

**Lesley Griffiths AM**

Minister for Environment, Energy and Rural Affairs

---

17 April 2020

Dear Lesley,

I hope this letter finds you well.

As you know, in view of the current Coronavirus Covid-19 pandemic, the Climate Change, Environment and Rural Affairs Committee meeting on 25 March, at which you were due to give evidence on the Legislative Consent Memorandum ('LCM') for the Fisheries Bill 2019-20, was cancelled.

Given that Assembly committees are not currently meeting as normal, we are unlikely to be in a position to rearrange your evidence session, at least for the foreseeable future. The Committee has therefore agreed that, as an alternative, we would welcome a written response to the questions set out below.

At present, the Business Committee has set us a reporting deadline for the LCM of 7 May 2020, which we are currently working towards. However, we understand that the Bill's progress through the UK Parliament has been delayed. It would be helpful if you confirm, at the first available opportunity, whether you intend for the Plenary debate to go ahead, as planned, or whether you are working towards a revised timetable.



**Cynulliad Cenedlaethol Cymru**  
Bae Caerdydd, Caerdydd, CF99 1NA

✉ [SeneddNHAMG@cynulliad.cymru](mailto:SeneddNHAMG@cynulliad.cymru)

☎ 0300 200 6565

**National Assembly for Wales**  
Cardiff Bay, Cardiff, CF99 1NA

✉ [SeneddCCERA@assembly.wales](mailto:SeneddCCERA@assembly.wales)

☎ 0300 200 6565

## **Fisheries Objectives**

Changes have been made to the fisheries objectives since the previous iteration of the 2019-20 Bill. The 'sustainability objective' has been redrafted, the 'discards objective' has been replaced by the 'bycatch objective' and new objectives of 'national benefit' and 'climate change' have been added.

**1. In your view, what are the main benefits arising from these changes? Please include specific examples of how these changes could influence policy development in Wales?**

**2. Can you explain the purpose and intended effect of the 'national benefit' and 'climate change' objectives? How will these be reflected in future fisheries policy in Wales?**

**3. The definition of 'bycatch' relates only to fish of a different description. Will the 'bycatch objective' require fishers to land all fish including any excess quantities of fish that may cause them to exceed the quota for that stock?**

**4. Can you explain why the landing element of the 'bycatch objective' does not mirror the landing obligation under Article 15 of the Common Fisheries Policy Regulation given that this obligation is retained UK law? Can you reassure us that this will not result in a regression from the current obligation**

Unlike the Common Fisheries Policy, the 2019-21 Bill does not include a duty to prevent overfishing or to achieve the maximum sustainable yield (MSY) exploitation rate.

**5. How do you respond to concerns that the 2019-21 Bill falls short of a legal commitment to MSY, and therefore constitutes a regression from current environmental standards?**

The 2017-19 Bill revoked Article 2 of the Common Fisheries Policy Regulation. The revocation was explained on the basis that the objectives under Article 2 of the Common Fisheries Policy Regulation were replaced by the objectives under Clause 1 of the 2017-19 Bill. The 2019-20 Bill does not revoke Article 2.

**6. Can you explain why, unlike the 2017-19 Bill, the 2019-20 Bill does not revoke Article 2 of the Common Fisheries Policy Regulation?**

In your response to our first report, you agreed to take forward our recommendation for the 2017-19 Bill to be amended to include a requirement on the fisheries policy authorities



to review the fisheries objectives every six years. There is no such requirement in the 2019-21 Bill.

**7. What discussions did you have with the UK administrations ahead of the introduction of the 2019-21 Bill on including such a requirement in this latest version of the Bill? What was the outcome?**

**8. In the absence of a requirement in the UK Bill to review the fisheries objectives, can you give the Assembly an assurance that they will be reviewed periodically in Wales, and explain what mechanisms will be put in place to provide for this?**

### **Joint Fisheries Statement and fisheries management plans**

Fisheries management plans are new for the purpose of the 2019-20 Bill.

