is vital that there is generous provision of drinkers with adequate flow to enable all birds to drink without undue competition.

During lay, cockerels and hens have different nutritional requirements and may be fed differently within the same house. The equipment used to prevent cockerels taking feed intended for hens should be carefully adjusted to ensure that access for hens is maintained and cockerels are not injured. However, some systems and stages in the flock cycle require both males and females to be fed similar amounts of feed together and so it may be desirable to remove cockerel excluders from female feeding systems. Breeding birds must not be induced to moult by stopping feed and water.

Aggression, injurious pecking and enrichment

The provision of enrichment such as unopened bales of shavings, good quality straw, scattering of bio-secure wholegrain or other enrichment to encourage normal scratching and pecking behaviour, may help to prevent or reduce injurious and aggressive pecking in the rearing period which adversely affects the welfare of the birds.

To enrich the environment, insoluble grit should be offered (either spread on the litter or supplied in separate containers, in a measured amount) from about 6 weeks of age. This will also help the gizzard to break down any litter or feathers which may have been consumed and encourage scratching. Foraging behaviour has the added advantage of improving litter quality. Suitable perches in the rearing house may provide a form of enrichment to aid the birds in performing another of their natural behaviours. Perches will also aid the birds' adaptation from litter to raised, perforated floors when they move to the laying phase.

Beak trimming

All meat chickens – including breeding birds and those at hatcheries

Paragraph 5 (1) to (3) of Schedule 4 to the Mutilations (Permitted Procedures) (Wales) Regulations 2007 states:

- 5 (1) For all poultry, the beak trimming procedure must be performed using a suitable instrument.
- (2) For all poultry, any subsequent haemorrhage from the beak must be arrested by cauterisation.
- (3) For all poultry the procedure must be performed on –
 - (a) both the upper and lower beaks, with not more than one third of each removed, or
 - (b) the upper beak only, with not more than one third removed.

It is not usually necessary to beak trim female breeding and grandparent chicks routinely. For male breeding and grandparent chicks, beak trimming may be necessary to prevent injury to other birds from aggressive or injurious pecking. If so, only the tip of the beak should be removed from these chicks. This should be done using infra-red technology before 10 days of age, preferably at day old. Beak trimming of older birds should only be carried out in an emergency when advised by a veterinary surgeon.

Buildings and accommodation

As with other meat chickens, meat breeding and grandparent birds should be reared in houses in which temperature, humidity, ventilation rates, light levels and photoperiods are carefully regulated. A well designed house will incorporate ventilation and heating systems, effective light-proofing and a lighting system providing controllable light levels with uniform distribution.

Ventilation rates, air distribution and house conditions must at all times be adequate to provide sufficient fresh air appropriate for the age of the birds, without draughts. Air quality, including dust levels and concentrations of carbon monoxide, should be controlled and kept within limits where the welfare of the birds is not negatively affected.

Breeder chickens on controlled feed are more susceptible to low temperatures but less so to high temperatures. If the temperature is allowed to fall there may be a need to increase feed or provide heaters.

Recommended minimum light intensities and photoperiods for meat breeding and grandparent birds are as follows, but higher light intensity should preferably be provided during rearing:

Age	Light intensity	Uninterrupted day length
Day old	60 lux minimum reducing to 10 lux by 10 days of age	Minimum of 8 hours
Up to point of lay	10 lux minimum	Minimum of 8 hours
In lay	20 lux minimum	Increasing from 8 hours to a maximum of 18 hours

Light intensity should be measured at bird eye level height. If aggression or injurious pecking occurs, the lights should be dimmed for a few days and other measures considered to reduce the behaviour. After the first few days, there should be a set period of at least 6 hours of dark, including at least 4 continuous hours of darkness, in any 24 hour period.

Careful attention should be paid to the hen to cockerel ratio (numbers, maturity, weight) to ensure the development of optimal male-female relationships and avoid aggression from females towards immature males, or to protect hens from the presence of too many mature cockerels in the breeder house. Where relationship problems occur, consideration should be given to providing barriers which can reduce stress in females by allowing them to retreat from cockerels.

Stocking density and freedom of movement

Stocking density for meat breeding birds should not exceed 25 kg/m² calculated by dividing the total weight of all the birds (males and females) in the house by total area available to the birds. In calculating this area, consideration should be given to the space taken up by equipment in the house.

Various factors need to be taken into account to promote good welfare when setting and monitoring stocking densities. The observance of any particular maximum stocking density is important but cannot, by itself, ensure the welfare of the birds. There is a close relationship between stockmanship, litter management, environmental control and stocking density. Birds will be maintained in good condition only if the balance is right and the onus is on the keeper to demonstrate that welfare is not compromised whatever the stocking density.

The decision to stock at a particular density should be made on a house basis and should take account of house-specific management factors.

Irrespective of the type of system, all meat breeding chickens should have sufficient freedom of movement to be able, without difficulty, to stand normally, turn around, stretch their wings and perform breeding behaviours.

Litter

As for all meat chickens, litter must be maintained in good condition to avoid possible leg problems, footpad lesions, respiratory and environmental problems. Particular attention must be paid to maintaining ventilation levels and to air movement patterns to avoid draughts at litter level, as well as the addition of litter as required.

In winter, supplementary heating should be available if needed to maintain the correct temperature in breeder houses and prevent deterioration in air and litter quality resulting in respiratory, leg and foot pad problems.

Catching, handling and transport

When birds are transferred to laying facilities, care should be taken when lifting them out of a crate or when tipping them out of an open-topped container. Birds should have immediate access to water on arrival, especially where slats are fitted.

Annex 1: Other legislation affecting meat chickens, meat breeding birds and hatcheries

The main requirements are summarised below. This does not represent an exhaustive list and note that some legislation is regularly updated and/or amended. All UK legislation can be found at: www.legislation.gov.uk

Transport

For information on transporting meat chickens see:

- Council Regulation (EC) No 1/2005 (the protection of animals during transport and related operations)
- the Welfare of Animals (Transport) (Wales) Order 2006, and
- associated guidance.

Slaughter

For information on welfare at slaughter and killing meat chickens see:

- Council Regulation (EC) No 1099/2009 (the protection of animals at the time of killing), and associated domestic legislation and guidance

Free range and organic systems

For poultry meat marketing criteria (e.g. requirements for use of special marketing terms such as 'free range') including stocking density, feed requirements, range access, and minimum age at slaughter see:

- Commission Regulation (EC) No 543/2008

The requirements are forced in Wales by the Poultrymeat (Wales) Regulations 2011. Separate enforcement provisions exist for England, Scotland and Northern Ireland.

For organic production requirements see:

- Council Regulation (EC) No 843/2007
- Commission Regulation (EC) No 889/2008

The requirements are enforced in the UK by the Organic Products Regulations 2009.

Food hygiene

For specific hygiene rules on the hygiene of foodstuffs see:

- Regulation (EC) 853/2004 of the European Parliament and of the Council

Section III of Annex II of this Regulation requires food business operators operating slaughterhouses, as appropriate, to request, receive, check and act upon food chain information as set out in this Section in respect of all animals, other than wild game, sent or intended to be sent to the slaughterhouse.

Record keeping

See the following:

The Avian Influenza (Preventative Measures) (Wales) Regulations 2006 requires those keeping 50 birds or more to register their flock with APHA.

The Control of Salmonella in Poultry Order 2007 requires certain records to be kept (including at hatcheries) and Salmonella testing to be carried out for breeding and laying flocks.

The Control of Salmonella in Broiler Flocks

Order 2009 requires certain records to be kept and Salmonella testing to be carried out for meat chicken flocks.

Newcastle disease is covered by the Diseases of Poultry (Wales) Order 2003 which requires those keeping flocks of at least 250 birds to keep certain records.

The Veterinary Medicines Regulations

2013 require records to be kept on medicine usage, administration and disposal of unused medicines. Records must be kept for at least 5 years.

Note: The Welfare of Farmed Animals (Wales) Regulations 2007 (as amended) relates to recording what medicine is administered and when (for welfare purposes) and applies to all farm animals. The Veterinary Medicines Regulations 2013 recording requirements describe in detail what must be recorded, how long the records must be kept and includes the requirement for records of when and where medicines are acquired in addition to the requirement for records at the time of administration.

Animal by-products

For the requirements on storage, transport and disposal of animal by-products such as dead carcasses, manure and litter see:

- Council Regulation (EC) No 1069/2009
- Commission Regulation (EU) No 142/2011

The requirements are enforced by The Animal By- Products (Enforcement) (Wales) Regulation 2013.

Annex 2: Form to be used to notify APHA of a change in stocking density of conventionally reared meat chickens

The WF90 meat chicken notification form (England and Scotland) is available on the GOV.UK website at the following link: www.gov.uk/government/publications/meat-chicken-notification

Annex 3: Trigger levels

Process 1

A trigger report is generated if the level of a post-mortem condition is exceptionally high (defined as greater than 6 standard deviations above the average).

