

Agenda – Public Accounts and Public Administration Committee

Meeting Venue:	For further information contact:
Committee room 5 and video conferencing via zoom	Fay Bowen Committee Clerk
Meeting date: 12 October 2023	0300 200 6565
Meeting time: 09.30	SeneddPAPA@senedd.wales

Pre-Meeting (Private)

(09.00–09.15)

1 Introductions, apologies and substitutions

(09.15)

2 Papers to note

(09.15–09.30)

2.1 Letter from Tracey Burke, Director General for the Climate Change and Rural Affairs Group, on Cardiff Airport

(Pages 1 – 5)

2.2 Letter from the Chair of the Finance Committee to the Minister for Finance and Local Government

(Pages 6 – 7)

2.3 Letter from Andrew Slade, Director General for Economy, Treasury and Constitution Group, on Gilestone Farm

(Pages 8 – 13)

2.4 Letter from the Chief Executive and Clerk of the Senedd Commission

(Pages 14 – 44)

Break

(09.30–09.35)

3 Senedd Commission Annual Report and Accounts 2022–23

(09.35–10.35)

(Pages 45 – 81)

Manon Antoniazzi



Chief Executive and Clerk, Senedd Commission

Ken Skates MS

Commissioner, Senedd Commission

Kate Innes,

Chief Finance Officer, Senedd Commission

Supporting Paper:

Research briefing

[Annual Report and Accounts 2022-23](#)

- 4 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the remainder of today's meeting**
(10.35)

Break

(10.35-10.40)

- 5 Consideration of the evidence received – Senedd Commission**
(10.40-11.00)

- 6 Legal briefing on the Legislative Consent Motion for the Economic Activity of Public Bodies (Overseas Matters) Bill**
(11.00-11.30) (Pages 82 – 106)

Supporting Paper:

Legal Briefing

Legislative Consent Motion (LCM) for the Economic Activity of Public Bodies (Overseas Matters) Bill

- 7 Audit Wales briefings on their reports on Cwm Taf Morgannwg, the NHS workforce plan report and the NHS finances data tool.**
(11.30-12.00) (Pages 107 – 111)

Supporting Papers:

Audit Wales briefing: Workforce data briefing, September 2023

[Cwm Taf Morgannwg University Health Board – Quality Governance Arrangements Joint Review Follow-up, August 2023](#)

[NHS Workforce data briefing](#)



Llywodraeth Cymru
Welsh Government

Tracey Burke

Cyfarwyddwr Cyffredinol / Director General

Y Grŵp Newid Hinsawdd a Materion Gwledig
Climate Change and Rural Affairs Group

Mark Isherwood MS
Chair of the Public Accounts and Public Administration Committee
Welsh Parliament
Cardiff Bay
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15 September 2023

Dear Chair

CARDIFF AIRPORT

Thank you for your letter dated 3 August 2023 in relation to Cardiff Airport, I am pleased to provide the Committee with an update and additional information, as requested.

Rescue and Restructuring Plan and related targets

Any amendment or variations to the targets set out for the Rescue and Restructuring plan must be done in writing by amending the terms and conditions of the Rescue and restructuring aid grant agreement, agreed and signed by the Welsh Government and Cardiff International Airport Limited (CIAL). This can be raised at any time by both parties, however there are regular quarterly, monthly and fortnightly reporting periods at which this can be raised. At this stage, no revisions, new measures or targets have been agreed by both parties on the climate change targets. I will update the Committee in my regular update if a revision is made to any target.

I can confirm that we will be clearer on performance targets and provide further background information in future. This will be reflected in our next six-monthly update to the Committee, which is due shortly.

Reviews

As stated during our session with the committee, this was less of a formal assessment in the sense of the word 'review' and more about closely monitoring the position. As stated previously to Committee, despite the withdrawal of Wizz Air, the airport outperformed its forecasted passenger numbers, recording 910k passengers through its terminal by the end of



the last financial year (31 March 2023) against a forecast of 820k passengers. There has been no immediate impact on the airport's recovery and its finances. Decisions by the airport's other airlines to add capacity and frequency this year have largely mitigated the impact of the Wizz Air withdrawal. Passenger numbers are forecasted to remain broadly the same for the next financial year, with limited growth. The airport's near-term passenger numbers are holding up and it is still on a trajectory to achieving 1.3m passengers by March 2026. Forward looking sales are looking positive with TUI recently adding an extra 40,000 holidays from Cardiff Airport for 2024. We will continue to monitor the position very closely with executives which will alert us to any performance concerns at the earliest possible opportunity.

We are in the process of preparing formal advice to Ministers regarding the additional cost pressures of Cardiff Airport being required to install new Next Generation Security 3-D baggage scanners by 2024, as required by UK Government regulations. We will update the Committee once Ministers have received advice and taken any consequential decisions, as part of our next scheduled update.

WGC Holdco Chair

I am able to confirm that we are in the final stages of appointing a new Welsh Government Senior Civil Servant to the Board of Holdco. A candidate has been identified and I expect the matter to be completed in the coming weeks; I will provide further information to the Committee in our next scheduled update which is due shortly. In parallel, interviews have taken place for the new independent Non-Executive Directors of Holdco and Ministerial advice on appointments will be prepared shortly.

WGC Holdco Working Capital

The Welsh Government, on behalf of the Welsh Ministers, operates Cardiff International Airport Ltd as an arms-length private limited company, with distinct separation achieved through WGC Holdco Limited (Holdco). Holdco was incorporated as a private company limited by shares on 21 March 2013. As Holdco is its own individual legal entity, it is required to directly pay for its own individual financial accounting and audit requirements in order to meet the company's own legal obligations. The Welsh Government cannot do this for or on behalf of Holdco.

To enable Holdco to fulfil these obligations, funding is agreed annually by Ministers, resulting in a transfer of funds from the Welsh Government into Holdco's bank account. The level of funding requested is estimated activity for the forthcoming year, which is based on Holdco's previous financial year spend which is indexed up to allow for inflation and usual cost increases.



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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.

In addition to its legal and regulatory obligations, Holdco must also pay for the cost of its Non-Executive Director (NED) remuneration. Owing to Holdco being a 'virtual' holding company, it does not have any staff or departments such as HR or payroll and, as a result, the NED fees are paid via the Welsh Government and claimed back, in full, from Holdco. Furthermore, in April, Ministers agreed to the transfer of £63,000 to the Holdco bank account for the recovery of NED remuneration for this financial year and previous years, which had not been claimed back by the Welsh Government at the time of the request.

There is nothing novel regarding the transfer of funds into the Holdco bank account and these requests are reviewed annually when required and all decisions are approved by Ministers. The Aviation Policy Team provides the secretariat support function for Holdco and processes Holdco's invoices and NED fees on its behalf. Policy officials obtain clearance from the Holdco Board prior to processing any invoices or claims.

Intra-Wales Air Service

Following the withdrawal of funding for the Cardiff-Anglesey PSO air service in June 2022, the Isle of Anglesey County Council (IACC) determined that it had no resources to fund the Anglesey Airport itself and that closure was the only option. Ministers provided a commitment to the Leader of the Council at Anglesey Council that the Welsh Government will continue to fund all of the costs associated with the closure of Anglesey Airport, including all the costs and work that the Council will face from bringing the agreement with the Defence Infrastructure Organisation (DIO) to an end.

Officials have since been working closely with IACC to identify the relevant costs and processes involved.

Two main workstreams were identified and have now been completed:

- a. The disposal of WG owned assets at Anglesey Airport; and
- b. The exit of the lease along with the 'handing-back' of the building to the DIO.

The additional grant agreement issued to IACC in March 2023 was awarded to allow the reimbursement of these final closure and 'hand-back' costs. The value of the additional grant was for to a maximum of £66k. The total spend is expected to be c.£61k which is due to be finalised in the coming weeks.

I am pleased to confirm that all Welsh Government owned airport equipment was sold under a competitive bidding process along with surplus office furniture. No items were thrown away and the sale generated an income to the Welsh Government of c.£40k.

The table below illustrates the cost savings achieved against the Eastern Airways contract and IACC Grant as a result of the withdrawal of funding and termination of service in June



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2022:



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Eastern Airways:		
On the basis that service remained suspended in April and May, it resumed in June 2022 and then operated normally until the contract expired 17 February 2023, the anticipated maximum contract value was: (£169k April 2022 – May 2022, suspended + £1.313 June 2022 – Feb 2023, operational)	Spend for the period: (1 April 2022 – 17 February 2023)	Saving:
£1.482m	£478k	£1m
IACC:		
On the basis that service remained suspended in April and May, it resumed in June 2022 and then operated normally until the grant expired 31 March 2023, the anticipated maximum grant allowable was: (£800k in FY2022/23 + £66k in FY2023/24)	Spend for the period: (£187k in FY202/23 + £61k in FY2023/24)	Saving:
£866k	£249k	£617k
Combined total:		
£2.348m	£727k	£1.617m

I trust you find the contents of this letter address the issues you raised in your letter of 3rd August. I will update you further in my next 6-monthly update which is due shortly, but if you would like further information or clarification before that, please let me know.

Yours sincerely,



Tracey Burke
Director General - Climate Change & Rural Affairs Group



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Rebecca Evans MS,
Minister for Finance and Local Government

22 September 2023

Dear Rebecca,

Evidence papers supporting the 2024-25 Draft Budget

Many thanks for your [letter](#) of 8 September.

I am grateful for the constructive manner in which you have engaged with the Finance Committee on ways that ministerial written evidence on the Welsh Government's Draft Budget proposals can be improved, with the aim of addressing the issues identified in my [letter](#) of 23 June.

I welcome your intention to confirm when Ministers will provide their evidence papers to Senedd Committees ahead of the 2024-25 budget round. I am also grateful that Senedd Committees will be offered a technical briefing on the Draft Budget.

In terms of your request for a clear indication from the Finance Committee on what would be considered essential for inclusion in ministerial evidence papers, it would not be appropriate for me to provide a single list of proposals without consulting Committee Chairs first.

Whilst I see benefits in developing a high level template for evidence papers, and although I am supportive of co-operation between committees to avoid duplication and overlap in its areas of focus during budget scrutiny, a consistent



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approach may be difficult to achieve in practice given that Committees will naturally have different priorities and areas of focus.

I would also want to guard against the development of a template that may foster a prescriptive approach to the provision of written evidence, which may end up diluting the information made available to individual Committees as they seek to hold ministerial spending decisions to account.

The difficulties faced by Ministers in providing specific details for Committees relating to each MEG during the 2024-25 budget is a case in point. Although I recognise the challenges posed by this year's budget timetable, this should not restrict Committees from requesting detailed information relating to individual portfolios as this is crucial to informing public evidence sessions with Ministers, particularly when time to consult with stakeholders is limited.

I am therefore willing to explore ways in which a template could be developed, although I also acknowledge that developing consensus on this issue may take time and that it is unlikely that any changes will be agreed for the forthcoming budget round.

I am copying this response to all Senedd Committees with an interest in budget scrutiny to facilitate further discussions, and will raise this matter at the next meeting of the Chair's Forum on 23 October.