**9. What is the purpose and intended effect of the new provisions in relation to fisheries management plans? Can you explain how you believe these additions will assist you in developing policies for Welsh fisheries?**

**10. Concerns have been raised by stakeholders that there is no requirement on the Welsh Ministers to prepare fisheries management plans, unless they set out their intention to do so in the Joint Fisheries Statement ('JFS'). How do you respond to this?**

**11. Can you clarify whether you intend to publish fisheries management plans for all stocks, including non-quota stocks in Welsh waters? If not, how will you decide which stocks should be the subject of a plan?**

**12. Concern has been raised by stakeholders that the power for the Welsh Ministers to deviate from the JFS and fisheries management plans is broadly drawn and could undermine the effectiveness of the Bill in delivering sustainable fisheries. How do you respond to this?**

**13. Can you update us on any preparatory work you have undertaken over the last 12 months in relation to the JFS?**



## **Access to British fisheries and regulation of foreign fishing boats**

Since the Committee's first report, the Single Issuing Authority has been established to grant sea fishing licences on behalf of the Devolved Fisheries Administration and the Marine Management Organisation ('MMO').

You told us in your letter, dated 17 April 2019, that your officials were working with counterparts to develop any additional licensing requirements which may be considered necessary in respect of Welsh waters.

**14. Can you provide an update on the outcome of those discussions? In particular what, if any, additional licensing requirements do you intend to impose in respect of Welsh waters?**

**15. Can you clarify whether and how the Bill will prevent foreign owned vessels registering as British?**

**16. Can you clarify whether publicly owned companies quoted on the London stock exchange are treated as British?**

**17. Can you confirm whether the powers provided to the Welsh Ministers to set licencing requirements will enable them to require onboard CCTV and remote electronic monitoring as a condition of licence? If so, do you intend to impose such conditions?**

- **If you do not intend to set a licensing requirement of on board CCTV and remote electronic monitoring, how do you intend to ensure effective monitoring and control?**

## **Fishing opportunities**

During our scrutiny of the 2017-19 Bill, you outlined the Welsh Government's concerns about the powers for the Secretary of State to determine fishing opportunities. You stated that this issue was a "red line" for the Welsh Government and that you would not be in a position to recommend that the Assembly gives consent to the Bill unless it was resolved.

In March 2019, you told us that you had been unable to reach an agreement with the UK Government on amendments to these provisions. Instead, you had agreed that the Fisheries Memorandum of Understanding would set out more detail on the intended use



of the power and strengthened consultation processes. This would “align with the work already underway on establishing an agreed Dispute Resolution Mechanism”.

The LCM for the 2019-21 Bill is silent on the Welsh Government’s latest position on the equivalent provisions (clauses 23 and 24), other than to say that the Assembly’s consent will be required.

**18. Can you update us on progress made since March 2019 on the development of the Fisheries Memorandum of Understanding (‘MoU’) and Dispute Resolution Mechanisms?**

**19. Can you explain why you have chosen to pursue a MoU rather than a bilateral agreement (which has been used to address comparable concerns about the World Trade Organisation provisions in the UK Agriculture Bill)?**

You recently told the Legislation, Justice and Constitution Committee that the Fisheries MoU will not be finalised until the end of the implementation period.

**20. What further assurance can you provide that the Fisheries MoU will satisfy our concerns about the extent of the Secretary of State’s powers, set out in our first report?**

In March 2019, you told us that you had already begun discussions with the other UK fisheries administrations regarding the distribution of future fishing opportunities. This was with a view to ensuring that the current unfairness in the allocation of quota is rebalanced.

**21. Can you update us on the outcome of those discussions?**

The 2017-19 Bill contained powers for the Secretary of State to sell English fishing opportunities. Schedule 5 of the 2019-21 Bill contains equivalent powers for the Welsh Ministers in respect of Welsh fishing opportunities. There are no equivalent powers for the Scottish Ministers or the Northern Ireland department.