Post-mortem condition	Process 1 trigger level %
Ascites/Oedema	2.02
Cellulitis & Dermatitis	3.00
Dead on Arrival (DOA)	1.51
Emaciation	0.67
Joint lesions	0.43
Septicaemia/Respiratory	9.28
Total rejections	11.76
Cumulative Daily Mortality Rate	11.85
FPD score*	167

*The FPD score is not a percentage but is a score of the severity and extent of lesions (between 0 and 200) based on scoring 100 feet.

Process 2

A trigger report is generated if the Cumulative Daily Mortality Rate is unusually high (defined as greater than 3 standard deviations above the average = 7.37%) and, additionally, the level of three or more other post-mortem conditions is high (defined as above the average).

Post-mortem condition	Process 2 trigger level (%)
Ascites/Oedema	0.21
Cellulitis & Dermatitis	0.20
Dead on Arrival (DOA)	0.12
Emaciation	0.04
Joint lesions	0.02
Septicaemia/Respiratory	0.49
Total rejections	1.11
FPD score*	60

*The FPD score is not a percentage but is a score of the severity and extent of lesions (between 0 and 200) based on scoring 100 feet.

Annex 4: Cumulative Daily Mortality Rate (CDMR): worked example

The total mortality in this example – a shed with 20,200 birds placed, one thinning and 549 birds dead in total – is $549/20,200 \times 100 = 2.72\%$. The CDMR is 2.85%. In this example there is not much difference between the two figures, but this could have been greater if, for example, there had been high mortality in the house.

Age of birds/day	Numbers of birds in the house at the start of the day	Numbers of birds culled AND numbers of birds found dead each day	Daily mortality rate	Cumulative daily mortality rate	
1	20200	29	0.1436	0.1436	
2	20171	20	0.0992	0.2427	
3	20151	15	0.0744	0.3172	
4	20136	15	0.0745	0.3916	
5	20121	19	0.0944	0.4861	
6	20102	10	0.0497	0.5358	
7	20092	15	0.0747	0.6105	
8	20077	20	0.0996	0.7101	
9	20057	10	0.0499	0.7600	
10	20047	12	0.0599	0.8198	
11	20035	10	0.0499	0.8697	
12	20025	8	0.0400	0.9097	
13	20017	10	0.0500	0.9596	
14	20007	9	0.0450	1.0046	
15	19998	20	0.1000	1.1046	
16	19978	15	0.0751	1.1797	
17	19963	9	0.0451	1.2248	
18	19954	8	0.0401	1.2649	
19	19946	10	0.0501	1.3150	
20	19936	19	0.0953	1.4103	
21	19917	10	0.0502	1.4605	
22	19907	8	0.0402	1.5007	
23	19899	10	0.0503	1.5510	
24	19889	9	0.0453	1.5962	
25	19880	21	0.1056	1.7019	
26	19859	14	0.0705	1.7724	
27	19845	27	0.1361	1.9084	
28	19818	12	0.0606	1.9690	
29	19806	6	0.0303	1.9993	
30	19800	22	0.1111	2.1104	
31	19778	31	0.1567	2.2671	

Age of birds/day	Numbers of birds in the house at the start of the day	Numbers of birds culled AND numbers of birds found dead each day	Daily mortality rate	Cumulative daily mortality rate	
32	16548	19	0.1148	2.3819	Thinned
33	16529	21	0.1270	2.5090	
34	16508	12	0.0727	2.5817	
35	16496	10	0.0606	2.6423	
36	16486	8	0.0485	2.6908	
37	16478	26	0.1578	2.8486	cleared

Annex 5: Permitted procedures

All mutilations of chickens are banned under the Animal Welfare Act 2006. The Mutilations (Permitted Procedures) (Wales) Regulations 2007 exempts certain procedures from this ban. The permitted procedures for conventionally reared meat chickens and for all other meat chickens and meat breeding chickens are listed below. Whilst some mutilations are not currently prohibited, good practice should ensure that they have a very limited role if any in modern day poultry production systems. The lists are correct at the point of publication

Conventionally reared meat chickens

If certain provisions are adhered to, beak trimming can be performed on conventionally reared meat chickens. The law states that if beak trimming is carried out, it:

- may only be performed in order to prevent feather pecking and cannibalism
- may not be performed on birds which are aged 10 days or over
- must be carried out by a person who has been provided with suitable and sufficient information, instruction and training so that they are qualified to perform the procedure
- must only be carried out following a consultation and on the advice of a veterinarian
- must be performed using a suitable instrument
- must be performed on both the lower and upper beaks, with not more than one third of each removed, or the upper beak only, with not more than one third removed, and
- any subsequent haemorrhage from the beak must be arrested by cauterisation.

All other meat chickens and meat breeding chickens

Other methods of identification involving a mutilation required by law can be carried out.

Beak trimming – the law states that if this procedure is carried out, it:

- must be performed using a suitable instrument
- must be performed on both the lower and upper beaks, with not more than one third of each removed, or the upper beak only, with not more than one third removed, and
- any subsequent haemorrhage from the beak must be arrested by cauterisation.

De-toeing – the law states:

- this procedure can only be carried out on a bird that is less than 3 days of age unless a veterinary surgeon considers that it is necessary
- an anaesthetic must be administered where the bird is aged 3 days or over.

Dubbing – the law states:

- this procedure can only be carried out on a bird that is less than 3 days of age unless a veterinary surgeon considers that it is necessary
- an anaesthetic must be administered where the bird is aged 3 days or over.

Laparoscopy (examination of the abdominal cavity by insertion of an instrument called a laparoscope) – the law states:

- this procedure can only be carried out if an anaesthetic is administered
- Micro-chipping for identification can be carried out.

Wing tagging for identification – the law states this procedure:

- may only be carried out on farmed birds for the purposes of breed improvement programmes or testing for the presence of disease.

Sources of further information*

Code of recommendations of the Council of Europe

This Code takes account of the Council of Europe recommendations concerning domestic fowl (*Gallus gallus*). These set out general principles of husbandry and care and include a section on meat chickens.

See: <https://rm.coe.int/16805165ec>

Slaughter

The Humane Slaughter Association has a Code of Practice for the Disposal of Chicks in Hatcheries.

Animal by-products

For further information on animal by-products, see: www.gov.uk/guidance/animal-by-product-categories-site-approval-hygiene-and-disposal

Welfare outcome assessments

Advice on measuring welfare outcomes can be found at: www.assurewel.org

Catching and handling

- Advice on catching and handling can be found in the Humane Slaughter Association's Poultry Catching and Handling Technical Note 15
- [www.hsa.org.uk/shop/publications-1/product/-poultry-catching-and-handling-\(free-pdf\)](http://www.hsa.org.uk/shop/publications-1/product/-poultry-catching-and-handling-(free-pdf))

Antimicrobials and vaccines

Guidance on the responsible use of antimicrobials and vaccines can be found at:

www.ruma.org.uk/poultry/
www.farmantibiotics.org/media-news-updates/progress-by-sector/poultry/

Registering poultry

Guidance on registering poultry can be found at: www.gov.uk/guidance/poultry-registration#how-to-register

* These sources of further information are for information only and should not be considered to be part of the Code of Practice. These sources of information are current on the date that this Code is published (please see the final page for the date of publication). You should be aware that any of the sources of information listed here could change.

Explanatory Memorandum to the Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens

This Explanatory Memorandum has been prepared by the Animal Welfare and By-Products Branch, Office of the Chief Veterinary Officer and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens.

Lesley Griffiths AM, Minister for Environment, Energy and Rural Affairs

6 September 2019

1. Description

Under the Animal Welfare Act 2006 (“the Act”), if someone is responsible for an animal they have a legal duty to take reasonable steps to ensure its welfare needs are met. The Code explains what needs to be done to meet the standard of care the law requires.

Breach of a provision of the Code is not an offence in itself but, if proceedings are brought against someone for a welfare offence under the Act, the Court may take into account the extent to which they have complied with the Code in deciding whether they have committed an offence or have met the required standard of care. Unnecessary suffering to any animal could constitute a serious offence under the Act.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

None

3. Legislative background

This Code of Practice is issued under section 14 of the Animal Welfare Act 2006 (the “Act”). This Code applies in Wales only, is issued by the Welsh Ministers and comes into force on 12 November 2019. It applies to all Meat Chickens and Meat Breeding Chickens for which a person is responsible.

The Code is being laid under the ‘Negative Procedure’.

4. Purpose & intended effect of the legislation

The existing Code of Practice for the Welfare of Meat Chickens and Meat Breeding Chickens reflected the science and legislation in force at that time and was made under The Animal Welfare Act 2006. A review was required to capture any changes in these areas and to ensure the standards being advised are still appropriate.

By not reviewing and amending the Code regularly to reflect any changes made to legislation and recognised minimum best practice standards, animals could be put at risk of harm.

The purpose of the Code is to ensure that those who are responsible for an animal are aware they have a legal duty to take reasonable steps to ensure its welfare needs are met. The Code of Practice explains what you need to do to meet the standard of care the law requires.

5. Consultation

Welsh Government officials worked with Animal Welfare Network Wales to review and update the Code for consultation.