Yours sincerely



Peredur Owen Griffiths MS
Chair of the Finance Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.



Cyfarwyddwr Cyffredinol - Director General



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

Mark Isherwood MS
Chair
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25 September 2023

Dear Chair

Thank you for your letter of 18 July seeking additional information following my attendance at the Public Accounts and Public Administration Committee on 5 July in relation to Gilestone Farm. My responses to the Committee's questions are set out below.

1. The administration of the acquisition process.

Does the Welsh Government accept that its Ministerial Advice could have been clearer in setting out the underlying rationale for the purchase, the extent of any connection with the Green Man festival, what was deemed novel/contentious, Green Man's planned company arrangements for the new venture, and potential constraints on the site's suitability?

Officials accept that wording could have been clearer in elements of the written advice, specifically in terms of the relationship between the expansion of the Green Man brand, the associated business and the primary festival. However, the Ministerial Advice provided six options for Ministers to consider, including the option of not progressing with the policy proposal. The MA was sufficiently comprehensive and to support the ministerial decision sought.

Does the Welsh Government accept that the Ministerial Advice could have considered options for funding the purchase in a different way that would not have required completion by 31 March 2023?

Any "year-end" expenditure must evidence regulatory compliance, value for money, policy alignment and deliverability, in common with any other transaction within a financial year.

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Given lack of year-end flexibility, it is essential that Welsh Government has projects that can be brought forward, completed at short notice, or slowed down to enable us to deliver the outturn we need given many of the factors we must deal with lie outside of our control. Certainty over budget availability is clearly core to any decision taken.

The MA in question addressed the viable options for addressing the Green Man project, including an option not to proceed.

In the context of the Welsh Government's Scheme of Delegation, what changes have you made to ensure you are sighted on cases where Ministerial Advice relates to matters deemed novel or contentious?

The report by Audit Wales on the acquisition of Gilestone Farm was clear that the purchase was procedurally sound and all relevant experts from the Welsh Government had been engaged. The Scheme of Delegation is not something I can unilaterally change as it applies across Welsh Government. I have, however, discussed with my senior management team at our monthly management meetings the need to ensure novel or contentious matters are appropriately raised with me when the need arises.

How have you been involved with other key decisions and ongoing due diligence activity leading up to the Minister's recent statement?

The progress of the project continues to be managed within the delegation of the lead Director, and I am regularly informed of developments and consulted where necessary and appropriate. Given the significant interest in the project, and the increasingly multi-faceted nature of the work, we have augmented the assurance mechanisms around the work, including use of the challenge team model previously discussed (in other contexts) with the Committee.

Would greater transparency from the outset have avoided a significant government business workload relating to the Farm?

We recognise the importance of transparency, but published information needs to be accurate and shared in a constructive manner, based on final draft proposals and not early-stage discussions.

To ensure that interested parties are receiving factually correct information, we have recently launched a FAQs page on the Welsh Government website and representatives of Green Man have also launched a website to share their vision and plans for the site.

Why did the Welsh Government not publish any decision reports relating to the Farm since May 2022, notwithstanding broader Ministerial statements?

In terms of process, we accept that the Decision Report associated with the Ministerial Advice submitted in May 2023 could have been published sooner. However, in practice all the relevant information was published in a far more substantial form via the Economy Minister's Written Statement to the Senedd on 17 May 2023, alongside the FAQs section

on the Welsh Government. There were no Ministerial decisions sought or needed between the original purchase of Gilestone Farm and the 'gateway' decision this May on moving to the next stage of due diligence and commencement of discussions with Green Man around potential lease arrangements.

How do you respond to the comments in the Auditor General's letter of 19 January 2023, which discussed apparent inconsistencies in the approach to the release of information, in response to Freedom of Information requests?

Freedom of Information requests are considered on a case by case basis, with appropriate information released reflecting a snapshot in time. Section 43 (2) of the Freedom of Information Act exempts information whose disclosure would, or would be likely to, prejudice the commercial interests of any legal person (an individual, a company, the public authority itself or any other legal entity).

Something that is designated "commercially sensitive" at a single point in time does not necessarily mean that it will be "commercially sensitive" forever. There will therefore always be instances where an exemption is applied at a certain point in time and where that information will later be released as the information is no longer commercially sensitive.

Complaints around Freedom of Information responses are clearly matters for the ICO and we always work closely with the ICO's office where there are lessons to be learnt. To date, we are not aware of any complaints being raised with the ICO in relation to this matter.

Do you agree that it would have been appropriate to maintain notes of virtual meeting discussions with Green, to support the audit trail (particularly once the prospect of purchasing the Farm was being discussed)?

Audit Wales found that the Welsh Government audit trail in this case would have been better supported if all the meetings had been recorded. We always seek to learn lessons from projects and programmes and accept this finding, but it does not affect the basic conclusion of Audit Wales that the procedural integrity of the decision taken on Gilestone Farm was sound.

Has your group, or the Welsh Government more broadly, taken any action to clarify expectations around maintaining records of virtual meetings?

An internal bulletin on this matter was published recently reminding officials of their responsibilities regarding records management, and the guidance for officials has also been updated.

2. Costs associated with the ongoing management of the Farm and its current valuation.

How much has the Welsh Government spent in relation to the ongoing management of the Farm compared with the £57,000 anticipated at the time of the Auditor General's letter and whether there are any updated estimates about future costs?

We will ensure the appropriate management of the site to maintain the value of the asset to the Welsh taxpayer and meet property ownership responsibilities. This will naturally lead to certain costs, as with the management of any property owned by the Welsh Government.

Total costs of management of Gilestone Farm to 31 August 2023 are £46,629.04.

How the Welsh Government's income from the current lease compares with the costs it has incurred during and since the purchase, and the extent of any profit sharing to date (or expected)?

It is difficult to ascertain the expected impact on the public finances until the end of the current Farm Business Tenancy. For example, there is a profit share arrangement on the leisure and tourism side of the business which cannot be determined at present given most of the income is derived during the summer months.

Early indications suggest whilst there may be a small fluctuation either way, the property is currently, in property management terms, "relatively neutral" when it comes to a cost vs income analysis.

What the results from the recent asbestos survey have revealed regarding potential remedial works and its related cost?

The asbestos survey revealed that there was asbestos present in some of the farm buildings as you would expect of buildings of that age and type. Importantly, the advice was not to remove the asbestos but simply to label clearly – work which has been completed.

The cost of the survey and costs associated with implementing the recommendations was £1,478.26. We anticipate some further small costs as a few of the farm buildings were inaccessible when the first survey was undertaken.

Whether the Welsh Government has made any assessment of the impact of recent property price trends on the value of the Farm and, if so, what this indicates?

In June 2023, the Welsh Government asset valuers undertook a valuation of Gilestone Farm and advised that the current freehold asset valuation is £4.25m ex VAT.

The market in general terms (across many sectors) is currently in a state of uncertainty for obvious reasons. For farms, there are few available to purchase, which together with the

general market uncertainty means that there are few recent transactions upon which to base value. Notwithstanding this, the farm is considered a good lowland farm with good opportunities to diversify and has held its value since Welsh Government bought the property.

3. Final decisions, contingency plans and overall reflections

What commitments the Welsh Government can give about how any final decision will be communicated to the local community and to the Senedd?

In the Written Statement of 17 May 2023, the Minister for Economy committed to further consultation with the local community, coordinated through the Community Council and working closely with Powys Council and Bannau Brycheiniog National Park Authority. Once this work and final due diligence has been completed, a full and final options appraisal will be submitted to Ministers for consideration and following a decision an oral statement will be made to Members.

Whether the Welsh Government has given any further consideration to its contingency plans and/or exit strategy if a commercial lease that it finds acceptable cannot be agreed with Green Man; whether that be at all or sufficiently in advance of the end of the current lease for Green Man to mobilise to take on the running of the Farm?

Discussions on the lease agreement are ongoing and are commercially sensitive. Public statements on any elements of these discussions, including contingency plans or exit strategy, could prejudice the outcome of those negotiations.

As a responsible property landlord, Welsh Government proactively manages its property estate to encourage economic development, preserve asset value and to meet its statutory and other ownership responsibilities.

How do you reflect on the length of time the whole process has taken to date compared with initial expectations that it might have been entering into an initial lease agreement with Green Man as soon as the end of October 2022?

The process has undoubtedly taken longer than originally anticipated. This partly reflects the level of interest the matter has generated. For example, Creative Wales has had to support an unprecedented level of government business around this project, summarised below:-

- Senedd Oral Questions – 3
- Senedd Written Questions – 66
- Ministerial Correspondence – 23
- Official-level Correspondence – 72
- FOI Requests – 49

This is in addition to a host of other work associated with the project.

What lessons the Welsh Government has taken from the whole process and how these can be, and are being, shared and applied across government?

Officials have ensured that relevant teams from across Welsh Government are involved in assessing the impact of, and relevance to, other business areas. During this specific process, this has included colleagues from rural affairs, environment, property, Events Wales, and our economic development teams. At Group level we regularly consider lessons identified in Management Committee, as well as with our Audit & Risk Committee. Relevant lessons are also shared and discussed at Welsh Government corporate level, and with/through cross-cutting groups.

4. Other issues

You told the Committee that the create hub initiative will create “really good, high-paid jobs” in the area. How does the Welsh Government define a “high-paid” job, in this context?

In contextual terms, median gross weekly earnings for employees in the creative industries were £605 in 2022, £7 higher than the median gross weekly earnings in all industries in Wales.

Median gross weekly earnings for Powys shows the average gross weekly earnings in all industries to be £573.

In relation to plans to host weddings on the site:

- What is the calculated demand for additional wedding venues in the area?
- What building or buildings will be used?
- What building conversions will be necessary to establish a wedding venue?

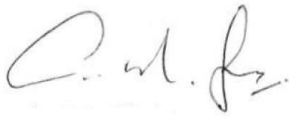
Your evidence noted a series of proposals for diversification – how has the Welsh Government calculated the impact of such initiatives on other local businesses?

Welsh Government has not undertaken its own assessments or calculations associated with either hosting weddings on site or any other diversification proposals. Any information shared with Welsh Government by Green Man is subject to our due diligence, ongoing assessments of the business plan, and commercial discussions around potential lease arrangements. Given these discussions are still ‘live’, we are not in a position to say anything further at this stage.

Since colleagues and I came before the Committee on 5 July, you will have heard that a breeding pair of Ospreys had been sighted on Gilestone Farm. Both Welsh Government and Green Man, in keeping with the importance we each attach to the natural environment and to enhancing biodiversity, have agreed our priority must be the birds' welfare and protection. Both adult birds had left the site as of 14 September, but we hope that they will return to their constructed nest next Spring. My team are currently working with relevant experts to prepare a protection and management plan for the site.

With best wishes.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Slade', written in a cursive style.

