

Julie James MS
Minister for Climate Change

27 November 2023

Dear Julie,

The Waste Separation Requirements (Wales) Regulations 2023 / The Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023 / The Prohibition on Disposal of Food Waste to Sewer (Civil Sanctions) (Wales) Order 2023

I am writing in relation to our consideration of the Waste Separation Requirements (Wales) Regulations 2023, the Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023, and the Prohibition on Disposal of Food Waste to Sewer (Civil Sanctions) (Wales) Order 2023.

You will know that we considered all three draft statutory instruments at our meeting on 20 November 2023, and subsequently considered Welsh Government responses to our reporting points at our meeting today.

First, you will be aware that we have previously raised concerns that, where errors are identified in statutory instruments which are subject to the Senedd's approval, the Senedd must be told of what will be fixed after Members of the Senedd have voted but prior to the instrument being made.

The responses from the Welsh Government to our reports on these statutory instruments and the enclosed tables identifying the textual amendments that will be made as a result of our scrutiny is welcome. We thank the Government for responding positively to our concerns.

There is one matter applicable to all three instruments which broadly relates to the Welsh word used for "determine" or "determining" and "establishing" which we believe requires further consideration.

In the Welsh Government response to our fourth technical point in our report on the Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023, it states "In the Schedule, in paragraph 11(1) "ganfyddir" will be deleted". As a result, we believe the Welsh text of these Regulations will use "bennir" as the translation for "determine" in paragraph 11(1) of the Schedule.

However, in the responses we have received to very similar reporting points in our reports on the Prohibition on Disposal of Food Waste to Sewer (Civil Sanctions) (Wales) Order 2023 and the Waste Separation Requirements (Wales) Regulations 2023, it is argued that "ganfyddir" rather than "bennir" is the appropriate translation for "determine" in paragraph 11(1) of the Schedule and paragraph 11(1) of Schedule 2 respectively.

We are therefore concerned that there is a possible contradiction in terms of the appropriate choice of Welsh translation for the term "determine" where it occurs in the equivalent provisions in paragraph 11(1) of the Schedules to these statutory instruments.

In addition, in the response to our seventh technical point in our report on the Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023, it states that the Welsh Government is "satisfied that the word "bennu" is the correct translation of both "determining" and "establishing" in paragraphs 25(3)(c) and 26(c) of the Schedule to those Regulations". However, it is our understanding that the word "bennu" does not appear in the Welsh text of those paragraphs, therefore the response does not appear to address the reporting point. Furthermore, without amendments to the text in the Prohibition on the Incineration, or the Deposit in Landfill, of Specified Waste (Wales) Regulations 2023, we believe that this will result in different Welsh words being used in equivalent provisions across the three statutory instruments, which could cause doubt as to whether or not these provisions are intended to have the same effect.

I would be grateful if you would address these points and provide clarity to Members of the Senedd during the debate on these Regulations, scheduled to take place tomorrow.

I would also welcome a detailed written response at the earliest opportunity.

Yours sincerely,



Huw Irranca-Davies

Chair