A twelve week public consultation took place between 20 November 2017 and 12 February 2018. The consultation was published on the Welsh Government website with a press release alerting the general public to the launch. Known stakeholders i.e. enforcement agencies and special interest groups, were also contacted individually by email or post.

A Summary of the Responses to the Consultation can be found at the attached link –

<https://gov.wales/code-practice-welfare-laying-hens-and-code-practice-welfare-meat-and-breeding-chickens>

Comments and suggested amendments were taken in to account when updating the Code (e.g. checking frequency good practice is currently set at once a day but have changed this to at least twice a day to ensure animal welfare standards are being met) and a number of additions were made as a direct result of the consultation.

6. Regulatory Impact Assessment (RIA)

There are no costs associated with the making of the Code. Mandatory parts of the RIA have been completed.

Agenda Item 6.1

Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/L/CG/0626/19

Llyr Gruffydd AM
Chair, Finance Committee
National Assembly for Wales
Senedd.Finance@assembly.wales

20 September 2019

Dear Llyr,

I am writing ahead of my appearance before your Committee on 25 September to set out my intentions with regard to the Electoral Commission provisions in the Senedd and Elections (Wales) Bill, and other related matters.

Electoral Commission provisions

My overall policy objective in respect of the Electoral Commission ("the EC") is that now elections to the Assembly and to local government in Wales have been devolved, the EC's work in relation to those devolved Welsh elections should be funded through devolved mechanisms and it should be accountable to the Assembly.

The EC needs to be funded for devolved Welsh elections from out of the Welsh Consolidated Fund ("the WCF"). However, the core financial provisions in the Government of Wales Act 2006 ("GoWA") (particularly sections 124 and 125) are predicated on an assumption that a body which is directly funded out of the WCF should not also be directly funded out of the UK Consolidated Fund ("the UKCF"). So bodies which are directly funded from the WCF are accountable only to the Assembly, and bodies directly funded from the UK Consolidated Fund are accountable to the UK Parliament.

The expenditure of a number of UK bodies will ultimately be funded from budgets derived from both the UK Parliament and the devolved legislatures. However, in these cases the additional funding is provided by way of grant support rather than direct from another consolidated fund. These arrangements maintain the accountability for the bodies overall performance to the legislature providing the majority of its funding.

However, establishing a formal funding and accountability relationship between the EC and the Assembly in respect of devolved Welsh elections requires the EC to receive monies

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CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
YPCCGB@llyw.cymru / PSCGBM@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.

from at least two legislatures, each with their own processes for scrutiny. As such, it is a novel approach for which there is no obvious precedent.

We have explored four potential ways to achieve a new funding and accountability model for the EC.

1. Adding the EC to list of relevant persons at section 124(3) of GoWA

Section 124(3) of GoWA lists the “relevant persons” to whom monies can be paid from the WCF. This list does not include the EC. If it were added, the EC would continue to receive monies from Parliament for all its non-devolved activities. In effect therefore the EC would be a relevant person only for part of its funding and functions, which would be a very novel approach. The general approach has been for the addition of “relevant persons” to apply to newly created bodies who only operate in Wales. In effect GoWA would need to be amended in such a way that it limited the status of the EC as a “relevant person” to the extent of its work on devolved Welsh elections. In addition, the Assembly does not have the legislative competence to amend the list in section 124(3) of GoWA. Overall, this option is neither desirable, nor deliverable in the current timescales.

2. Making provision in the Political Parties, Elections and Referendums Act 2000 (“PPERA”) allowing funding for the EC to be a direct charge on the WCF under section 124(1)(a) of GoWA

Section 124(1)(a) of GoWA allows a payment to be made from the WCF if “it has been charged on that Fund by any enactment”. However, this is intended to be used only where the legislation clearly and specifically sets out what is to be funded, as the payment is not subject to an Assembly Budget resolution as the costs are deemed to be such that it would not be appropriate for the Assembly to scrutinise and authorise. It has not previously been used for funding a body’s activities more broadly, and that is not its purpose. Overall, this option is inappropriate from a constitutional and a financial perspective.

3. Making provision in PERA to make it a relevant enactment for the purposes of section 124(2)(b) of GoWA, to enable payment to be made to the EC out of the WCF

This would require procedures to be put in place for the EC to have its own ambit in the Assembly’s annual budget motion, possibly prescribed in legislation. This option would involve inserting provision into PERA enabling payment to be made to the EC out of the WCF. This would make PERA a ‘relevant enactment’ for the purposes of section 124(2)(b) of GoWA. However, this would be a novel approach for which there is no precedent as far as we are aware. As a minimum we would need to introduce similar accounting and audit requirements around WCF funding as the EC have for UKCF funds.

4. The EC is paid via a body already listed as a relevant person in section 124(3) of GoWA

Given the difficulties associated with the other options above, we have decided to pursue this approach. Given its role in relation to elections to the legislature, it would not be constitutionally appropriate for the Welsh Ministers (the executive) to do so; the only other appropriate body already listed in section 124(3) of GoWA would be the Assembly Commission.

This approach is consistent with what is being proposed for Scotland, where responsibility for the funding of the EC in respect of devolved Scottish elections will be given to the Scottish Parliamentary Corporate Body (“the SPCB”), which is the Scottish equivalent to the Assembly Commission. (We do acknowledge, though, that unlike the Assembly Commission, the SPCB is an established route for funding arms-length bodies.)

In addition, under this option the existing budget, scrutiny and audit framework which applies to the Assembly Commission (as one of the four relevant persons whose expenditure can be met from the WCF) would apply to the funding of the EC. This provision will still allow the Assembly to make provision as to the detail of the scrutiny arrangements and budget process within its own Standing Orders.

In respect of the funding, PPERA currently provides for the EC to be funded out of monies provided by Parliament. However, there are exceptions which allow the Welsh Ministers and the Assembly Commission to fund the EC for specific activities. To support the delivery of option 4, the Senedd Bill amends PPERA to create a further exception which would make the Assembly Commission responsible for funding the EC's work in relation to devolved Welsh elections as well as retaining its ability to fund the EC for specific matters as it does now e.g. promoting Assembly elections.

Under the provisions as drafted, the process would operate as follows:

- PPERA is amended to create an exception to the general provision for the EC to be funded out of monies provided by Parliament, so that the Assembly Commission would be responsible for funding the EC in respect of its work in relation to devolved Welsh elections.
- The Assembly is required in its Standing Orders to designate a relevant body (which would be either a committee chaired by the Presiding Officer or Deputy Presiding Officer, or the Assembly Commission) to have responsibility for oversight of the financing and work plan of the EC in connection with its work in relation to devolved Welsh elections.
- The AC will retain its ability to fund the EC for specific matters as it does now, for example promoting the Assembly elections. The relevant body would scrutinise the budget estimate and plan of the EC, take evidence from the EC and others if appropriate (with the procedures being set out in the Assembly's Standing Orders).
- The results of the scrutiny of the relevant body would determine the budget for the EC in respect of its work on devolved Welsh elections, which becomes part of the Assembly Commission's budget through the annual budget process.
- Once budgets are approved, the Assembly Commission pays the EC for its work in relation to devolved Welsh elections, and the EC undertakes the work set out in its plan.
- At the end of each financial year the EC produces a consolidated set of accounts for the entirety of its UK operations which are then audited by the NAO. The WAO has indicated that it is content for the NAO to continue undertake this work, there is specific provision in Schedule 1 of PPERA setting out the NAO role. We propose that an inter-institutional agreement will be needed which will include (along with other matters) provisions that address how the audit arrangements will work in practice.
- The EC then submits a report, based on its consolidated accounts, to the Assembly.
- The Assembly Commission's own accounts are then produced, and are audited by WAO as per existing arrangements.

We recognise that the approach we have decided to pursue presents a range of challenges in terms of the Assembly Commission taking on a new function, and clarity about how these arrangements fit with the budget process and the role of Finance Committee. However, we consider that these challenges can be addressed through changes to Standing Orders, and that the risks and disadvantages of the other options outweigh the challenges of our approach.

Discussions are ongoing – including between the Welsh Government and the UK Treasury – about the transfer of funding which we would expect to be made into the WCF in order to

cover the cost of funding the EC for its work in relation to devolved Welsh elections. The EC has submitted estimates to the Assembly Commission suggesting that the annual costs of their administration in relation to Welsh elections would vary between £500,000 and £1.6 million over the 2018/19 – 2022/23 period.

As with all functions that are devolved, we would expect a transfer from the UK Treasury to cover these costs. The precise mechanism for determining the value of the transfer has yet to be agreed. Discussions with the UK Treasury are ongoing. If the total costs prove to be higher than the value of the transfer, the shortfall would need to be met from existing Welsh resources.

Matters relating to the EC's budget in respect of devolved Welsh elections will, together with other operational matters, be set out in an inter-institutional agreement, referred to above. The parties to the agreement are expected to include the UK Parliament, the Assembly, the Scottish Parliament and the EC.