Andrew Slade
Director General
Economy, Treasury and Constitution

Mark Isherwood MS
Chair of Public Accounts and Public Administration Committee
Senedd Cymru
Tŷ Hywel
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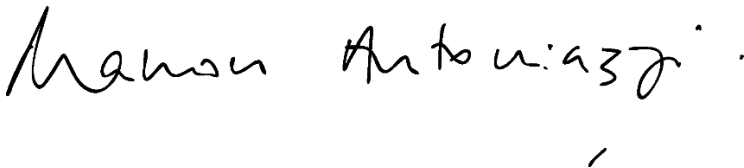
11 July 2023

Dear Mark

When I wrote to you previously with regard to the Commission's response to the Public Accounts and Public Administration Committee's recommendations made in the Report on the Scrutiny of Accounts 2021-22, I committed to providing further information ahead of your autumn scrutiny. This information is set out in **Annex 1**.

I hope this is useful information for your Committee.

Yours sincerely



Manon Antoniazzi
Prif Weithredwr a Chlerc y Senedd / Chief Executive and Clerk of the Senedd

cc Senedd Commissioners, Ed Williams



Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English



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Annex 1 - Public Accounts and Public Administration Committee Report on the Scrutiny of Accounts 2021-22 information provided in response to Recommendations

Recommendation 2. The Commission should keep the Committee updated about the work of the Risk Assurance Committee specifically in relation to future planning around Senedd reform, with a particular focus on future staffing and funding considerations.

The Audit and Risk Assurance Committee (the Committee) considered the corporate risk on Senedd Reform at its meeting on 15 June 2022. Subsequent to this, Senedd Reform has now become a standing item on all Committee agenda, with updates provided in relation to the Senedd Reform and Ways of Working Programmes.

A substantive update on Senedd Reform was provided at the Committee's 21 November 2022 meeting. The governance arrangements for managing all of the elements of the reform agenda, of which the Senedd Reform Programme Board formed a part, was explained and depicted in a diagram. As well as preparing for the parliamentary business of the Seventh Senedd, this also included co-ordinating and supporting the passage of the Senedd Reform Bill and the reform of the Determination on Members' Pay and Allowances and delivering the Ways of Working Programme and business as usual.

Reference was also made to the establishment of the Senedd Commission-Welsh Government Joint Assurance Board. A high-level timeline and milestones were also included in the papers, which included progress to date. In terms of the budget, it was confirmed that there would be a set of common assumptions with the Welsh Government and the Independent Remuneration Board, and a single source of information on costings.

The Senedd Reform risk had been updated to include additional risks around the potential impact of the changing economic climate on budgets, capacity, and political decisions on the direction of travel.

The Committee was assured that the appropriate governance arrangements were in place and wanted to discuss the timeline, co-ordination and project management, and the dependency on the Independent Remuneration Board.

The Committee was also assured by the approach to project management and asked for clarity around whether the risks were for the Welsh Government or the Commission to manage.

The Committee has explored what resources are required to deliver all the work. The Committee has been assured that detailed workforce planning is ongoing in conjunction with the Ways of Working Programme. Additional resources ringfenced in the budget were based on dedicated time allocated for Senedd Reform, and this did not include some of the business-as-usual work activities such as legislative scrutiny and parliamentary skills. Some resource had already been redeployed whilst others were taking on additional responsibilities as part of their current roles.

The Committee acknowledges the challenges around allocating time and resources to supporting the legislative scrutiny process-alongside delivering the Programme workstreams and business as usual activities. Welsh Government is providing assurance that the legislation is on track to be introduced in the autumn of 2023. Risks would be re-assessed when contractual obligations were committed to a larger Senedd with more Members.

The role of the Strategic Planning Unit is to coordinate and report on the Senedd Reform and Ways of Working programmes and other major projects to the Executive Board. The Unit would also facilitate timely escalation of emerging risks and issues and make recommendations on the prioritisation of resources. Executive Board remains the decision-making body, a lot of work was carried out at programme and strategic levels to inform decisions.

The Committee continues to monitor progress in both areas.

ARAC Minutes are publicly available on the Senedd website.

Recommendation 3. The Committee recommends that the Commission provide an update to the Committee, ahead of the scrutiny of next year's Accounts, of the learnings from the review of the effectiveness of their response to the COVID-19 pandemic. The update should include details about how efficiencies, costs, and savings from changes to ways of working and how services were delivered during the pandemic have been incorporated into current practices, and how these savings have been made recurrent.

We agreed to provide the Committee with an update on the Commission's learnings from the review of the effectiveness of its response to the COVID-19 pandemic. The report on the Lessons Learned from Covid-19 which focused on delivering Senedd business, the effectiveness of governance and the wellbeing of staff was presented to the Audit Risk Assurance Committee in April 2023 (included below). The report also identifies that opportunities for efficiency savings are being taken forward as part of the Ways of Working Programme.

The Committee welcomed this review and noted the effectiveness of the Covid Reporting and Monitoring (CRAM) group, the dynamic management of risk, and the use of technology and innovation to enable strong business continuity practices.

The report also outlined that a hybrid model was now well established with flexible working patterns fitting in with the needs of the business. Periodic 'in person' team meetings had become a feature of well-being plans in services across the Commission.

The Committee encouraged officials to have a continued focus on staff wellbeing, and fostering internal contacts and relationships within the organisation, and acknowledged the challenges of balancing flexibility and fairness. The Committee also encourage officials to be mindful of practical aspects such as energy efficiency.

Management welcomed the Committee feedback and were focussed on continuing to deal with the challenges posed by variations in working patterns whilst maintaining fairness with those

teams, such as Security and Visitor Experience, which needed to be on site, and flexibility for other teams which were able to work effectively remotely. Management also recognises the need for personal interaction, particularly for new team members and for staff development activities. This would all form part of the Ways of Working Programme.

The Committee stated that it was important not to lose sight of it as the organisation dealt with the pandemic in such a remarkable way.

A separate detailed analysis of the costs and savings associated with the Covid period had been prepared by the former Director of Finance and shared with the Finance Committee and the Public Accounts and Public Administration Committee in 2021 and a subsequent letter sent in June 2022 (added here: [PAPAC Letter](#)).

Recommendation 4. The Commission should continue providing details about contracts awarded to Welsh suppliers by the Commission. The Committee requests that this information be provided by size of contract in the future, to include contracts up to £10,000, between £10,000 and £50,000, between £50,000 and £100,000 and in excess of £100,000.

Introduction

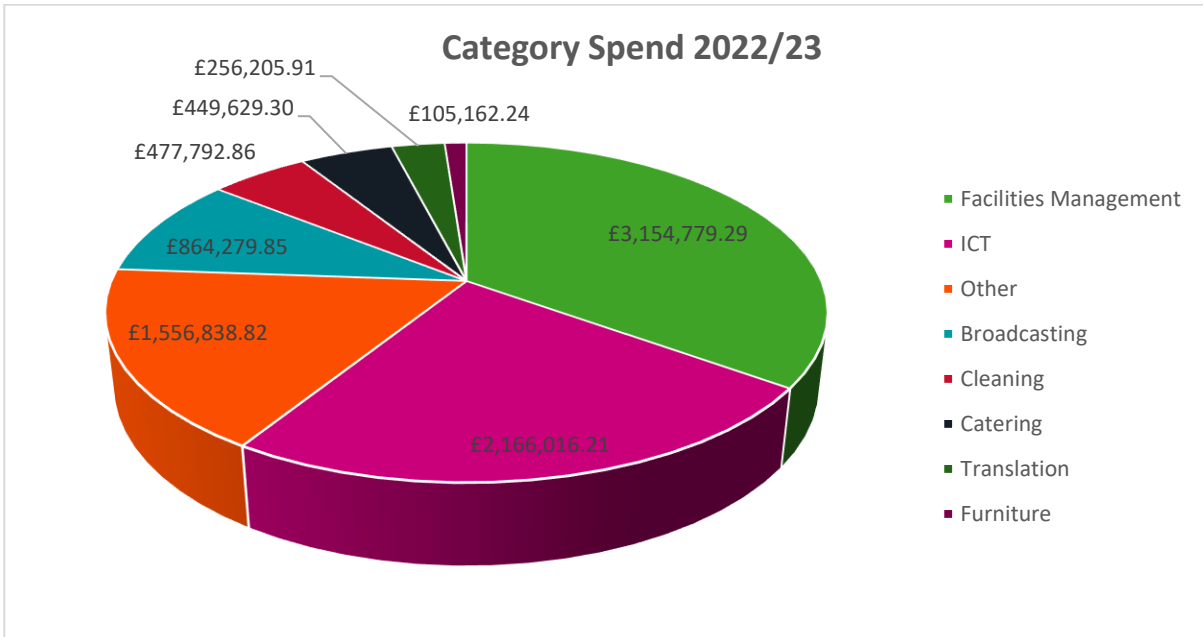
All contracts which exceed £25,000 are managed centrally by the Commission's Procurement team. Management of contracts below £25,000 is delegated to Service Areas. The Commission continually explores ways to increase spend with Welsh suppliers. We do this through market research and early engagement with suppliers.

Spend with Welsh Suppliers

Spend with Welsh based suppliers has increased from 45% in 2021/22 to 47% at the end of financial year 2022/23.

Where we spend our Money

In 2022/23, we spent circa £9M on bought-in goods and services, 47% of this sum was spent in Wales. Almost two thirds of this expenditure is on either facilities management or ICT.



Who we spend our money with.

In 2022/23 our top suppliers in terms of spend are shown below. The supplier we spend most with is CBRE, our facilities management contractor.

Supplier name	Spend
CBRE (facilities management)	£2,313,314
Bowtie Television (broadcasting)	£864,279
Softcat (ICT)	£744,736
EDF Energy	£479,030
Total Support Services (cleaning)	£474,164
Insight Direct (UK) Limited (ICT)	£321,251
*DDP Construction Services	£320,183
Charlton House Catering	£246,916
ESS Catering	£201,271
*Tremorfa Ltd (mechanical and electrical)	£198,657

* Welsh suppliers, (which are included in CBRE total).

In 2022/23 61% of spend with CBRE was passed on to Welsh sub-contractors.

