

Lesley Griffiths AM
Minister for Environment, Energy and Rural Affairs

10 January 2019

Dear Lesley

UK Government's Draft Environment (Principles and Governance) Bill

You will be aware that the UK Government's Draft Environment (Principles and Governance) Bill ('the draft Bill') was published on 19 December 2018. At its meeting on 10 January 2019, the Committee agreed that I should write to you seeking your views on the draft Bill's provisions and requesting an update on the Welsh Government's proposals for environmental governance arrangements and environmental principles following the UK's exit from the EU.

Application of the draft Bill

The policy paper accompanying the draft Bill makes clear that environment is a devolved matter, subject to a small number of areas that are reserved. The draft Bill therefore applies to England and to the UK for reserved matters.

- 1. What are the reserved matters that the draft Bill applies to in relation to Wales? Are there any matters that may be cause for potential disagreement between the Welsh Government and UK Government?**
- 2. What discussions have you had with the UK Government to ensure that the provisions in the draft Bill take into account the Welsh legislative landscape and do not conflict with existing devolved environmental principles and bodies in Wales?**



Policy statement on environmental principles

Clauses 1 to 4 (Policy statement on environmental principles) of the draft Bill will apply in relation to Wales in respect of the functions of UK Ministers only. Clause 1 requires the Secretary of State to publish a policy statement on environmental principles. The statement explains the meaning of environmental principles and how they will be used. A core list of “environmental principles”, which is drawn from a number of existing sources, is set out in Clause 2. Ministers of the Crown must have regard to the policy statement when making, developing and revising policies dealt with by the statement.

- 3. What discussions have you had with the UK Government about the application of these provisions in Wales?**
- 4. What are your views on the meaning of “environmental principles”, set out in clause 2?**
- 5. To what extent are you satisfied that these “environmental principles” do not conflict with existing Welsh principles, for example sustainable development and the sustainable management of natural resources?**
- 6. What are the potential implications of having different environmental principles operating in England to Wales, and within Wales in respect of devolved and reserved matters?**

Office for Environmental Protection

The draft Bill establishes an independent body, the Office for Environmental Protection (OEP), to scrutinise, and investigate complaints and take enforcement action on, environmental law. As the Bill is currently drafted, the definition of “environmental law” does not include devolved legislation. So, while the OEP’s jurisdiction will apply to the whole of the UK, its functions in respect of Wales will be limited to environmental matters that are reserved.

- 7. Given that protecting the environment is an issue that cuts across boundaries, how content are you with the UK Government’s proposals for the OEP (including that climate change is outside of its remit)?**



- 8. How do you anticipate the proposed OEP will operate in Wales in respect of environmental matters that are reserved? What discussions have you had with the UK Government in this regard?**
- 9. How will you ensure that people in Wales will be able to make complaints about environmental law, and ensure that they understand who they can make those complaints to, which matters will be dealt with in Wales, and which by the OEP?**
- 10. To what extent are you satisfied that the proposed OEP will not infringe on the functions of existing Welsh bodies that deal with environmental matters, and on environmental law in Wales?**

In responding to the Committee's report, *Environmental governance arrangements and environmental principles post-Brexit*, you advised that you could not provide a definitive response on whether you support the establishment of a UK-level governance body until more detailed proposals from the UK Government were available and analysis of governance gaps in Wales had been completed.

- 11. Given that the draft Bill has now been published, can you clarify your position on the establishment of a UK-level governance body? If you have yet to make a decision, can you clarify when you will be in a position to do so?**
- 12. Can you update the Committee on progress in analysing environmental governance gaps in Wales? If analysis is still on-going, when will it be completed?**
- 13. If the findings of this analysis favour a UK-level body, what opportunity will there be for co-design with the UK Government ahead of the introduction of the final Bill? What would be the time scales for this?**
- 14. What opportunity will there be for Assembly scrutiny of any proposal for a UK-level body?**

A Wales Environmental Governance and Principles Bill

You have previously given a commitment to publish a consultation on environmental principles and governance in the autumn term 2018. At the time of writing this letter, the consultation has yet to be published.



15. Can you confirm when the consultation will be published and provide a timeline for the development of any subsequent legislative proposals?

16. Can you clarify whether there is sufficient flexibility within the legislative programme for a Wales Bill on environmental principles and governance to be passed before the end of this Assembly, if necessary?

17. Can you clarify whether there will be sufficient time available following the outcome of the consultation to co-design with the UK Government any relevant proposals within the UK draft Bill, if necessary?

Transitional arrangements

In responding to our report *Environmental governance arrangements and environmental principles post-Brexit* you stated that the proposed transition period from April 2019 to December 2020, subject to agreement on the Withdrawal Agreement between the EU and UK, would provide additional time to ensure that a suitable environmental governance body is established. You also explained that, during the proposed transition period, existing EU environment legislation would continue to apply and be subject to the jurisdiction of the Court of Justice of the EU.

18. Can you clarify what environmental governance arrangements will be in place from 29 March 2019 in the event that there is no agreed transition period (i.e. the UK leaves the EU with no deal)?

I should be grateful if you would respond to the above no later than **Friday 25 January 2019**.

Yours sincerely,



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