I enclose the latest draft of our amendments. Please note that for illustrative purposes the draft amendments use the name for the Assembly previously indicated as the Government's preference. Some of the amendments make provision requiring Minister of the Crown consent, which I will seek as soon as possible.

Financial resolution

On a related matter, I am mindful that Stage 2 proceedings on the Senedd Bill are due to take place on 9 October. With that in mind, I intend to table the financial resolution on 24 September, with a view to holding a debate on it on 1 October.

Responses to Committees' recommendations

Finally, I thought it would be helpful to confirm in writing the Welsh Government's response to your Committee's recommendations, and to those of the Constitutional and Legislative Affairs (CLA) Committee, in relation to the Senedd Bill, which I set out during the Plenary debate on the Bill's general principles on 10 July.

On your Committee's recommendations:

- We are working closely with the Llywydd to address recommendations 1 and 2 on signage and local authority costs.
- Recommendation 3 and 4 on electoral registration are matters for the Welsh Government. We have consulted on this and will include provisions in the Local Government Bill. We do not intend to pursue further changes at the same time as those to the franchise and canvass reform as this would in our view create significant risks.
- We do not accept recommendations 5 and 6, because these are matters for local authorities.
- Neither do we accept recommendations 7 and 8. We do not consider it appropriate to address either the publication of Assembly elections expenditure or returning officer fees in primary legislation. But we intend to address both issues by other means.
- The costs requested in recommendation 11 will be included in the regulatory impact assessment for the Local Government Bill.
- We accept recommendation 12. We intend to include a wide membership on the democratic renewal steering group and sub groups.

- We also accept recommendation 13. As I said I would in the Plenary debate, I am writing today to provide more information on my proposals, and I have delayed moving the financial resolution until we have had the opportunity to discuss them.

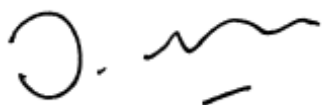
On the CLA Committee recommendations:

- On recommendation 4, I can confirm that the Welsh Government will indeed explain in our explanatory memorandum for the Local Government Bill how the proposed amendments to how existing electoral legislation would look in context.
- On recommendation 6, it remains my view that it would be within the Assembly's legislative competence to amend the opening words of section 1 of GoWA. But in any case the timescales involved to ensure that these important reforms are delivered would make the bringing forward of an Order in Council extremely challenging.
- On recommendation 7, these are matters for the Welsh Government. We are working closely with electoral administrators and the EC through the Wales Electoral Co-ordination Board and other forums. We will publish further financial information when the secondary legislation which implements canvass reform is laid before the Assembly.
- On recommendation 10, the Welsh Government has previously consulted on improving the registration system for electors. We will include provisions in the forthcoming Local Government Bill. But as I stated above, in our view further changes to registration processes should not be taken forward at the same time as changes to the electoral franchise and canvass reform. To do so would create a significant risk to the integrity of devolved Welsh elections.
- On recommendations 11, 12 and 13, the Welsh Government is creating the stakeholder group and will do as the Committee recommends, with the caveat that the work will be wider in scope than recommendation 12 suggests. We are committed to engaging as wide a range of stakeholders as possible in our work on raising awareness about the franchise changes contained in this bill and in the forthcoming Local Government Bill and we will publish the terms of reference and work plan for our stakeholder engagement group in the near future.
- On recommendation 14, the Minister for Education will issue a written statement to outline the delivery of citizenship and political education across Wales from summer 2020.
- On recommendation 15, these are also matters for the Welsh Government and will be considered as part of the budget process for 2020-21. As the awareness-raising campaign will cover the extension of the franchise for both assembly and local government elections I am afraid it is simply not possible to single out the costs incurred for each election in a meaningful way, but we will consider whether there is any other information which we might be able to provide in order to give a fairer picture.
- On recommendations 16 and 17, the Local Government Bill is not a suitable vehicle for provisions relating to the accountability of the EC. This is a matter for the Senedd, not for local government. The Senedd Bill is the right vehicle for these provisions. I have set out my proposals above.
- On recommendation 18, we are preparing amendments on this for consideration at Stage 2, alongside, as previously indicated, amendments to extend the franchise to foreign nationals as well as those on the EC described above and set out in the enclosure to this letter.

I hope that the above information is helpful and I look forward to discussing it further with the Committee next week.

I am copying this letter to the Llywydd, to the Chair of the Constitutional and Legislative Affairs Committee and to the Head of the Electoral Commission in Wales.

Yours Sincerely,

A handwritten signature in black ink, consisting of a stylized 'J' followed by a series of loops and a horizontal line.

Jeremy Miles AM

Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister

RHESTR O WELLIANNAU DRAFFT LIST OF DRAFT AMENDMENTS

Bil Senedd ac Etholiadau Cymru Senedd and Elections (Wales) Bill

Jeremy Miles

Section 1, page 1, line 16, leave out 'requires the Senedd to consider' and insert 'makes provision about'.

Adran 1, tudalen 1, llinell 16, hepgorer 'ei gwneud yn ofynnol i'r Senedd ystyried' a mewnosoder 'gwneud darpariaeth ynghylch'.

Jeremy Miles

Page 14, line 19, leave out section 27 and insert –

[] **Financial and oversight arrangements of Electoral Commission**

- (1) Schedule 1 to the Political Parties, Elections and Referendums Act 2000 (c. 41) is amended as follows.
- (2) After paragraph 16 insert –

"Financing of Commission: devolved Welsh elections and referendums

- 16A (1) The expenditure of the Commission that is attributable to the exercise of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums is (so far as it cannot be met out of income received by the Commission) to be met by the Senedd Commission.
- (2) For each financial year, the Commission must prepare an estimate of the Commission's income and expenditure that is attributable to the exercise of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums.
 - (3) At least six months before the start of the financial year to which an estimate relates, the Commission must submit the estimate to the relevant Senedd body.
 - (4) During the financial year to which an estimate relates, the Commission may prepare a revised estimate and submit it to the relevant Senedd body; and references in the rest of this paragraph to an estimate include a revised estimate.
 - (5) The standing orders of Senedd Cymru must designate one of the

following as the relevant Senedd body –

- (a) a committee of Senedd Cymru chaired by the Presiding Officer or Deputy Presiding Officer, or
 - (b) the Senedd Commission.
- (6) The relevant Senedd body must –
- (a) examine each estimate submitted to it,
 - (b) decide whether it is satisfied that the estimated level of income and expenditure is consistent with the economical, efficient and effective discharge by the Commission of their functions in relation to devolved Welsh elections and devolved Welsh referendums, and
 - (c) if it is not so satisfied, make such modifications to the estimate as it considers appropriate for the purpose of achieving such consistency.
- (7) Before deciding whether it is so satisfied or making any such modifications, the relevant Senedd body must –
- (a) have regard to the most recent report made to it by the Comptroller and Auditor General under paragraph 16C(2), to any later report made under paragraph 16C(4), and to any recommendations contained in the reports;
 - (b) consult the Welsh Ministers and have regard to any advice the Welsh Ministers may give.
- (8) The relevant Senedd body must, after concluding its examination and making its modifications (if any) to the estimate, lay the estimate before Senedd Cymru.
- (9) If the relevant Senedd body, in the discharge of its functions under this paragraph –
- (a) does not follow any recommendation contained in a report of the Comptroller and Auditor General,
 - (b) does not follow any advice given to it by the Welsh Ministers, or
 - (c) makes any modification to the estimate,
- it must include in the next report which it makes to Senedd Cymru under paragraph 20B a statement of its reasons for so doing.
- (10) This paragraph applies in relation to the income and expenditure of the Commission in financial years that begin on or after 1 April 2021.

Five-year plan: devolved Welsh elections and referendums

- 16B (1) When the Commission submit an estimate to the relevant Senedd body under paragraph 16A(3), the Commission must at the same time submit to the relevant Senedd body a plan setting out –

- (a) the Commission's aims and objectives for the exercise of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums during the period of five years beginning with the financial year to which the estimate relates, and
 - (b) the Commission's estimated requirements for resources for the exercise of those functions during that five-year period.
- (2) The relevant Senedd body must –
 - (a) examine each plan submitted to it,
 - (b) decide whether it is satisfied that the plan is consistent with the economical, efficient and effective discharge by the Commission of their functions in relation to devolved Welsh elections and devolved Welsh referendums, and
 - (c) if it is not so satisfied, make such modifications to the plan as it considers appropriate for the purpose of achieving such consistency.
- (3) Before deciding whether it is so satisfied or making any such modifications, the relevant Senedd body must –
 - (a) have regard to the most recent report made to it by the Comptroller and Auditor General under paragraph 16C(2) and to any recommendations contained in the report;
 - (b) consult the Welsh Ministers and have regard to any advice the Welsh Ministers may give.
- (4) The relevant Senedd body must, after concluding its examination and making its modifications (if any) to the plan, lay the plan before Senedd Cymru.
- (5) If the relevant Senedd body, in the discharge of its functions under this paragraph –
 - (a) does not follow any recommendation contained in the report of the Comptroller and Auditor General,
 - (b) does not follow any advice given to it by the Welsh Ministers, or
 - (c) makes any modification to the plan,it must include in the next report which it makes to Senedd Cymru under paragraph 20B a statement of its reasons for so doing.