Welsh Spend by Category

PAPA(6)-14-23-PTN4

Welsh Spend by Category - 2021/22										
	Qtr 1		Qtr 2		Qtr 3		Qtr 4		Cumulative Spend 2021/22	
Category	Spend	Percentage	Spend	Percentage	Spend	Percentage	Spend	Percentage	Spend	Percentage
Broadcasting	£81,264.83	3%	£84,000.00	5%	£87,000.00	5%	£90,200.00	3%	£342,464.83	4%
Catering	£4,237.68	0%	£11,543.38	1%	£18,224.63	1%	£15,988.85	0%	£49,994.54	1%
Cleaning	£8,921.56	0%	£7,371.00	0%	£12,238.67	1%	£10,167.50	0%	£38,698.73	0%
Facilities Management	£645,858.47	24%	£192,738.00	12%	£183,707.64	11%	£458,857.71	14%	£1,481,161.82	16%
Furniture	£157,357.36	6%	£28,086.30	2%	£8,852.40	1%	£3,622.40	0%	£197,918.46	2%
ICT	£117,660.54	4%	£254,958.92	16%	£134,357.02	8%	£595,470.12	18%	£1,102,446.60	12%
Other	£89,305.24	3%	£101,553.27	6%	£245,825.83	15%	£317,134.81	9%	£753,819.15	8%
Translation	£19,839.63	1%	£37,202.15	2%	£63,025.25	4%	£72,196.46	2%	£192,263.49	2%
Total Local Spend	£1,124,445.31	42%	£717,453.02	44%	£753,231.44	45%	£1,563,637.85	47%	£4,158,767.62	45%
Total Spend	£2,650,165.54		£1,613,727.68		£1,668,866.53		£3,338,411.63		£9,271,171.38	

Welsh Spend by Category - 2022/23										
	Qtr 1		Qtr 2		Qtr 3		Qtr 4		Cumulative Spend 2022/23	
Category	Spend	Percentage	Spend	Percentage	Spend	Percentage	Spend	Percentage	Cumulative Spend	Cumulative Percentage
Broadcasting	£88,000.00	4%	£89,250.00	4%	£94,500.00	5%	£93,600.00	3%	£365,350.00	4%
Catering	£25,987.75	1%	£12,389.31	1%	£54,856.11	3%	£28,186.33	1%	£121,419.50	1%
Cleaning	£8,687.56	0%	£8,075.47	0%	£9,420.75	0%	£13,680.35	0%	£39,864.13	0%
Facilities Management	£613,824.30	27%	£238,673.70	12%	£285,830.84	15%	£425,811.84	15%	£1,564,140.68	17%
Furniture	£25,347.00	1%	£38,891.94	2%	£14,733.30	1%	£26,190.00	1%	£105,162.24	1%
ICT	£98,100.60	4%	£93,424.96	5%	£100,453.95	5%	£112,084.66	4%	£404,064.17	4%
Other	£250,580.94	11%	£423,013.29	20%	£341,964.29	17%	£342,806.63	12%	£1,358,365.15	15%
Translation	£62,328.70	3%	£32,655.44	2%	£84,209.20	4%	£82,460.23	3%	£261,653.57	3%
Total Local Spend	£1,172,856.85	52%	£936,374.11	45%	£985,968.44	50%	£1,124,820.04	41%	£4,220,019.44	47%
Total Spend	£2,256,712.59		£2,073,204.22		£1,961,509.32		£2,774,073.48		£9,065,499.61	

Spread of contracts awarded during 2022-23

Contract value	Number of contracts	Welsh contracts
>£100k	16	6
>£50k	8	5
>£10k	51	20
<£10k	274	134

Recommendation 6. The Committee encourages the Commission to share updates, as and when they arise, of staff recruitment projects aimed at increasing the diversity of the organisations as a whole, as well as updates on the progress of the YMLAEN project, amongst others.

Each recruitment campaign is planned to optimise the diversity and breadth of the candidate pool. Our name-free recruitment system and structured approach to interviews and assessments enables job applicants to have confidence that biases will be eliminated from the application process. We have also continued to:

- Strategically partner with an executive search agency to diversify the talent pipelines and panels for senior Commission appointments and public and Crown appointments;
- Monitor recruitment processes and enhance assessment design;
- Create bespoke advertising strategies for campaigns, enhanced panel diversity, inclusive job description and candidate pack design; and
- Review, and where appropriate, act on candidate and hiring manager feedback, all with a view to attracting the widest range of talent.

Recruitment development activities

Over the year, our Recruitment Team has developed an attraction plan which includes strategies to widen the talent pipeline, attract candidates to hard-to-fill vacancies and the ongoing development of marketing materials and outreach activities. Our approach takes into account different audiences and their differing requirements in terms of receiving information both digitally and in-person. Candidate guidance has also been reviewed to provide clarity on existing processes and reassurances to candidates who might be disabled as to the reasonable adjustments that can be made throughout the recruitment process. We will be developing and rotating dynamic content on our careers webpages, providing staff insights into working for the Senedd Commission and information about our diversity and inclusion work as an organisation.

Another key area of work is the review of recruiting manager guidance and training materials with a view to developing an inclusive recruitment toolkit for staff participating in recruitment panels. The concepts of bias, privilege and creating a positive candidate experience will be central themes throughout both the guidance and training materials which are currently in draft format.

YMLAEN – our Ethnic Minority Graduate Internship

This year, we have welcomed four interns to the Senedd Commission with a view to equipping them with the skills, knowledge, and tools to secure management roles in the public sector.

Working in partnership with the Windsor Fellowship to deliver the programme enabled us to advertise and promote to diverse communities across Wales, resulting in 63 applications for the four positions. The calibre of applicants was high and demonstrated clearly that the Senedd can successfully attract candidates from a much broader range of communities.

The interns undertook extensive training to develop leadership and technical skills designed in the hope of providing them with the best chance possible to secure employment in specialist areas at middle manager level or above. Considerable work went into preparing, engaging and up-skilling the host teams of the interns and the wider Senedd of the benefits of this scheme, which resulted in both the interns and host teams feeling supported.

We have successfully launched our second YMLAEN Programme, following the same process and with the same programme objectives, aiming to have our next cohort starting their internship at the Senedd in September 2023.

Annexed documents Ref Recommendation 3:



ARAC (23-02) Paper
8 - Lessons Learned



2022 06 13 - FC
Letter COVID June 2

Pwyllgor Archwilio a Sicrwydd Risg Comisiwn y Senedd
Senedd Commission Audit & Risk Assurance Committee



Date: 27 April 2023

Time: 14.00 - 16.30

Venue: Hybrid - Conference Room 4B/Zoom

Author: Gareth Watts, Head of Governance and Assurance / Head of Internal Audit

ARAC (23-02) Paper 8 (Item 8)

Senedd Commission

Internal Audit Review

Lessons Learned from Covid 19

March 2023

Reviewed by: Gareth Watts, Head of Governance and Assurance

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01. Executive summary

01.1. Introduction and background

- 1.1.1 This review summarises aspect of the Commission's response to the Covid 19 pandemic.
- 1.1.2 It builds on earlier work undertaken during the course of the pandemic and outlines:
- A narrative summary of how the Commission responded
 - What the Commission did
 - What we have learned and how this is being taken forward

1.2 Scope

- 1.2.1 The review reflects on three areas:
- Delivering Senedd Business
 - Governance and Decision Making
 - Wellbeing of staff

1.3 Further work

- 1.3.1 Where appropriate further internal audit work of governance support will be taken forward in areas cited in the report. This includes a planned internal audit of the use of the procurement card and governance support for taking forward the role of staff networks.

1.4 Acknowledgment

- 1.4.1 We would like to thank everybody who contributed to the review.

02. Detailed Findings

2.1 Delivering Senedd Business

- 2.1.1 Investment in technology, coupled with a 'digital by default' approach to business since 1999, enabled the Commission to adapt quickly and effectively to new ways of working. The focus was on timely and effective decision-making, clear communication, efficient use of digital capabilities, and the safety, health and well-being of all. In the 2020-2021 annual report we outlined how the Commission had responded to the Covid-19 pandemic delivering online plenary meetings, enabling the Senedd to continue its work and to be the first Parliament in the UK to meet virtually when we were all advised to work from home.
- 2.1.2 As the pandemic continued the Commission's focus turned to returning to 'business as usual' as much as we could, although the focus for all formal business inevitably continued to be around the pandemic. This meant expanding the business taken in plenary and enabling virtual committee meetings to allow scrutiny to continue. Emergency standing orders, for the continuity of Parliament during the public health emergency, by facilitating virtual and hybrid plenary sittings, were turned around in two days, and agreed and tested at a physical meeting on 24 March 2020. These emergency standing orders provided for new recall provisions, a reduced quorum, flexibility around public access, and weighted voting. That meeting on 24 March, with reduced numbers of Members attending, was to be the last time Members met physically in the Chamber for almost four months.
- 2.1.3 Unlike many other parliaments, statute and standing orders do not require the Senedd to meet in a particular place. Members are required to 'participate' rather than be 'present'. There are no constitutional or procedural barriers to meeting remotely, provided that proceedings can be bilingual (Welsh-English).
- 2.1.4 With just five days' notice, Commission officials delivered the Senedd's first virtual plenary meeting via Zoom the following Wednesday 1 April 2020, the first parliamentary session to be held by video-conferencing in the UK. Groups agreed to limit their attendance to twenty Members, while the four independent Members were all able to attend. Uniquely, unlike all plenary meetings before and since, this first virtual meeting was not broadcast live. A full recording was instead made available immediately after the meeting. Welsh-English simultaneous interpretation (a statutory requirement) was provided as usual. April and May saw changes to the operation of virtual plenary as Members and officials learned from experience and adapted accordingly.
- 2.1.5 The Senedd Business Committee, which considers the organisation of business, agreed a gradual increase in the number of Members able to attend virtual plenary meetings and, from 1 June, any Member who wished to attend could do so. A pattern was established of one virtual plenary meeting each week. Core business comprised of

Government statements on Covid-19, with questions from party leaders and other Members, and consideration of legislation to approve Covid-19 regulations. Over time the range of business was expanded to include issues beyond Covid-19:

- Topical Questions, enabling Members to question Ministers on matters not otherwise on the agenda, were reintroduced on 4 May;
- one hour of non-government time per week – usually opposition debates – scheduled from 3 June, with the stipulation by Business Committee initially that they must be Covid-19 related; and
- the Llywydd decided, having consulted with Business Committee as required by the emergency standing orders, to reintroduce oral questions to all Ministers from 24 June after a three-month absence.

2.1.6 Hybrid meetings In July, came a tentative emergence into a 'new normal': the Senedd meeting in hybrid format with remote electronic voting, and committees meeting virtually. Careful thought was needed to ensure that the technology allowed for the seamless running of proceedings, linking Members from all corners of the country with those in the Chamber. It was essential that meetings continued to be broadcast on Senedd TV and the parliamentary YouTube channel. Thorough testing was carried out of various platforms and applications to develop a system to support a bilingual audio feed in English or Welsh, allowing Members to contribute, and for viewers to watch, in their language of choice, and which allowed the contributors to move smoothly from one language to the other without impacting on the flow of proceedings. This prompted many public and private organisations to approach the Senedd Commission for advice and guidance on conducting their own bilingual meetings.

2.1.7 From April 2020 to July 2020, the Senedd operated 'weighted voting' which meant that one Member of each party voted on behalf of all their Members. Independent Members were able to cast their own votes too. Although this was a stopgap measure, there was early recognition among the Business Committee and Members that we should return to individual voting as soon as possible, especially once the Senedd returned to considering primary legislation. Officials started working on a new system to enable Members to vote individually and remotely. By mid-June, progress was advanced enough for the Business Committee to agree in principle to its introduction and to propose further temporary standing order changes to allow Members to 'vote electronically from any location'. One of the main challenges with the development was to safeguard the integrity of the vote. It was essential to ensure that only those who are entitled to vote could do so and that a vote would only be recorded once. Using existing technologies an online application was created. This allowed Members to vote securely, using their choice of device at their preferred location. By the end of June, the Government was scheduling more non-Covid-19 business.