**22. Can you explain why you are seeking these new powers, and when and how you intend to use them?**

**23. Can you clarify whether these powers:**

- will be used to sell Welsh quota to foreign fishing vessels; and
- will be limited to the sale of additional quota that may be gained following the UK’s withdrawal from the EU?



## **Discard prevention charging schemes**

Both the 2017-19 and the 2019-21 Bills contain powers for the Secretary of State to establish a discard prevention charging scheme. There are no equivalent powers for the Welsh Ministers in either Bill.

### **24. Can you explain why you are not seeking powers to establish a discard prevention charging scheme? What do you consider are the disadvantages of a discard prevention charging scheme?**

## **Financial assistance powers**

The purposes for which the Welsh Ministers can give financial assistance (set out in Schedule 6) have been widened since the 2017-19 Bill. They now include:

- Maintaining or improving the health and safety of individuals who are involved in commercial fish or aquaculture activities;
- The training of individuals who are, were or intend to become involved in commercial fish or aquaculture activities, or are family members of such individuals;
- The economic development or social improvement of areas in which commercial fish or aquaculture activities are carried out; and
- Improving the arrangements for the use of catch quotas or effort quotas.

### **25. Can you explain why the purposes have been widened, and outline how these new purposes may be used in the Welsh context?**

### **26. Can you provide details of the time line you are working towards for the development of any new financial assistance scheme?**

In our first report, we recommended that the 2017-19 Bill should be amended to include a requirement on the Welsh Ministers to consult on proposals for any future financial assistance scheme established under these powers. You told us that you had "made representations to UK Government to amend the Bill" and that "discussions were ongoing". There is no such requirement in the 2019-21 Bill.

### **27. What discussions did you have with the UK Government ahead of the introduction of the 2019-21 Bill on including such a requirement in this latest version of the Bill? What was the outcome of these?**



Unlike when making regulations in relation to financial assistance, the 2019-21 Bill includes requirements for the Welsh Ministers to consult before making regulations in relation to the sale of Welsh fishing opportunities (Schedule 5) and the imposition of charges (Schedule 7).

**28. Can you outline the rationale for this difference in approach?**

**Capacity and resources**

**29. To what extent does the Welsh Government's Marine and Fisheries Division have the staffing capacity to deal with the new outputs and responsibilities that would arise from the 2019-2021 Bill, including:**

- **the development of new regulations;**
- **new Fisheries Management Plans;**
- **new inter-governmental arrangements including the JFS, MoU and any dispute resolution arrangements; and**
- **increased devolved responsibility under the Bill for regulating fisheries in the Welsh zone?**

**30. Do you expect this to impact on other work areas of the Division?**

**31. What assessment have you made of the financial implications of the 2019-21 Bill, and can you provide details of these?**

**A Welsh Fisheries Bill**

Throughout our scrutiny of the LCM for the 2017-19 Bill, you maintained that the executive powers being conferred by the Bill would be transitional until such time as a Welsh Fisheries Bill could be passed, which you told us would be before the end of the Fifth Assembly. Since then, you have changed your position and have no plans to introduce such a Bill in the Fifth Assembly. Most recently, you told the Legislation, Justice and Constitution Committee that you were unable to provide an indication of the timing of any future Welsh Fisheries Bill.

**32. Can you explain when and why you decided not to introduce a Welsh Fisheries Bill before the end of the Fifth Assembly?**



Despite your assertion that the executive powers being conferred by the 2019-21 Bill will be transitional, there is no sunset clause in the Bill. This is in contrast to the UK Agriculture Bill 2019-21, which also includes extensive, 'transitional' executive powers.

**33. Can you outline the rationale for this difference in approach?**

- **Do you consider it would be preferable to include a sunset clause in the UK Fisheries Bill 2019-21? If not, why not?**

I should be grateful if you could respond to the above by 28 April 2020 at the latest. Should you have any difficulty in meeting this deadline, I would ask that your officials liaise with the Clerking team.

Yours sincerely,



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

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English.