Examination of Commission: devolved Welsh elections and referendums

- 16C (1) Sub-paragraph (2) applies where an estimate and plan are submitted to the relevant Senedd body under paragraphs 16A(3) and 16B(1).
- (2) For the purpose of assisting the relevant Senedd body to discharge its functions under paragraphs 16A and 16B, the Comptroller and Auditor General must, before the relevant Senedd body considers the

estimate and plan—

- (a) carry out an examination into the economy, efficiency or effectiveness (or, if the Comptroller and Auditor General so determines, any combination of them) with which the Commission have used their resources in discharging their functions in relation to devolved Welsh elections and devolved Welsh referendums (or, if the Comptroller and Auditor General so determines, any of those functions),
 - (b) report to the relevant Senedd body the results of the examination, and
 - (c) include in the report such recommendations as the Comptroller and Auditor General considers appropriate in the light of the examination.
 - (3) Sub-paragraph (4) applies where a revised estimate is submitted to the relevant Senedd body under paragraph 16A(4).
 - (4) For the purpose of assisting the relevant Senedd body to discharge its functions under paragraph 16A, the Comptroller and Auditor General may, before the body considers the revised estimate—
 - (a) carry out a further examination into the matters mentioned in sub-paragraph (2)(a),
 - (b) report to the relevant Senedd body the results of the examination, and
 - (c) include in the report such recommendations as the Comptroller and Auditor General considers appropriate in the light of the examination.
 - (5) Section 8 of the National Audit Act 1983 (right to obtain documents and information) applies in relation to any examination under this paragraph as it applies in relation to an examination under section 6 of that Act.
 - (6) See also section 19 of the Public Audit (Wales) Act 2013 (which enables the Wales Audit Office to make arrangements for any function of a public authority or office holder to be exercised by the Auditor General for Wales)."
- (3) In paragraph 18 (audit)—
- (a) in sub-paragraph (1)(b), at the end insert "and the relevant Senedd body";
 - (b) in sub-paragraph (2)(b), after "Parliament" insert "and Senedd Cymru";
 - (c) after sub-paragraph (2) insert—
 - "(3) The relevant Senedd body may submit to the Auditor General for Wales any accounts that have been certified and laid before Senedd Cymru under sub-paragraph (2).
 - (4) The Auditor General for Wales must—
 - (a) carry out a further examination of any accounts submitted

under sub-paragraph (3), so far as they relate to the exercise of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums, and

- (b) prepare and lay before Senedd Cymru a report on the accounts so far as they relate to the exercise of those functions."
- (4) In paragraph 19(4) (responsibilities of accounting officer), after "the Speaker's Committee" insert ", the relevant Senedd body".
- (5) After paragraph 20 insert –

"Reports by Commission: devolved Welsh elections and referendums

- 20A (1) The Commission must, as soon as practicable after the end of each financial year –
 - (a) prepare a report about the performance of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums during that financial year, and
 - (b) lay the report before Senedd Cymru.
- (2) On laying the report, the Commission must publish it in such manner as the Commission may determine.

Reports by relevant Senedd body

- 20B (1) The relevant Senedd body must, at least once in each year –
 - (a) prepare a report on the exercise by the body of its functions under this Schedule, and
 - (b) lay the report before Senedd Cymru.
- (2) For the purposes of the law of defamation, the publication of any matter by the relevant Senedd body in such a report is absolutely privileged."
- (6) In paragraph 25 –
 - (a) the existing provision becomes sub-paragraph (1);
 - (b) after that sub-paragraph insert –

"(2) In this Schedule –

"devolved Welsh election" means –

- (a) a general election of members of Senedd Cymru;
- (b) an election held under section 10 of the Government of Wales Act 2006 (elections for Senedd constituency vacancies);
- (c) a local government election in Wales;

"devolved Welsh referendum" means a referendum held under Part 2 of the Local Government Act 2000 or Part 4 of the Local Government (Wales) Measure 2011 (referendums

relating to local authority executive arrangements);

“relevant Senedd body” means the body designated under paragraph 16A(5).”

- (7) Schedule [new Schedule] contains further amendments relating to the Electoral Commission.’.

Tudalen 14, llinell 19, hepgorer adran 27 a mewnosoder –

[] Trefniadau ariannol a goruchwyllo’r Comisiwn Etholiadol

- (1) Mae Atodlen 1 i Ddeddf Pleidiau Gwleidyddol, Etholiadau a Refferenda 2000 (p. 41) wedi ei diwygio fel a ganlyn.
- (2) Ar ôl paragraff 16 mewnosoder –

“Financing of Commission: devolved Welsh elections and referendums

- 16A (1) The expenditure of the Commission that is attributable to the exercise of the Commission’s functions in relation to devolved Welsh elections and devolved Welsh referendums is (so far as it cannot be met out of income received by the Commission) to be met by the Senedd Commission.
- (2) For each financial year, the Commission must prepare an estimate of the Commission’s income and expenditure that is attributable to the exercise of the Commission’s functions in relation to devolved Welsh elections and devolved Welsh referendums.
- (3) At least six months before the start of the financial year to which an estimate relates, the Commission must submit the estimate to the relevant Senedd body.
- (4) During the financial year to which an estimate relates, the Commission may prepare a revised estimate and submit it to the relevant Senedd body; and references in the rest of this paragraph to an estimate include a revised estimate.
- (5) The standing orders of Senedd Cymru must designate one of the following as the relevant Senedd body –
- (a) a committee of Senedd Cymru chaired by the Presiding Officer or Deputy Presiding Officer, or
 - (b) the Senedd Commission.
- (6) The relevant Senedd body must –
- (a) examine each estimate submitted to it,
 - (b) decide whether it is satisfied that the estimated level of income and expenditure is consistent with the economical, efficient and effective discharge by the Commission of their functions in relation to devolved Welsh elections and devolved Welsh referendums, and

- (c) if it is not so satisfied, make such modifications to the estimate as it considers appropriate for the purpose of achieving such consistency.
- (7) Before deciding whether it is so satisfied or making any such modifications, the relevant Senedd body must –
 - (a) have regard to the most recent report made to it by the Comptroller and Auditor General under paragraph 16C(2), to any later report made under paragraph 16C(4), and to any recommendations contained in the reports;
 - (b) consult the Welsh Ministers and have regard to any advice the Welsh Ministers may give.
- (8) The relevant Senedd body must, after concluding its examination and making its modifications (if any) to the estimate, lay the estimate before Senedd Cymru.
- (9) If the relevant Senedd body, in the discharge of its functions under this paragraph –
 - (a) does not follow any recommendation contained in a report of the Comptroller and Auditor General,
 - (b) does not follow any advice given to it by the Welsh Ministers, or
 - (c) makes any modification to the estimate,it must include in the next report which it makes to Senedd Cymru under paragraph 20B a statement of its reasons for so doing.
- (10) This paragraph applies in relation to the income and expenditure of the Commission in financial years that begin on or after 1 April 2021.

Five-year plan: devolved Welsh elections and referendums

- 16B (1) When the Commission submit an estimate to the relevant Senedd body under paragraph 16A(3), the Commission must at the same time submit to the relevant Senedd body a plan setting out –
- (a) the Commission's aims and objectives for the exercise of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums during the period of five years beginning with the financial year to which the estimate relates, and
 - (b) the Commission's estimated requirements for resources for the exercise of those functions during that five-year period.
- (2) The relevant Senedd body must –
- (a) examine each plan submitted to it,
 - (b) decide whether it is satisfied that the plan is consistent with the economical, efficient and effective discharge by the Commission of their functions in relation to devolved Welsh

elections and devolved Welsh referendums, and

- (c) if it is not so satisfied, make such modifications to the plan as it considers appropriate for the purpose of achieving such consistency.
- (3) Before deciding whether it is so satisfied or making any such modifications, the relevant Senedd body must –
 - (a) have regard to the most recent report made to it by the Comptroller and Auditor General under paragraph 16C(2) and to any recommendations contained in the report;
 - (b) consult the Welsh Ministers and have regard to any advice the Welsh Ministers may give.
- (4) The relevant Senedd body must, after concluding its examination and making its modifications (if any) to the plan, lay the plan before Senedd Cymru.
- (5) If the relevant Senedd body, in the discharge of its functions under this paragraph –
 - (a) does not follow any recommendation contained in the report of the Comptroller and Auditor General,
 - (b) does not follow any advice given to it by the Welsh Ministers, or
 - (c) makes any modification to the plan,it must include in the next report which it makes to Senedd Cymru under paragraph 20B a statement of its reasons for so doing.