2.1.8 As business expanded beyond an emergency programme the Llywydd was keen that the Senedd trial hybrid meetings before summer recess, so that some Members had

the option of attending the Senedd as the lockdown restrictions eased. Business Committee agreed that the last two scheduled plenary meetings before recess, 8 and 15 July, should be held in a hybrid format. It was agreed that 20 Members could be physically present in the Chamber. All other Members would be able to participate virtually via Zoom. Remote electronic voting was used for the first time on 8 July. On 13 July, the Business Committee decided that as of September, the Senedd would return to its usual pattern of two plenary meetings per week and a 'normal' schedule of business, and anticipated that plenary meetings would be in a hybrid format for the foreseeable future.

- 2.1.9 Business Committee endorsed principles that the Llywydd would use in deciding the format of plenary meetings during periods of local and national restrictions, ranging from physical, through various models of hybrid, to fully virtual meetings.
- 2.1.10 Before the pandemic, Senedd committees had, from time to time, met in a hybrid format with some Members and witnesses participating via video or teleconference. However, the complete relocation of all committee proceedings into the virtual space during the pandemic was unprecedented. To help support this change, on 17 March 2020, the Business Committee took the view that 'for the foreseeable future committees should focus on essential business'. While committees are autonomous entities that decide their own work programmes, the view of the Business Committee, coupled with an awareness among Committee Chairs, Members and officials that Wales' public services' immediate focus would be on managing the pandemic, led the vast majority of committees to pause all non-Covid-19 related work. Shortly after the beginning of lockdown, the committee timetable was revised in response to the closure of the estate and the need to prioritise technical resources to supporting plenary business. During this period, Committee Chairs worked together to co-ordinate scrutiny across committees, in particular agreeing an approach for the Scrutiny of the First Minister on Covid-19 recovery plans and to make best use of Members' and Ministers' time. Each committee adopted its own approach to scrutiny to reflect its portfolio responsibilities.
- 2.1.11 The majority of committees launched overarching Covid-19 inquiries to cover all issues in their remit, including rolling calls for written evidence and oral evidence from Ministers and relevant stakeholders. However, until mid-June, technological and capacity constraints of remote working prevented more than one public meeting taking place at a time. This reduced the meeting time available, leading to difficult choices about evidence taking and witness time. By September 2020, committees were able to return to a weekly pattern of meetings and a broader range of business, although the scrutiny of matters relating to Covid-19 and legislation remained a priority. Facilities were put in place to enable hybrid committee meetings. Where appropriate this model has become one of the normal options available to committees for the Sixth Senedd.

- 2.1.12 An added complication which the Senedd faced during the pandemic was some uncertainty about the actual timing of the Senedd election scheduled for May 2021.
- 2.1.13 The Welsh Elections (Coronavirus) Act 2021 had created uncertainty about the date of the Senedd Elections and shortened the dissolution period to one week. The Act led to the Dissolution Guidance, which was first drafted and published in November 2020, to be updated and reissued on two separate occasions, with the latest version published in late March 2021, less than two weeks before the start of the pre-election period. The uncertainty remained until one week before the Senedd Elections. There was also the added complication of not knowing what Covid restrictions would be in place during the Elections so multiple plans were prepared in advance to cover advice and arrangements for a range of contingencies. Once the Senedd Election results were confirmed, Commission staff worked across teams to welcome new and returning Members and one of the first activities to be carried out was to ensure that all Members were able to take the Oath.
- 2.1.14 Usually, welcome and orientation activities are done entirely in-person. This year, reflecting requirements for social distancing and maximum capacity levels for the estate, onsite in-person activities was combined with virtual oath taking. The welcome event for the 60 newly elected Members of the Sixth Senedd took place from Friday afternoon to Monday afternoon, with each swearing their allegiance, in front of the
- 2.1.15 Clerk to the Senedd, and receiving their initial induction to the role - 35 at the Senedd, 3 in the North Wales office and 22 virtually. Twenty Members were elected for the first time. Commission staff were on hand to help Members with practical issues such as office space and ICT equipment as well as advice on their new role, security and support to employ staff. Covid driven virtual oath taking was popular and had the added benefit of enabling Members to take their oath in their constituency or region, or in the presence of family and friends. Virtual oath-taking will be made available following future Elections.
- 2.1.16 Having taken the Oath, all 60 Members were able to take part in the first Plenary meeting of the Sixth Senedd. At that meeting the Senedd elected a Llywydd (The Rt Hon. Elin Jones MS) and a Deputy Presiding Officer (David Rees MS) and agreed to nominate Mark Drakeford MS as First Minister. Since social distancing rules were still in place at that time, the meeting was held in hybrid format with 20 Members in the Siambr and the remaining 40 Members joining online from their offices in Tŷ Hywel.
- 2.1.17 Once the First Minister had appointed a Minister responsible for government business, the Business Committee was established, and the routine organisation of weekly parliamentary business was able to get underway. One of the early responsibilities of the Business Committee was to propose Members to be the four Senedd Commissioners, usually one from each political group. For the first time there were fewer than four political groups formed by Members of the Senedd. This meant that the Business Committee had to determine who the fourth Commissioner should be.

2.1.18 Over the following weeks Commission officials delivered a range of further induction sessions for Members and their staff covering subjects such as taking part in Plenary meetings, understanding their role as an employer and a data controller, and supporting them in setting up their constituency offices. With the exception of practical training provided in the Siambur, all core induction sessions were delivered virtually. This was necessary at the time due to Covid restrictions, but it also worked well, providing flexibility for Members around other commitments, as well as a chance to get used to our ICT systems in a training setting. It is something we will consider providing at the next Election too

What did we do?

- Utilised technology to become the first UK legislature to hold online parliamentary business.
- Introduced Standing Orders 34.10 and 34.11 to reduce the quorum required for plenary sessions and permit weighted voting with one member from a party group carrying the same number of votes as members of that group (see also section on Proxy Voting). This was implemented to reduce the number of members required in the Chamber. This system was used until Standing Orders 34.14A-D were introduced on 8 July 2020 to allow members to vote electronically from home. The latter Standing Orders remain in place
- Took an agile approach in timetabling Senedd business, initially limited to issues directly related to Covid 19 but expanding this over time.
- Collaborative working between the Business Committee, Committee Chairs, other Members and Commission officials in respect of taking forward Committee business. Committees were suspended on 23 March 2020. Following this, the Senedd prioritised arrangements for virtual plenary sessions. This meant that certain committee responsibilities in the legislative process were temporarily transferred to the plenary. Committees reconvened virtually from 29 April 2020. Hybrid committee meetings began from 2 October 2020. Committees have been conducting hybrid meetings since then.
- The Commission was able to adapt at pace to vary its approach to the transition from the fifth to the sixth Senedd and the Members induction activities during the spring and summer of 2021, which were complicated by a number of uncertainties, reduced dissolution period and social distancing regulations. The process was managed effectively and applied appropriate risk management methodology to manage the risk effectively.

What did we learn

- Continued investment in ICT hardware and software is a key component of safeguarding the Commission's resilience. To combat other potential future challenges such investment should sit alongside an effective and robust approach to cyber security to mitigate against future business continuity situations which may present different technological challenges such as cyber-attacks. A business continuity audit focussing in on the organisation's approach to ICT business continuity and disaster recovery is currently planned.
- The Senedd has shown that it can be agile and adaptable in a crisis, and has the flexibility to make temporary changes to the rules of procedure. We continue to take forward this learning going forward.
- Virtual, or at least hybrid, committees have become a feature of Senedd business. Considering how to harvest the advantages they have shown – including especially more open, real-time collection of diverse voices and geographically distant opinions is a challenge for all parliaments. Senedd Committees are making the most of these opportunities inviting expert witnesses from as far as Australia to add value to Committee's important scrutiny and inquiry work.
- Committees also recognise their opportunities to strike a balance of undertaking meetings when not being in the same room – including opportunities of physical attendance of key witnesses such as ministers or at pre appointment hearings in respect of public appointments.
- Technology has the potential to enable a different balance to be struck between presence in the constituency and presence in the legislature and, in doing so, change who is able to participate in politics. Even if the presence in the parliament remains important and sometimes necessary, remote participation can still be facilitated if there is a desire from Members, and the Commission officials remain ready to ensure that the needs of Members are met to ensure the ongoing hybrid ways of working can continue where required.
- Remote voting was important during the lockdowns in enabling important legislative business to continue. In the post pandemic world there are variety of opinions in respect of continuing with virtual voting and this is a political decision. Commission officials from across the organisation including ICT and Senedd Business staff continue to provide the Llywydd, Business Committee and other decision makers with all the appropriate information around the benefits and risks associated with this process – in order that informed decisions can be made.
- Virtual oath taking is a process that can be used in the future with new Members.
- Virtual parliamentary business has resulted in re-thinking about estate strategies. Parliaments may no longer need large, grand estates to accommodate our

legislators in one place. These new opportunities and thinking are being incorporated into the Ways of Working Programme.

2.2 Governance and Decision Making

2.2.1 The Commission, like every other organisation in the UK and worldwide was affected by Covid-19. In the immediate days following lockdown in March 2020 it was clear that the Commission would not be able to just 'go back' to the way things were, and so a carefully planned and co-ordinated return to the estate (RTE) was needed. Executive Board quickly appointed an RTE Programme Manager, Advisor and Senior Responsible Officer, from within the existing workforce. Working with leaders from each part of the organisation, a new delivery team was established, from within the existing workforce, comprising of six workstreams covering:

- Senedd Business and the technology needed to support essential parliamentary business.
- Senedd Estate - ensuring safe and managed access and use of the estate in line with Covid regulations.
- Senedd People – supporting health and wellbeing, policies, and training for Commission staff.
- Communications and Engagement - ensuring the needs of Members and Commission staff were understood, and communications regarding the plans for returning to the estate were made on a regular basis.
- Governance and Assurance - ensuring good governance in programme coordination, decisions, and regular reflections.
- Senedd Futures – learning from our experiences and understanding the opportunities to plan for longer term changes.

2.2.2 Initial tasks included setting and agreeing with the Commission, the principles that would underpin plans. These were:

- Safety is paramount and risk levels will be reduced to as low as reasonably practical.
- Open parts of the estate, only where it is necessary and safe, and only for as long as needed.
- Keep numbers on the estate to a reasonable minimum.
- Support the health and wellbeing of Commission staff.
- Prepare and induct Commission staff, Members and Member Support Staff for their return to the estate.

