

Elin Jones MS

Llywydd

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17 December 2020

Dear Llywydd,

**Environmental governance post EU transition**

Thank you for your letter, dated 19 November 2020, seeking the Committee's views on the matters raised with you by representatives of Wales Environment Link ('WEL').

The Committee takes a keen interest in Wales's future environmental governance arrangements and has undertaken extensive work in this policy area. We published a preliminary report in June 2018, followed by a detailed report on the Welsh Government's consultation on policy proposals in October 2019. These reports explored, among other things, the need for interim arrangements to be put in place at the end of the Implementation Period, and to remain in place until such time as an environmental governance body for Wales is established.

In recent weeks, we have pressed the Welsh Government for information about the interim arrangements, including the role and responsibilities of the interim Environmental Protection Assessor. In giving evidence to us on 10 December 2020, the Minister was unable to provide an explanation of how the complaints system will operate in practice, including how complaints against the Welsh Government about potential breaches of environmental law would be dealt with. The Minister explained that the Trefnydd would be meeting with you shortly to discuss what role the Senedd may have in considering such complaints.



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While we would not wish to pre-empt the outcome of your discussions, we would like to draw your attention to the following matters.

Our recent evidence session with representatives of the environmental sector suggests they are keen for the Senedd to have a role in considering complaints against the Welsh Government. This stems, at least in part, from concerns that potential breaches of environmental law by the Welsh Government may otherwise go left unchecked until permanent governance arrangements are in place. We share the concerns of the environmental sector. However, detailed consideration should be given to how the Senedd might undertake this work. This is particularly difficult in the absence of any details of how the arrangements will work in practice.

In many cases, alleged breaches of environmental law by public bodies, are considered by the courts, via judicial review of a decision made by them. The courts have the appropriate expertise to balance the competing priorities of parties in each case, and to take decisions as to whether a particular decision should be quashed because it is wrong in law. However, pursuing matters through the court process in this way is expensive, requires the instruction of professional advisers and can take many months, if not years, to resolve disputes.

If the Senedd was to have a role in dealing with such complaints, it will be necessary to introduce new and detailed procedures. We anticipate that, given the specialist and technical nature of this work, there would be resource implications for the Commission in providing appropriate support.

I hope you find the above useful in your discussion with the Trefnydd and in formulating your response to WEL.

Regards



Mike Hedges MS

Chair of the Climate Change, Environment and Rural Affairs Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