Examination of Commission: devolved Welsh elections and referendums

- 16C (1) Sub-paragraph (2) applies where an estimate and plan are submitted to the relevant Senedd body under paragraphs 16A(3) and 16B(1).
- (2) For the purpose of assisting the relevant Senedd body to discharge its functions under paragraphs 16A and 16B, the Comptroller and Auditor General must, before the relevant Senedd body considers the estimate and plan –
 - (a) carry out an examination into the economy, efficiency or effectiveness (or, if the Comptroller and Auditor General so determines, any combination of them) with which the Commission have used their resources in discharging their functions in relation to devolved Welsh elections and devolved Welsh referendums (or, if the Comptroller and Auditor General so determines, any of those functions),
 - (b) report to the relevant Senedd body the results of the examination, and
 - (c) include in the report such recommendations as the Comptroller and Auditor General considers appropriate in the

light of the examination.

- (3) Sub-paragraph (4) applies where a revised estimate is submitted to the relevant Senedd body under paragraph 16A(4).
 - (4) For the purpose of assisting the relevant Senedd body to discharge its functions under paragraph 16A, the Comptroller and Auditor General may, before the body considers the revised estimate—
 - (a) carry out a further examination into the matters mentioned in sub-paragraph (2)(a),
 - (b) report to the relevant Senedd body the results of the examination, and
 - (c) include in the report such recommendations as the Comptroller and Auditor General considers appropriate in the light of the examination.
 - (5) Section 8 of the National Audit Act 1983 (right to obtain documents and information) applies in relation to any examination under this paragraph as it applies in relation to an examination under section 6 of that Act.
 - (6) See also section 19 of the Public Audit (Wales) Act 2013 (which enables the Wales Audit Office to make arrangements for any function of a public authority or office holder to be exercised by the Auditor General for Wales)."
- (3) Ym mharagraff 18 (archwilio) —
- (a) yn is-baragraff (1)(b), ar y diwedd mewnosoder "and the relevant Senedd body";
 - (b) yn is-baragraff (2)(b), ar ôl "Parliament" mewnosoder "and Senedd Cymru";
 - (c) ar ôl is-baragraff (2) mewnosoder —
- "(3) The relevant Senedd body may submit to the Auditor General for Wales any accounts that have been certified and laid before Senedd Cymru under sub-paragraph (2).
- (4) The Auditor General for Wales must —
- (a) carry out a further examination of any accounts submitted under sub-paragraph (3), so far as they relate to the exercise of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums, and
 - (b) prepare and lay before Senedd Cymru a report on the accounts so far as they relate to the exercise of those functions."

(4) Ym mharagraff 19(4) (cyfrifoldebau'r swyddog cyfrifyddu), ar ôl "the Speaker's Committee" mewnosoder ", the relevant Senedd body".

(5) Ar ôl paragraff 20 mewnosoder —

"Reports by Commission: devolved Welsh elections and referendums

20A (1) The Commission must, as soon as practicable after the end of each

financial year –

- (a) prepare a report about the performance of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums during that financial year, and
 - (b) lay the report before Senedd Cymru.
- (2) On laying the report, the Commission must publish it in such manner as the Commission may determine.

Reports by relevant Senedd body

20B (1) The relevant Senedd body must, at least once in each year –

- (a) prepare a report on the exercise by the body of its functions under this Schedule, and
- (b) lay the report before Senedd Cymru.

(2) For the purposes of the law of defamation, the publication of any matter by the relevant Senedd body in such a report is absolutely privileged."

(6) Ym mharagraff 25 –

- (a) daw'r ddarpariaeth bresennol yn is-baragraff (1);
- (b) ar ôl yr is-baragraff hwnnw mewnosoder –

"(2) In this Schedule –

"devolved Welsh election" means –

- (a) a general election of members of Senedd Cymru;
- (b) an election held under section 10 of the Government of Wales Act 2006 (elections for Senedd constituency vacancies);
- (c) a local government election in Wales;

"devolved Welsh referendum" means a referendum held under Part 2 of the Local Government Act 2000 or Part 4 of the Local Government (Wales) Measure 2011 (referendums relating to local authority executive arrangements);

"relevant Senedd body" means the body designated under paragraph 16A(5)."

(7) Mae Atodlen [Atodlen newydd] yn cynnwys diwygiadau pellach sy'n ymwneud â'r Comisiwn Etholiadol'.

Jeremy Miles

Section 40, page 20, line 18, leave out 'Part 3 (sections 10 to 28), but, other than section 27 (which takes effect on Royal Assent), it has' and insert 'in Part 3, sections 10 to 26 and 28, but those provisions have'.

Adran 40, tudalen 20, llinell 17, hepgorer 'Rhan 3 (adrannau 10 i 28) ond, heblaw yn adran 27 (sy'n cael effaith ar y diwrnod y mae'n cael y Cydsyniad Brenhinol), mae iddi' a mewnosoder 'yn Rhan 3, adrannau 10 i 26 ac 28, ond mae i'r darpariaethau hynny'.

Jeremy Miles

Section 40, page 20, after line 27, insert –

- '() In Part 3, section 27 and Schedule [*new Schedule*] come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- () An order under subsection () may include transitional, transitory or saving provision.'

Adran 40, tudalen 20, ar ôl llinell 28, mewnosoder –

- '() Yn Rhan 3, mae adran 27 ac Atodlen [*Atodlen newydd*] yn dod i rym ar ddiwrnod a bennir gan Weinidogion Cymru mewn gorchymyn a wneir drwy offeryn statudol.
- () Caiff gorchymyn o dan is-adran () gynnwys darpariaeth drosiannol, darpariaeth ddarfodol neu ddarpariaeth arbed.'

Jeremy Miles

Schedule 1, page 26, after line 34, insert a new Schedule –

‘SCHEDULE []
(*introduced by section* [new section])

ELECTORAL COMMISSION: FURTHER AMENDMENTS

Representation of the People Act 1983 (c. 2)

- 1 (1) Schedule 4A to the 1983 Act is amended as follows.
 - (2) In paragraph 14(1), after “code of practice” insert “for elections other than local government elections in Wales”.
 - (3) After paragraph 14 insert –
 - “14A(1) The Electoral Commission (“the Commission”) may prepare, and from time to time revise, a code of practice for local government elections in Wales giving –
 - (a) guidance as to the matters which do, or do not, fall within Part 1 or Part 2 of this Schedule;
 - (b) guidance (supplementing the definition in section 90ZA(3)) as to the cases or circumstances in which expenses are, or are not, to be regarded as incurred for the purposes of a candidate's election.
 - (2) Once the Commission have prepared a draft code under this paragraph, they must submit it to the Welsh Ministers for approval.

- (3) The Welsh Ministers may approve a draft code with or without modifications.
- (4) Once the Welsh Ministers have approved a draft code they must lay a copy of the draft, in the form in which they have approved it, before Senedd Cymru.
- (5) If the draft incorporates modifications, the Welsh Ministers must at the same time lay before Senedd Cymru a statement of their reasons for making them.
- (6) If, within the 40-day period, Senedd Cymru resolves not to approve the draft, the Welsh Ministers must take no further steps in relation to it.
- (7) If no such resolution is made within the 40-day period –
 - (a) the Welsh Ministers must issue the code in the form of the draft laid before Senedd Cymru,
 - (b) the code comes into force on the date appointed by the Welsh Ministers by order, and
 - (c) the Commission must arrange for the code to be published in such manner as the Commission think appropriate.
- (8) Sub-paragraph (6) does not prevent a new draft code from being laid before Senedd Cymru.
- (9) In this paragraph, “the 40-day period”, in relation to a draft code, means the period of 40 days beginning with the day on which the draft is laid before Senedd Cymru, no account being taken of any period during which Senedd Cymru is dissolved or is in recess for more than four days.
- (10) In this paragraph references to a draft code include a revised draft code.”

Political Parties, Elections and Referendums Act 2000 (c. 41)

2 The Political Parties, Elections and Referendums Act 2000 is amended as follows.

3 (1) Section 6 is amended as follows.

 (2) In subsection (3)(b), after “Scottish Parliament” insert “, Senedd Cymru”.

 (3) In subsection (6) –

 (a) in paragraph (a) –

 (i) in sub-paragraph (i), at the end insert “other than those mentioned in paragraph (d) of that subsection”;

 (ii) in sub-paragraph (ii), omit “or Wales”;

 (b) in paragraph (b), omit “and those under Part II of the Local Government Act 2000”.

4 After section 6 insert –

“6ZA Reviews of devolved electoral matters in Wales

- (1) The Commission must keep the matters mentioned in subsection (2) under review, and must from time to time submit reports on those matters to the Welsh Ministers.
- (2) The matters are –
 - (a) general elections of Members of Senedd Cymru;
 - (b) elections under section 10 of the Government of Wales Act 2006 (elections for Senedd constituency vacancies);
 - (c) local government elections in Wales;
 - (d) referendums under Part 2 of the Local Government Act 2000 and Part 4 of the Local Government (Wales) Measure 2011 (referendums relating to executive arrangements of local authorities in Wales);
 - (e) the law relating to the matters mentioned in each of paragraphs (a) to (d).
- (3) Subsection (4) applies if the Welsh Ministers request the Commission to review and report on any matter or matters for which provision is or could be made in an Act of Senedd Cymru (whether or not falling within subsection (2)).
- (4) The Commission must, within such time as the Welsh Ministers may specify –
 - (a) review the matters specified in the request, and
 - (b) submit a report on those matters to the Welsh Ministers.
- (5) The Commission must publish each report made under this section in such manner as the Commission may determine.”