- Engage and communicate with Members, Member Support Staff and Commission staff throughout.
- 2.2.3 The RTE programme needed to be flexible and responsive to sustain and shape evolving Senedd virtual business. The only way to do this was to start planning based on a number of assumptions, including:
- The programme would need to prepare scenarios for a phased return to the Senedd estate, including the possibility of holding hybrid plenary sessions.
 - We expected an increased and more varied business, particularly from Government legislation and EU transition in the autumn 2020.
- 2.2.4 These assumptions were used to model scenarios, prioritise activities, test thinking and enable us to ‘forward plan’ the decisions that would need to be made to underpin changes.
- 2.2.5 This RTE group was subsequently replaced by the Covid Reporting and Monitoring (CRAM) group, specifically responsible for monitoring changes to Covid-19 Regulations that impacted on the Commission and advising Executive Board, developing and reviewing risk assessments and monitoring data on the impact of the pandemic on the health and wellbeing of the workforce.
- 2.2.6 Throughout the pandemic the Executive Board met at least twice a week on a Monday and Friday morning to discuss any latest developments and consider the latest public health advice and Welsh Government regulations. During this time the Head of Governance and Assurance was also a standing invitee who could brief the Board on the latest business continuity information and feedback from his business continuity forum meetings which took place with the other parliaments across the UK, Canada and New Zealand on a weekly basis.
- 2.2.7 A robust governance framework and updated business continuity planning stood us in good stead, enabling us to meet the challenges posed by the pandemic. We maintained high standards of governance throughout with the co-ordination of governance activity continuing without disruption.
- 2.2.8 On-going review, monitoring and management of risk at corporate, operational and project levels continued; prioritisation of support to ensure continued compliance with information governance and procurement rules; and internal and external audit. Some changes were needed to the original internal audit plan to allow for a focus on real-time assurances around changes to procedures (further details on this can be found in the Assurance section of this statement). The audit of the accounts was carried out as planned for the 2019-20, 2020-21 and 2021-22 financial statements.
- 2.2.9 All decisions taken to address risks and issues associated with our response to Covid-19 have been captured. This decision log has proved its worth as a record and

continues to be used to draw lessons and conclusions and to inform our future business continuity arrangements.

- 2.2.10 The Senedd Finance Committee has kept a sharp focus on Commission budgets and the effect on the Commission in respect of both savings and extra expenditure pressures. Through the course of the period the Commission corresponded with the Committee to keep them apprised of the impacts. [Letter to Finance Committee](#)
- 2.2.11 Due to remote working, there was an increased use of procurement cards as sometimes items had to be bought quickly. This process was largely managed well although some issues have been raised by finance and it was noticeable that increased use of sites such as Amazon were used during the pandemic which was brought to the attention of Finance, Procurement and Governance.
- 2.2.12 Additional arrangements and extensive planning were also effective in managing discrete pieces of work which required different approaches during the pandemic. These included the Senedd Elections in May 2021, including a shortened dissolution period, and related activities, to ensure a smooth transition to the Sixth Senedd; and elections and early activity of the second Welsh Youth Parliament.
- 2.2.13 Updates on the latest position regarding the pandemic were formally presented at each meeting of the Commission and the Commission's Audit and Risk Assurance Committee.
- 2.2.14 Through this period the Commission also considered detailed papers where decisions were needed such as: plans for returning to the estate; options for public engagement activities; and future ways of working.
- 2.2.15 The business continuity arrangements which were put in place to keep Senedd business running during the first year of the pandemic proved to be effective and became the norm during the 2021-22 financial year, with some now forming a permanent feature of business delivery. This includes remote working, and hybrid plenary and Committee meetings, and electronic voting.
- 2.2.16 As the conditions changed and the Commission prepared for a planned return to the estate, the organisation was able to manage our way out of Covid restrictions and regulations (in terms of diamond desk patterns, meeting room capacity restrictions etc) without a major problem. During this time there was a wide range of views (reflective of society) about the speed at which those changes/de-restrictions should happen, and this played out via the process of reviewing and updating the Corporate Risk Assessment.
- 2.2.17 During this time of transition, accountability for the issues and decisions associated with that time was sometimes difficult as the situation was ever changing. CRAM's was to make recommendations for decisions and it became necessary for some very small operational matters to be referred up to Executive Board and then onwards to the Commission, which could lead to extended timeframes on occasion. These were

unprecedented times with elements of confusion and changing regulations and public health advice.

- 2.2.18 Those extended timeframes led in turn to some service areas taking matters into their own hands (e.g. about where they sat). There are a number of reasons for that situation, which only lasted a few months and have subsequently been resolved.
- 2.2.19 In the summer of 2022, the Commission confirmed that it was now operating a hybrid model going forward, with staff to be in work where they had a reason to be present noting that this would tie in neatly with Commission plans for more efficient and sustainable use of the estate. Subsequently, as events and attitudes moved on, there was a change in strategic stance, with increased office attendance encouraged during later 2022, in line with business need and to align with the needs of Members. This approach is now well established with working patterns fitting in with the needs of the business and consideration of individual and team well being where an increasing use of periodic 'in person' team meetings have become a feature of a number of well being plans in services across the Commission. The impact of the new office attendance trends for the future use of the estate will need to be assessed and managed.
- 2.2.20 The Commission has exploited and will continue to explore opportunities to work differently and more flexibly, including ways in which we can support Members to realise the democratic benefits of hybrid working. Our reflections from operating in this environment are now being used to inform a review of the Commission's approach to business continuity planning and form part of our wider learning from experience of responding to the pandemic. An internal audit assurance review is currently on-going to help shape future thinking in this area.
- 2.2.21 In May 2021, the Executive Board approved a report entitled "Future ways of working: Learning and opportunities" (**Futures Report**). It was subsequently approved by the Commission and published internally. The comprehensive (117 page) report was informed by a series of wide-ranging consultation and engagement activities, discussions, surveys and workshops. It incorporates detailed reflections on lessons learned during the first year of the pandemic and draws on key data and assessment information.
- 2.2.22 The opportunity to build a new flexible, responsive, and sustainable model of working, is being implemented as part of the "Ways of Working" programme, with formal programme governance structure. This will also incorporate our findings from the Commission's second Capacity Review which was carried out over the start of the Sixth Senedd. Alongside this, the Director of Senedd Business commissioned and oversaw an internal operational review of the Business Directorate. The aim of this review was to work towards a strengthened business support model to ensure that we continue to provide outstanding parliamentary and business support services that are sustainable, flexible, responsive and expert. In preparation for the Sixth Senedd, Directorate service structures were revised, new roles created and a staff rotation exercise instigated to build resilience on key individuals, address

resilience limitations and possible critical points of failure, and put in place succession planning arrangements

- 2.2.23 We have maintained high standards of governance throughout the period with the co-ordination of governance and assurance activity continuing without disruption. This has been reflected in the assurance statements from Heads of Service and Directors which have informed our governance statements during the last three years.

What did we do?

- Adapted our governance procedures in order to respond to the changing situation and ensured that the appropriate decision makers, Commission, Business Committee and Executive Board were always provided with the appropriate information to make informed decisions.
- Created the RTE and subsequently CRAM to ensure the correct people were part of the conversations and proposed decisions could be worked up in an agile way before passing the ratification of decisions to the appropriate decision making body.
- Maintained a decisions log of all the decisions made during the course of the pandemic.
- Networked with other parliaments to ensure that we could learn from each other.
- Embedded risk assessments across the organisation when planning for a phased return to the estate taking into account health and safety and Welsh Government regulations.
- Implemented a risk assessment mini data protection impact assessment tool for Commission activities such as recruitment, to ensure that the Commission was able to balance its responsibilities in line with the Official Languages Scheme to provide bilingual services against the cyber risks of deploying private Commission business on the Zoom platform.
- Continually addressing the challenges of new ways of working and taking into account both business need and staff well-being in transitioning to a more agile workplace of the future.
- Created a Ways of Working programme to take forward the Commission's response in the post pandemic world.

What did we learn?

- The organisation was able to act at unprecedented speed to respond to significant events and different delivery structures can be introduced at short notice in order to streamline the amount of time taken for decision making. We have taken this on board and have re-installed CRAM to help take forward future thoughts on business continuity planning.
- The pandemic demonstrated the importance of a dynamic risk management system which should be subject to regular review and challenge, such a system needs to incorporate horizon scanning and scenario planning within it. These facets are embedded in our risk management process with quarterly Director led risk reviews, Executive Board review and the opportunities for horizon scanning on an annual basis. Going forward clarity on risk appetite and risk tolerance will also be the basis on choosing what trade-offs should be made in any future emergency situations. The current Effectiveness Review of the Executive Board will consider the role that both the Board and Leadership Team may be able to play going forward with respect to the management of risk and in particular the inter relationship with the risk management in the two large programmes – Ways of Working and Senedd Reform. A more detailed piece of work on Project and Programme Governance is scheduled for the 2023-24 internal audit plan which will include a review of risk and issues management.
- Developing and taking forward approaches to business continuity planning will also be important as the Commission plans for the future. In particular recognising the role technology can now play in revising traditional business continuity ideas, and identifying the consequences of major emergencies, developing playbooks or scenario planning for the most significant impacts. An internal audit of business continuity is currently underway to help identify how we ensure our plans remain as effective as possible and in line with good practice.
- The importance to re-review the use of procurement cards across the organisation. During the pandemic further guidance was issued by the Head of Procurement to remind everyone that we have an approved list of Commission suppliers already in place for items such as stationary and colleagues should not be using Amazon as a default option for convenience. Regular monitoring of spend is undertaken by finance and procurement and an internal audit is planned in this area during 2023-24 to add an extra layer of assurance in this area.
- As predicted at the outset of the pandemic the organised return of staff to the estate proved much more complicated and challenging than the swift

decanting of staff at the pandemic's outset. This made decision making more complicated and led to some operational matters being escalated to the highest echelons of governance and concurrently some inconsistency between service areas. This was not unique to the Commission as organisations everywhere grappled with these challenges. There are opportunities for the Commission to reflect on this period in terms of the approach to strategic decision making and the corporate stance on ways of working which has now bedded in well with services across the Commission adapting working practices in line with the needs of the business and staff well-being. Working practices will continue to evolve as the two strategic programmes are taken forward.

- The post-pandemic world is one where all organisations need to increasingly recognise the importance of environmental, social and governance issues in their strategic considerations. The Commission is no different and has a sharp focus on such issues, including ensuring that these issues are brought to the fore with the Audit and Risk Assurance Committee with discussions on the Commission's decarbonisation strategy and involvement in initiatives such as the Cardiff Bay District Heating Scheme.
- Transparency and public trust remain key concepts for the Commission therefore, documenting decisions and lessons learned as the events unfolded provided the Commission with opportunities to reflect and will help to strengthen business continuity response and organisational resilience in the future. These measures helped to improve transparency and help assurance providers in the first, second and third lines to provide assurance and or identify any root causes if problems do occur.

2.3 Wellbeing of Staff

- 2.3.1 The wellbeing of Commission staff was at the core of the Commission's approach to the pandemic, whether people were working on the premises or remotely.
- 2.3.2 We continuously took a measured approach to keeping all users of the estate safe whilst working on the estate, adapting to Government legislation and Public Health messages, whilst supporting the business of the Senedd to continue. Our focus on welfare and inclusion, ensuring that all building users felt equally safe, has encouraged all building users to consider each other's needs.
- 2.3.3 The Commission actively supported all building users to follow the most up to date guidance on using the estate safely, including Lateral Flow Testing before entering the estate, the wearing of masks when circulating, and a redesigned building occupancy. The Senedd's internal Track and Trace procedure supported business continuity, and a new desk booking system ensured both physical distancing throughout the estate, and opportunities to redesign a long-lasting healthy workplace for the future.

- 2.3.4 Our HR, Estates and ICT Teams worked closely to ensure that staff working remotely, either some or all of the time, have appropriate display screen equipment (DSE), including any reasonable adjustments and ergonomic requirements.
- 2.3.5 As agile working will be a continuing feature of our future ways of working, we have procured a DSE online system which will continue to support those working remotely or on the estate. Regular wellbeing support has been provided to all, whether on the estate or contributing remotely, focused on physical and mental wellbeing. Robust planning, informed conversations and individual risk assessments were at the heart of returning to the estate, and will continue to inform inclusive future ways of working.
- 2.3.6 Our Workplace Equality Networks, and particularly the MINDFUL network have continued to hold virtual drop-in sessions, creating a space for general chat and advice to all as and when needed. Recognising the great numbers of estate users with caring responsibilities we have continued to provide adaptable support in this area, ensuring that our emerging agile ways of working can both deliver the business of the Senedd, and support Commission staff, Members, and their staff to support their caring commitments.
- 2.3.7 The pandemic has also demonstrated how significant events such as these can have differing effects on different groups of staff based on cultural and ethnicity diversity. In also recognising that a number of our estates users live alone or in difficult circumstances, we have focussed efforts on maximising connectivity. We provided support for anyone experiencing domestic abuse during lockdown, including a safe place to work, and the introduction of a confidential loan facility for those in need. Regular wellbeing and business continuity pulse surveys, communication and all-staff meetings have ensured that we have tailored our approach to meet the needs and allay concerns effectively. These measures have similarly informed prioritisation and our business continuity resilience; providing us with new insights and practices for the future.
- 2.3.8 During this period the Commission continued to achieve high levels of staff engagement recording engagement level scores of 77% in 2020 and 75% in both 2021 and 2022. This reflects the response rates to People Survey and the levels of engagement were significantly higher than the civil service.
- 2.3.9 At the outset, appropriate arrangements were implemented to protect people working on the premises, including increased cleaning of high risk/high contact areas, the introduction of hand sanitiser and wipes at all building entrances, the introduction of one way systems and social distancing regimes within buildings and the use of an electronic booking and occupancy tracker to ensure that building occupancy limits are effectively managed.
- 2.3.10 During periods of lockdowns, the risks of staff working from home relating to isolation, mental and physical health and work/life balance were recognised. Guidance was provided to staff, such as [Pack Page 38](#) and staff welfare sessions that included mental

and physical health tips; guidance including office yoga and exercise videos; links to MIND resources and the Senedd mental health toolkit; tips for maintaining mental health during isolation; as well as the provision of occupational health support if required.

- 2.3.11 Wider support also included information for staff working from home with children, bereavement support and the ability for staff to work from the office premises where it is not possible for them to work from home for either personal, technical or premise reasons.
- 2.3.12 Temporary changes were made to our people policies to ensure staff were adequately supported during these difficult times. The Commission actively encouraged a balance of flexible working and a focus on outputs and wellbeing, rather than on worked hours alone. This allowed staff to find their own rhythm with regard to working, caring responsibilities and home-schooling.

What did we do?

- Rapidly implemented home working amongst teams according to Business Continuity Plans whilst factoring in the specific needs of the incident.
- Initiated policy changes to support increased home working.
- Held staff training sessions, instructional videos and bilingual guidance on use of remote working technology.
- Staff information on health and safety, mental wellbeing and tips on effective home working was shared widely.
- Provision of office equipment, where needed, to support staff at home.
- Accelerated roll out of Microsoft Teams to enable instant messaging, voice calls, video calls and content sharing between teams working remotely.
- Regular keep in touch team meetings scheduled using technology.
- Corporate messages from senior leaders via email bulletin and intranet article continued and also broadened to encompass recorded video messages and live events for questions and answers.
- Updated BC Plans in the lead up to the pandemic to ensure that all communication were up to date and that all staff could be reached in one form or another.

What did we learn?

- The whole subject of people wellbeing has increased significantly throughout the pandemic period for all organisations. As a people centred organisation, the Commission has proven to be well placed to address issues in this area. Regular pulse surveys with staff during the pandemic period have continued post pandemic. The healthy relationships between management and the trade unions continues in the Partnership Forum meetings and the organisation places significant value on engaging with the Senedd Commission staff networks. Further work is planned between the Diversity and Inclusion team with the Governance team to explore more fully how these networks can continue to evolve, add value and how they can form part of the overall governance framework.
- The importance of equality, inclusion and diversity is something that is a real focus for the Commission and attracts increasing scrutiny from staff and indeed the wider stakeholder group. A new Independent Adviser has been appointed to lead on inclusion and diversity for the Commission and, one of the priorities in our new Diversity and Inclusion Strategy is to establish a Diversity and Inclusion Board to gather together all the different people that often have the same conversation about the same thing but in different contexts. The idea is to bring network chairs, champions, Organisational Development and Learning, Diversity and Inclusion, Trade Unions and Independent Advisers together to oversee implementation of the Strategy and to be a forum to cover cross-organisational issues. The intended remit of the group would be to give extra assurance to Executive Board and ensure an efficient, co-ordinated approach.
- “Enforced” working from home encouraged innovation and resourcefulness amongst staff and we continue to apply an agile approach to working between home and the estate on a service by service basis based upon business need.
- Our IT systems are able to support a large number of simultaneous remote log-ons and this had previously been sighted as a potential risk pre pandemic.
- Increased working from home means different risks for the Commission and our staff – the importance of ensuring that appropriate Display Screen Equipment (DSE) assessments are in place has been recognised by the Commission. As a result a new arrangement has been put in place to ensure that DSE checks can be undertaken remotely and ensures that the Commission fulfils its health and safety obligations to staff.
- There was a risk that staff who were not routinely equipped to work from home and could not set up their place of work would lose productivity and

may also feel isolated. However, redeployment of Engagement and Security staff to other parts of the organisation helped mitigate against this as did the investment in on-line training and other activities.

- Consistent and timely communications throughout the organisation was critical in ensuring a unified and thus effective response to such a significant event. Internal communication remains an important consideration for the Commission and will be developed as part of the Ways of Working programme.
- Inevitably many of our staff missed the social interaction that the workplace provides and to ensure they do not feel isolated, regular virtual team meetings became a useful substitute. Frequent team meetings led to better morale, sense of purpose and spirit of cooperation. The learning from this period is continuing with HR working with Heads of Service to develop wellbeing plans for all areas and the consideration of the modes of working and the balance between in-person, virtual and hybrid working forms part of these plans.
- As an extension to team meetings – the innovation of all staff meetings online were also an important ‘tool’ in bringing everyone together and indeed removing barriers for those not part of the Cardiff Bay cohort staff such as colleagues based in the north of Wales. Virtual and hybrid meetings for staff events now continue in the post covid world, with much higher levels of attendance than the ‘in person’ events which were in place pre Covid.

ENDS

Document is Restricted

Agenda Item 6

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

Document is Restricted

LEGISLATIVE CONSENT MEMORANDUM

Economic Activity of Public Bodies (Overseas Matters) Bill

1. This legislative consent memorandum (LCM) is laid under Standing Order (“SO”) 29.2. SO29 prescribes that a legislative consent memorandum must be laid, and a legislative consent motion may be tabled, before Senedd Cymru¹ if a UK Parliamentary Bill makes provision in relation to Wales for any purpose within, or which modifies the legislative competence of the Senedd.
2. The Economic Activity of Public Bodies (Overseas Matters) Bill (“the Bill”) was introduced in the House of Commons on 19 June. The Bill can be found at: [Economic Activity of Public Bodies \(Overseas Matters\) Bill \(parliament.uk\)](https://www.parliament.uk/bills/2020-21/economic-activity-of-public-bodies-overseas-matters)
3. On 27 June I wrote to the Llywydd to explain that this LCM would not be laid within the usual timescales given the broad coverage of the Bill, and to ensure Committees have a comprehensive LCM for consideration, there would be a delay.

Policy Objectives

4. The UK Government (UKG) has stated that the Bill intends to prevent “*public bodies when making decisions about procurement and investment from considering a country or territory of origin or other territorial considerations in a way that indicates political or moral disapproval of a foreign state.*” They also confirm that it would “*also prevent public bodies from making statements indicating that they would have done so if it were lawful*”.
5. UKG have stated that a policy objective of the Bill is to ensure that there is a consistent approach to UK foreign policy, by stopping public bodies from pursuing their own foreign policy agenda contrary to that of the UKG. UKG says that this Bill seeks to enable the UKG to meet its commitments to ensure the UK speaks with a coherent voice internationally by ensuring public bodies make procurement and investment decisions that align with UKG foreign policy.

Summary of the Bill

6. The Bill is sponsored by the Department for Levelling Up, Housing and Communities.

¹ Please note in accordance with Welsh Government policy we refer to the legislature in Wales as “Senedd Cymru” on first use and “the Senedd” thereafter unless the context stipulates otherwise.

7. It should be noted that there has been no involvement of the Welsh Government in the development of this Bill.
8. The aims of the Bill are said to include the following:
 - a) Prevent public bodies when making decisions about procurement and investment from considering a country or territory of origin or other territorial considerations in a way that indicates political or moral disapproval of a foreign state. Such boycotts or divestments (reduction of existing investments) by public bodies would potentially be liable to investigation and fines under the legislation.
 - b) Stop councils and other publicly funded bodies from “pursuing their own foreign policy agendas.” UKG has cited concerns that campaigns in universities and local authorities on investment decisions relating to certain countries lead to community tensions.
 - c) UKG have said that the Bill does not prevent public bodies from complying with formal UKG legal sanctions, embargoes, and restrictions.
9. The Bill contains seventeen clauses and one schedule addressing issues relating to boycotts, divestments and sanctions imposed by public bodies. By way of brief summary:
 - a) Clause 1 of the Bill sets out a prohibition preventing public authorities from having regard to a country or territory which indicates moral or political disapproval of that country or territory’s conduct when making decisions about procurement or investment. It is said in the Explanatory Notes that this clause is designed to catch both open participation in boycotts or divestment campaigns, and more subtle ways of singling out countries or territories that could produce similar results.
 - b) Clause 2 sets out the procurement decision and investment decisions to which the prohibition in Clause 1 applies, as well as definitions for “procurement decision”, “investment decision”, and “asset”.
 - c) Clause 3 states that exceptions to the prohibition in Clause 1 are set out in the Schedule. Clause 3 also contains power for the Secretary of State to amend the Schedule.
 - d) Clause 4 prohibits public bodies who are subject to Clause 1 from publishing a statement indicating that they intend to have regard to territorial considerations in a way that indicates moral or political disapproval of foreign state conduct, when making decisions about procurement or investments. This Clause also prohibits such bodies from publishing statements indicating that they would participate in such activity if it were lawful to do so. The Explanatory Notes explain

that this stops public bodies from expressing support for themselves engaging in boycotts and divestment campaigns.

- e) In addition to containing specific provision in respect of procurement and pensions legislation, the Bill also includes an enforcement regime and ability for the Secretary of State or the Minister for the Cabinet Office to make regulations in certain circumstances.
- f) Clauses 5 to 11 deal with enforcement of the obligations.
- g) Clause 12 provides that the Clause 1 prohibition applies to a fund investment decision made by a scheme manager of a funded local government scheme, while Clause 13 deals with the enforcement powers in relation to a decision within Clause 12.
- h) Clause 14 to 16 deal with supplemental and general provisions. Clause 14 applies Clause 1 of the Bill to provisions of the Procurement Bill and makes provision as to how the two pieces of legislation should operate together. Clause 15 makes related amendments to the local government contracting restrictions legislation. Clause 16 deals with regulations made under the Bill.
- i) Clause 17 outlines the extent, application, commencement, and short title for the Bill.