5 In section 6C(3), after “6F” insert “or 6G”.

6 In section 6D(4), after “6F” insert “or 6G”.

7 (1) Section 6F is amended as follows.

(2) In subsection (1), after “section 6A” insert “, other than those specified in subsection (2) of section 6G,”.

(3) In subsection (10), after “this section” insert “and section 6G”.

8 After section 6F insert –

“6G Code of practice on attendance of observers at devolved elections in Wales

- (1) The Commission must prepare a code of practice on the attendance at elections specified in subsection (2) of –
 - (a) representatives of the Commission,
 - (b) accredited observers, and
 - (c) nominated members of accredited organisations.

- (2) The code must make provision about attendance at –
 - (a) general elections of Members of Senedd Cymru;
 - (b) elections under section 10 of the Government of Wales Act 2006 (elections for Senedd constituency vacancies);
 - (c) local government elections in Wales.
- (3) The code must in particular –
 - (a) specify the manner in which applications under sections 6C(1) and 6D(1) are to be made to the Commission;
 - (b) specify the criteria to be taken into account by the Commission in determining such applications;
 - (c) give guidance to relevant officers (within the meaning of section 6E) as to the exercise of the power conferred by subsection (1) of that section;
 - (d) give guidance to such officers as to the exercise of the power mentioned in subsection (2) of that section as it relates to a person having the permission mentioned in subsection (1) of that section;
 - (e) give guidance to such officers as to the exercise of any power under any enactment to control the number of persons present at any proceedings relating to an election as it relates to a person having such permission;
 - (f) give guidance to representatives of the Commission, accredited observers and nominated members of accredited organisations on the exercise of the rights conferred by sections 6A, 6B, 6C and 6D.
- (4) The code may make different provision for different purposes.
- (5) Before preparing the code, the Commission must consult the Welsh Ministers.
- (6) The Commission must lay the code before Senedd Cymru.
- (7) The Commission must publish the code (in such manner as the Commission may determine).
- (8) The following persons must have regard to the code in exercising any function conferred by section 6A, 6B, 6C, 6D or 6E in relation to an election or referendum specified in subsection (2) –
 - (a) the Commission;
 - (b) representatives of the Commission;
 - (c) relevant officers (within the meaning of section 6E).
- (9) The Commission may at any time revise the code.
- (10) Subsections (4) to (7) apply in relation to a revision of the code as they apply in relation to the code.”

- 9 (1) Section 9A is amended as follows.
- (2) In subsection (1)(a), after “relevant officers” insert “mentioned in subsection (2)”.
- (3) After subsection (5) insert—
- “(5A) In relation to electoral registration officers for areas in Wales, the reference to their functions in subsection (2)(a) is a reference to their functions in relation to registers of parliamentary electors.”
- (4) In subsection (6) —
- (a) in paragraph (a), at the end insert “other than one mentioned in paragraph (d) of that subsection”;
- (b) omit paragraph (d);
- (c) in paragraph (e), omit “or Wales”.
- (5) In subsection (7), omit paragraph (b).
- (6) In subsection (8) —
- (a) in the words before paragraph (a), after “sections” insert “9AA,”;
- (b) in paragraph (b), after “subsection (6)” insert “or section 9AA(6)”;
- (c) in paragraph (c), after “subsection (7)” insert “or section 9AA(7)”.
- 10 After section 9A insert —

“9AA Performance standards for devolved elections and referendums in Wales

- (1) The Commission may from time to time —
- (a) determine standards of performance for relevant officers mentioned in subsection (2), and
- (b) publish, in such form and in such manner as they consider appropriate, the standards so determined.
- (2) The standards of performance are such standards as the Commission think ought to be achieved by —
- (a) electoral registration officers for areas in Wales in the performance of their functions in relation to registers of local government electors;
- (b) returning officers in the administration of the elections specified in subsection (6);
- (c) counting officers in the administration of the referendums specified in subsection (7).
- (3) Before determining standards under subsection (1), the Commission must consult —
- (a) the Welsh Ministers, and
- (b) any other person they think appropriate.
- (4) The Commission may determine different standards for different descriptions of relevant officers.

- (5) When the Commission publish standards under subsection (1) they must send a copy to the Welsh Ministers who must lay a copy before Senedd Cymru.
- (6) The elections specified in this subsection are –
 - (a) a general election of Members of Senedd Cymru;
 - (b) an election under section 10 of the Government of Wales Act 2006 (elections for Senedd constituency vacancies);
 - (c) a local government election in Wales.
- (7) The referendums specified in this subsection are referendums under Part 2 of the Local Government Act 2000 or Part 4 of the Local Government (Wales) Measure 2011 (referendums relating to executive arrangements of local authorities in Wales)."

11 In section 9B, in subsections (1) and (4), after "9A(1)" insert "or 9AA(1)".

12 In section 9C(2) –

- (a) in paragraph (b), after "9A(6)" insert "or 9AA(6)";
- (b) in paragraph (c), after "9A(7)" insert "or 9AA(7)".

13 In section 13(12), after "met under" insert "paragraph 16A of Schedule 1 to this Act or".

14 (1) Schedule 1 is amended as follows.

(2) In paragraph 14 –

(a) in sub-paragraph (1) –

- (i) in paragraph (b), omit "or 20(12)";
- (ii) for paragraph (c) substitute –

"(c) met by the Senedd Commission under paragraph 16A of this Schedule or paragraph 6 of Schedule 2 to the Government of Wales Act 2006.";

(b) after sub-paragraph (6) insert –

"(6A) An estimate prepared under this paragraph for a financial year beginning on or after 1 April 2021 must not include income or expenditure that is attributable to the exercise of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums (as to which, see paragraph 16A)."

(3) In paragraph 15, after sub-paragraph (5) insert –

"(6) A plan prepared under this paragraph for a period beginning on or after 1 April 2021 must not include aims, objectives or estimated requirements for the exercise of the Commission's functions in relation to devolved Welsh elections and devolved Welsh referendums (as to which, see paragraph 16B)."

(4) In paragraph 20, after sub-paragraph (1) insert –

"(1A) The reference in sub-paragraph (1) to the Commission's functions does not include the Commission's functions in relation to devolved

Welsh elections or devolved Welsh referendums.”’.

Tudalen 26, ar ôl llinell 35, mewnosoder atodlen newydd –

‘ATODLEN []
(a gyflwynir gan adran [adran newydd])

Y COMISIWN ETHOLIADOL: DIWYGIADAU PELLACH

Deddf Cynrychiolaeth y Bobl 1983 (p. 2)

- 1 (1) Mae Atodlen 4A i Ddeddf 1983 wedi ei diwygio fel a ganlyn.
- (2) Ym mharagraff 14(1), ar ôl “code of practice” mewnosoder “for elections other than local government elections in Wales”.
- (3) Ar ôl paragraff 14 mewnosoder –
- “14A(1) The Electoral Commission (“the Commission”) may prepare, and from time to time revise, a code of practice for local government elections in Wales giving –
- (a) guidance as to the matters which do, or do not, fall within Part 1 or Part 2 of this Schedule;
 - (b) guidance (supplementing the definition in section 90ZA(3)) as to the cases or circumstances in which expenses are, or are not, to be regarded as incurred for the purposes of a candidate's election.
- (2) Once the Commission have prepared a draft code under this paragraph, they must submit it to the Welsh Ministers for approval.
- (3) The Welsh Ministers may approve a draft code with or without modifications.
- (4) Once the Welsh Ministers have approved a draft code they must lay a copy of the draft, in the form in which they have approved it, before Senedd Cymru.
- (5) If the draft incorporates modifications, the Welsh Ministers must at the same time lay before Senedd Cymru a statement of their reasons for making them.
- (6) If, within the 40-day period, Senedd Cymru resolves not to approve the draft, the Welsh Ministers must take no further steps in relation to it.
- (7) If no such resolution is made within the 40-day period –
- (a) the Welsh Ministers must issue the code in the form of the draft laid before Senedd Cymru,
 - (b) the code comes into force on the date appointed by the Welsh Ministers by order, and
 - (c) the Commission must arrange for the code to be published in

such manner as the Commission think appropriate.

- (8) Sub-paragraph (6) does not prevent a new draft code from being laid before Senedd Cymru.
- (9) In this paragraph, “the 40-day period”, in relation to a draft code, means the period of 40 days beginning with the day on which the draft is laid before Senedd Cymru, no account being taken of any period during which Senedd Cymru is dissolved or is in recess for more than four days.
- (10) In this paragraph references to a draft code include a revised draft code.”

Deddf Pleidiau Gwleidyddol, Etholiadau a Refferenda 2000 (p. 41)

- 2 Mae Deddf Pleidiau Gwleidyddol, Etholiadau a Refferenda 2000 wedi ei diwygio fel a ganlyn.
- 3 (1) Mae adran 6 wedi ei diwygio fel a ganlyn.
- (2) Yn is-adran (3)(b), ar ôl “Scottish Parliament” mewnosoder “, Senedd Cymru”.
- (3) Yn is-adran (6) –
- (a) ym mharagraff (a) –
 - (i) yn is-baragraff (i), ar y diwedd mewnosoder “other than those mentioned in paragraph (d) of that subsection”;
 - (ii) yn is-baragraff (ii), hepgorer “or Wales”;
 - (b) ym mharagraff (b), hepgorer “and those under Part II of the Local Government Act 2000”.
- 4 Ar ôl adran 6 mewnosoder –

“6ZA Reviews of devolved electoral matters in Wales

- (1) The Commission must keep the matters mentioned in subsection (2) under review, and must from time to time submit reports on those matters to the Welsh Ministers.
- (2) The matters are such matters as the Commission may from time to time determine relating to –
 - (a) general elections of Members of Senedd Cymru;
 - (b) elections under section 10 of the Government of Wales Act 2006 (elections for Senedd constituency vacancies);
 - (c) local government elections in Wales;
 - (d) referendums under Part 2 of the Local Government Act 2000 and Part 4 of the Local Government (Wales) Measure 2011 (referendums relating to executive arrangements of local authorities in Wales);
 - (e) the law relating to the elections and referendums mentioned in paragraphs (a) to (d).

- (3) Subsection (4) applies if the Welsh Ministers request the Commission to review and report on any matter or matters for which provision is or could be made in an Act of Senedd Cymru (whether or not falling within subsection (2)).
- (4) The Commission must, within such time as the Welsh Ministers may specify –
 - (a) review the matters specified in the request, and
 - (b) submit a report on those matters to the Welsh Ministers.
- (5) The Commission must publish each report made under this section in such manner as the Commission may determine.”

5 Yn adran 6C(3), ar ôl “6F” mewnosoder “or 6G”.

6 Yn adran 6D(4), ar ôl “6F” mewnosoder “or 6G”.

7 (1) Mae adran 6F wedi ei diwygio fel a ganlyn.

(2) Yn is-adran (1), ar ôl “section 6A” mewnosoder “, other than those specified in subsection (2) of section 6G,”.

(3) Yn is-adran (10), ar ôl “this section” mewnosoder “and section 6G”.

8 Ar ôl adran 6F mewnosoder –

“6G Code of practice on attendance of observers at devolved elections in Wales

- (1) The Commission must prepare a code of practice on the attendance at elections specified in subsection (2) of –
 - (a) representatives of the Commission,
 - (b) accredited observers, and
 - (c) nominated members of accredited organisations.
- (2) The code must make provision about attendance at –
 - (a) general elections of Members of Senedd Cymru;
 - (b) elections under section 10 of the Government of Wales Act 2006 (elections for Senedd constituency vacancies);
 - (c) local government elections in Wales.
- (3) The code must in particular –
 - (a) specify the manner in which applications under sections 6C(1) and 6D(1) are to be made to the Commission;
 - (b) specify the criteria to be taken into account by the Commission in determining such applications;
 - (c) give guidance to relevant officers (within the meaning of section 6E) as to the exercise of the power conferred by subsection (1) of that section;

- (d) give guidance to such officers as to the exercise of the power mentioned in subsection (2) of that section as it relates to a person having the permission mentioned in subsection (1) of that section;
 - (e) give guidance to such officers as to the exercise of any power under any enactment to control the number of persons present at any proceedings relating to an election as it relates to a person having such permission;
 - (f) give guidance to representatives of the Commission, accredited observers and nominated members of accredited organisations on the exercise of the rights conferred by sections 6A, 6B, 6C and 6D.
 - (4) The code may make different provision for different purposes.
 - (5) Before preparing the code, the Commission must consult the Welsh Ministers.
 - (6) The Commission must lay the code before Senedd Cymru.
 - (7) The Commission must publish the code (in such manner as the Commission may determine).
 - (8) The following persons must have regard to the code in exercising any function conferred by section 6A, 6B, 6C, 6D or 6E in relation to an election specified in subsection (2) –
 - (a) the Commission;
 - (b) representatives of the Commission;
 - (c) relevant officers (within the meaning of section 6E).
 - (9) The Commission may at any time revise the code.
 - (10) Subsections (4) to (7) apply in relation to a revision of the code as they apply in relation to the code.”
- 9 (1) Mae adran 9A wedi ei diwygio fel a ganlyn.
- (2) Yn is-adran (1)(a), ar ôl “relevant officers” mewnosoder “mentioned in subsection (2)”.
- (3) Ar ôl is-adran (5) mewnosoder –
- “(5A) In relation to electoral registration officers for areas in Wales, the reference to their functions in subsection (2)(a) is a reference to their functions in relation to registers of parliamentary electors.”
- (4) Yn is-adran (6) –
- (a) ym mharagraff (a), ar y diwedd mewnosoder “other than one mentioned in paragraph (d) of that subsection”;
 - (b) hepgorer paragraff (d);
 - (c) ym mharagraff (e), hepgorer “or Wales”.
- (5) Yn is-adran (7), hepgorer paragraff (b).
- (6) Yn is-adran (8) –

- (a) yn y geiriau o flaen paragraff (a), ar ôl “sections” mewnosoder “9AA”;
- (b) ym mharagraff (b), ar ôl “subsection (6)” mewnosoder “or section 9AA(6)”;
- (c) ym mharagraff (c), ar ôl “subsection (7)” mewnosoder “or section 9AA(7)”.

10 Ar ôl adran 9A mewnosoder –

“9AA Performance standards for devolved elections and referendums in Wales

- (1) The Commission may from time to time –
 - (a) determine standards of performance for relevant officers mentioned in subsection (2), and
 - (b) publish, in such form and in such manner as they consider appropriate, the standards so determined.
- (2) The standards of performance are such standards as the Commission think ought to be achieved by –
 - (a) electoral registration officers for areas in Wales in the performance of their functions in relation to registers of local government electors;
 - (b) returning officers in the administration of the elections specified in subsection (6);
 - (c) counting officers in the administration of the referendums specified in subsection (7).
- (3) Before determining standards under subsection (1), the Commission must consult –
 - (a) the Welsh Ministers, and
 - (b) any other person they think appropriate.
- (4) The Commission may determine different standards for different descriptions of relevant officers.
- (5) When the Commission publish standards under subsection (1) they must send a copy to the Welsh Ministers who must lay a copy before Senedd Cymru.
- (6) The elections specified in this subsection are –
 - (a) a general election of Members of Senedd Cymru;
 - (b) an election under section 10 of the Government of Wales Act 2006 (elections for Senedd constituency vacancies);
 - (c) a local government election in Wales.
- (7) The referendums specified in this subsection are referendums under Part 2 of the Local Government Act 2000 or Part 4 of the Local Government (Wales) Measure 2011 (referendums relating to executive arrangements of local authorities in Wales).”

11 Yn adran 9B, yn is-adrannau (1) a (4), ar ôl “9A(1)” mewnosoder “or 9AA(1)”.

- 12 Yn adran 9C(2) –
- (a) ym mharagraff (b), ar ôl “9A(6)” mewnosoder “or 9AA(6)”;
 - (b) ym mharagraff (c), ar ôl “9A(7)” mewnosoder “or 9AA(7)”.
- 13 Yn adran 13(12), ar ôl “met under” mewnosoder “paragraph 16A of Schedule 1 to this Act or”.
- 14 (1) Mae Atodlen 1 wedi ei diwygio fel a ganlyn.
- (2) Ym mharagraff 14 –
- (a) yn is-baragraff (1) –
 - (i) ym mharagraff (b), hepgorer “or 20(12)”;
 - (ii) yn lle paragraff (c) rhodder –
 - “(c) met by the Senedd Commission under paragraph 16A of this Schedule or paragraph 6 of Schedule 2 to the Government of Wales Act 2006.”;
 - (b) ar ôl is-baragraff (6) mewnosoder –
 - “(6A) An estimate prepared under this paragraph for a financial year beginning on or after 1 April 2021 must not include income or expenditure that is attributable to the exercise of the Commission’s functions in relation to devolved Welsh elections and devolved Welsh referendums (as to which, see paragraph 16A).”
- (3) Ym mharagraff 15, ar ôl is-baragraff (5) mewnosoder –
- “(6) A plan prepared under this paragraph for a period beginning on or after 1 April 2021 must not include aims, objectives or estimated requirements for the exercise of the Commission’s functions in relation to devolved Welsh elections and devolved Welsh referendums (as to which, see paragraph 16B).”
- (4) Ym mharagraff 20, ar ôl is-baragraff (1) mewnosoder –
- “(1A) The reference in sub-paragraph (1) to the Commission’s functions does not include the Commission’s functions in relation to devolved Welsh elections or devolved Welsh referendums.”.

Agenda Item 8

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

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