Provisions in the Bill for which consent is required

10. I consider that Senedd Cymru consent is required in relation to the clauses identified below in so far as they make provision with regard to devolved matters:

Clause 1

- 11. Clause 1(2) provides that in relation to decisions to which Clause 1 is to apply, a decision-maker must not have regard to a “territorial consideration” in a way that would cause a reasonable observer of the decision-making process to conclude that the decision was influenced by political or moral disapproval of “foreign state conduct”.
- 12. It is also stated (at Clause 1(7)) that the disapproval referred to above means disapproval on the part of (a) the decision-maker; or (b) any person seeking to persuade the decision-maker to act in a certain way – and in the case where the decision-maker is not an individual, the reference to decision-maker is to include the individuals who in fact make the decision for the decision-maker.
- 13. It is confirmed that there are exceptions to the above as contained at Clause 3 – these provisions are further summarised below.
- 14. It is our view that clause 1 has regard to devolved matters including (but not limited to) the following:

- a) Economic Development – It is arguable that the provisions in Clause 1 have regard to economic development given that they directly impact the procurement and investment decisions of those entities which fall within the remit of the Bill.
 - b) Procurement – Clause 1 applies to a procurement decision defined in clause 2. Procurement is considered to fall within the Senedd’s legislative competence.
 - c) Devolved Welsh Authorities – Given the application of the provisions in Clause 1 are to entities within the remit of s.6 of the Human Rights Act 1998 (see Clause 2 below), the provisions at Clause 1 are likely to affect the procurement and investment decisions of most (if not all) Devolved Welsh Authorities. It is also arguable that the provisions will affect the Welsh Minister’s executive competence in respect of such bodies.
15. It is our view that clause 1 also affects the executive functions of the Welsh Ministers as we consider that they will be required to comply with the provisions of Clause 1 in the exercise of their own functions as applicable.

Clause 2

16. Clause 2 sets out the procurement decisions and investment decisions to which the prohibition in Clause 1 applies, as well as definitions for “procurement decision”, “investment decision”, and “asset”. I have therefore applied the same rationale as for Clause 1 as why the provisions of this Clause are included in this LCM.

Clause 3

17. Clause 3 (save in respect of 3(3)(b) (which relates to the Scottish Ministers), 3(3)(d) (which relates to a Northern Ireland Department), 3(3)(f) (which relates to a district council in Northern Ireland) and 3(3)(g)). Clause 3(1) refers to the Schedule which makes exceptions from the application of the ban in Clause 1. Part 1 of the Schedule lists exceptions for certain bodies and functions, whilst Part 2 of the Schedule lists exceptions for certain types of consideration.
18. Clause 3(4) states that for Part 2 of the Schedule, it is irrelevant (unless that Part provides otherwise) whether a consideration relates to matters arising before or after the coming into force of the Bill as an Act of Parliament or of regulations under Clauses 3(2)(b) or (c).
19. Clause 3 also includes regulation making powers for the Secretary of State and Minister for the Cabinet Office as follows –
20. Clause 3(2) provides that the Secretary of State or the Minister for the Cabinet Office may, by regulations, amend the Schedule so as to (a) add a description of decision to Part 1 of the Schedule (exceptions for certain bodies and functions); (b) add a description of consideration to Part 2 of the

Schedule (exceptions for certain types of consideration); or (c) amend or remove a description of decision or consideration added under previous regulations under Clause 3(2).

21. It is to be noted that Clause 3(3) provides that regulations made under Clause 3(2)(a) (i.e. to add a description of decision to Part 1 of the Schedule) may not relate to a decision of the public bodies listed in Clause 3(3), which are as follows: (a) a Minister of the Crown, within the meaning of the Ministers of the Crown Act 1975; (b) the Scottish Ministers; (c) the Welsh Ministers; (d) a Northern Ireland department; (e) an authority listed in Schedule 2 to the Local Government Act 1988 (public authorities subject to the contracting restrictions in section 17 of that Act); (f) a district council in Northern Ireland; or (g) the scheme manager of a funded local government scheme (within the meaning of Clause 12).
22. Clause 3(5) also provides that the Secretary of State or Minister for the Cabinet Office may, by regulations, specify a country or territory as one in relation to which Clause 1 does not apply. It is confirmed at Clause 3(6) that the effect of this would be as if the country or territory specific in the regulations were not a “foreign territory” for the purposes of Clause 1(6). It is also confirmed at Clause 3(7) that regulations under Clause 3(5) may not specify, and regulations under Clause 3(2) may not result in a description of decision or consideration relating specifically or mainly to (a) Israel; (b) the Occupied Palestinian Territories; or (c) the Occupied Golan Heights.
23. It follows that Clause 3 is, by its nature, an extension to the application of Clauses 1 and 2, and that therefore, our analysis at Clauses 1 and 2 have the same relevance to Clause 3 and we therefore consider that Clause 3 (other than those provisions referenced above) has regard to devolved matters.

Clause 4

24. Clause 4 is said in the Explanatory Notes to prohibit public bodies who are subject to Clause 1 from publishing a statement indicating that they intend to have regard to territorial considerations in a way that indicates moral or political disapproval of foreign state conduct, when making decisions about procurement or investments. This Clause is also said to prohibit such bodies from publishing statements indicating that they would participate in such activity if it were lawful to do so. Clause 4(3) confirms that Clause 4 does not apply to a statement by a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) in connection with a proposed exercise of the powers to add or amend exceptions in Clause 3. The Explanatory Notes states that this will allow a Minister of the Crown to justify their intention to use the power in Clause 3(5) to disapply the ban in respect of a certain country or territory.
25. I have applied the same rationale for Clause 1 and 2 in relation to why the provisions of Clause 4 are included in this LCM.

Clauses 5 to 11

26. These Clauses contain various provision regarding monitoring and enforcement of the obligations in the Bill.
27. Given that these provisions have the primary purpose of making the core provisions of the Bill operational/justiciable, it is our view this LCM applies to these provisions in so far as an LCM may be laid in respect of the remainder of the Bill provisions.

Clause 14

28. This Clause makes provision in connection to Clauses of this Bill which will interact with provisions of the Procurement Bill.
29. We consider that the Bill legislates with regard to the devolved matter of procurement which is the subject matter of Clause 14. We are, therefore, including Clause 14 within this LCM.

Clause 15

30. Clause 15 makes changes to s.17(5) of the Local Government Act 1988.
31. It also provides the Secretary of State with a regulation making power to be able to disapply s.17(5)(f) of the Local Government Act 1988.
32. Clause 15 modifies the ability of the Welsh Ministers to exercise the power in s.115 of the Procurement Bill and it also confers a power on the Secretary of State to make regulations in relation to matters which will affect contracting authorities which are devolved Welsh authorities.
33. We consider that the Bill legislates with regard to the devolved matter of procurement which is the subject matter of Clause 15. We are, therefore, including Clause 15 within this LCM.

Clause 16

34. Clauses 16(1) and (2) provide that regulations under the Bill are to be made by statutory instrument and that a statutory instrument containing (whether alone or with other provision) regulations under any provisions of the Act except Clause 17 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
35. However, Clause 16(3) provides that Clause 16(2) does not apply to an instrument containing only regulations under Clause 3(2) or Clause 3(5) if the instrument contains a statement that the person making the instrument is of the opinion that, by reason of urgency, it is not appropriate for Clause 16(2) to apply. In such cases:
 - a) Clause 16(4) confirms that an instrument containing such a statement (1) must be laid before Parliament after being made; and (2) ceases to have effect at the end of the period of 28 days beginning

with the day on which it is made unless, during that period, it is approved by a resolution of each House of Parliament.

- b) Clause 16(7) states that a power to make regulations conferred by the Act (except Clause 17) includes the power to make (1) consequential, incidental, supplementary, transitional or saving provision; and (2) different provision for different purposes.
 - c) Further, clause 16(8) states that in the case of regulations under Clause 6(6), the power to make consequential, incidental or supplementary provision includes the power to amend any Act of Parliament, Act of the Scottish Parliament, Act or Measure of Senedd Cymru or Northern Ireland legislation, whenever passed or made.
36. Where the Bill refers to UKG being able to make regulations, Clause 16 provides further detail as to the application of such powers. It follows that where we consider an LCM may be laid in respect of such regulation making powers, then a LCM may also be laid in respect of the provisions at Clause 16.

Schedule, Part 2

37. Part 2 of the Schedule lists excepted considerations. The Explanatory Notes state that this means that Clause 1 will not apply to a decision made by a body or a function of a body on the basis of a consideration in this Part of the Schedule. Briefly these are listed as follows: (i) Financial and Practical Matters; (ii) National Security; (iii) International Law; (iv) Bribery; (v) Labour-related Misconduct; (vi) Competition Law Infringements; and (vii) Environment Misconduct.
38. On the basis that we consider Clause 1 to have regard to devolved matters, it follows that we also consider that a LCM may be laid in relation to Part 2 of the Schedule.

UK Government view on the need for consent

39. In the Explanatory Notes, UKG confirm that the legislative consent motion process is engaged (in respect of Wales) by Clauses 1 and 4 of the Bill only. The Explanatory Notes acknowledge that the Bill applies to the decision-making of Devolved Administrations and can be said to modify executive competence.

Financial implications

40. There are no financial implications in Wales if the Senedd consents to the provisions applying to Wales.
41. It should be noted that there are fines, subject to interest, for non-compliance with the provisions of the Bill.

Conclusion

42. It is my view that it is not appropriate to adopt these provisions in this UK Bill for Wales for reasons including the following:

- a) It is unclear what problem the UKG is seeking to address through the inclusion of Welsh Government in this disproportionate and unnecessary Bill. Welsh Government has always acted responsibly in meeting the UK's international commitments. There are already significant protections in place which require fair and equal treatment of bidders from countries where a relevant trade agreement applies. For example, in the World Trade Organization's Agreement on Government Procurement (the GPA) and current procurement law.
- b) In the one instance when UK Government determined that Russian suppliers should not be supported following the invasion of Ukraine, the Welsh Government fully supported this foreign policy and implemented similar policy. It is unclear how implementation of this Bill would have resulted in a different outcome.
- c) The provisions seek to limit the executive competency of Welsh Ministers in making decisions about procurement and investment. We do not accept that the executive competence of the Welsh Ministers should be altered in this way and it is not clear what UKG are seeking to address by doing so.

In any event, I cannot recommend consent is given whilst questions remain as to the compatibility of this Bill with convention rights and international law. In addition, I note that there has been widespread criticism of this Bill from amongst the legal and academic community, in relation to the way it has been drafted and how it is intended to operate in practice. I share those concerns and it is imperative that the UK Government deals with them during the scrutiny of the Bill in the UK Parliament.

43. I therefore recommend that the Senedd rejects the proposals and withholds its consent.

Rebecca Evans, MS Minister for Finance and Local Government
08 September 2023

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