

Written Response by the Welsh Government to the report of the External Affairs and Additional Legislation Committee entitled Implications for Wales of leaving the European Union

10 March 2016

Context

We have been clear from the outset that we respect the outcome of the referendum on the UK's membership of the EU. The challenge we all face now is ensuring that we secure the best possible outcome for Wales. With this aim, in the 8 months since referendum, a large amount of work has taken place both within Welsh Government and with stakeholders, which has been vital in ensuring Wales' priorities are represented and protected in discussions with the UK Government and the other devolved governments.

We mobilised quickly to seek to influence the UK Government position ahead of invoking Article 50, starting with my announcement of 6 immediate priorities the day after the referendum, on which we have made some good progress. We continued to ensure Wales' interests are protected through contributing constructively to the Joint Ministerial Committee meetings in the autumn and over the winter. The publication of our White Paper, *Securing Wales' Future*, was a fundamental milestone in our work aimed at ensuring Wales' priorities are fully understood and reflected in the UK's negotiating position. The White Paper was published jointly with Plaid Cymru and provides a comprehensive and credible plan for the negotiations with our partners in Europe on the UK's exit from the EU – based on strong evidence that places Wales' priorities centre stage but which is designed to work for the UK as a whole.

It sets out six key areas to be addressed in the negotiations on the UK's exit from the EU:

- the importance of full and unfettered access to the **Single Market** to support businesses, and secure jobs and the future prosperity of Wales;
- valuing the huge contribution that people from other countries make to the economy and public services in Wales, alongside responding to concerns about aspects of inward migration through a pragmatic and principled future **migration** policy linked to employment and avoiding exploitation of workers;
- on **finance and investment**, the need for the UK Government to make good on promises made during the referendum campaign that Wales would not lose a penny in funding as a result of the UK leaving the EU;

- the need for a fundamentally different **constitutional** relationship between the devolved governments and the UK Government – based on mutual respect, reaching agreement through consent, and a new, independent dispute resolution mechanism – once the UK leaves the EU;
- the need to maintain the **social and environmental protections and values** that we prize in Wales, in particular workers’ rights, once these are no longer guaranteed through the UK’s membership of the EU; and
- the importance of considering **transitional arrangements** to ensure the UK does not fall off a cliff edge in its economic and wider relationship with the EU if longer-term arrangements have not been agreed at the point of exit.

We feel we are having a genuine impact on the development of the UK negotiating position. There are signs the UK Government has in some areas moved towards our position – for example, in relation to our clear and consistent call for full and unfettered access to the single market (though they use the terminology of “freest and most frictionless”) and the importance of a smooth transition.

I welcome the report of the External Affairs and Additional Legislation Committee, which I see as an important and constructive contribution in support of our work to secure the best outcome for Wales.

Detailed Responses to the report's recommendations are set out below:

Recommendation 1

The Committee recommends that the Welsh Government publishes all the evidence on which it bases its position, including details of the scenario modelling that has been done across all sectors and the studies it has commissioned internally and from external sources.

Response : Accept in principle

In our White Paper, *Securing Wales' Future*, we published extensive evidence – in particular on potential economic impacts on Wales from 'Brexit', including sectoral analysis, and macro-economic forecasts on different scenarios, and also on EU Migration in Wales – which provides the foundations for our policy position. As such, we have provided much greater evidence than the UK Government in respect of its emerging policy position. We will continue to proactively publish economic and other analysis in future, including cross-cutting or sector-specific evidence as appropriate.

Financial Implications – Analysis and publication costs will be met in the first instance from prioritisation within existing budgets.

Recommendation 2

The Committee recommends that the Welsh Government provides a detailed assessment of the administrative changes it has made following the referendum and the financial implications of these changes. In doing so, it should be clear about those changes that have occurred as a direct consequence of the referendum outcome and those that were already planned or in progress. This assessment should include details of the changes made in Wales and in the Welsh Government office in Brussels.

Response : Accept

As outlined in a previous Committee hearing, the Welsh Government took early action following the referendum to establish a dedicated European Transition Team which leads the development of strategic policy and coordinates Welsh Government directorate work on Brexit. The team currently comprises 13 staff, and was built on what was an existing small EU Policy Branch. The administrative costs of the team in the current year are forecast to be in the order of £500k. The new team works closely with the existing team in Brussels, who are working on transition matters in addition to conducting ongoing EU business. We see a continuing important role for the team in Brussels, in particular as negotiations with EU partners commence. As referenced in the response to recommendation 3 below, we do not yet

know details of how the negotiations will be conducted and what our involvement in them will be. Staffing levels in the Brussels office change over time as posts become vacant and are filled. There are currently 6 members of staff in the Brussels office working on policy, compared to 4 this time last year. Within Legal Services, a small legal team has also been established since the referendum to support EU Transition work.

More broadly, Welsh Government directorates are prioritising existing resources for dealing with specific Brexit issues. A wide range of staff are working on issues related to European transition alongside delivery of the overall programme for government, and specific commitments within it, as set out in *Taking Wales Forward*. As such it is impossible to separately identify numbers or costs of all staff working directly on European transition however, there is substantial staff commitment across wide work areas including Environment and Rural Affairs, Welsh European Funding Office, and Economy and Infrastructure.

Financial Implications – As described above. Staffing costs are being met in the first instance from prioritisation within existing budgets.

Recommendation 3

The Committee recommends that the Welsh Government clarifies the role it sees its Brussels office playing in the negotiations.

Response : Accept

Further discussions will be held with the UK Government on the Welsh Government's involvement in the negotiations with EU partners. We will keep the role of the Brussels office under review in the light of these discussions.

Financial Implications – None directly arising from the response set out above to the recommendation.

Recommendation 4

The Committee recommends that the Welsh Government provides us with its register of risks across all areas where Brexit will impact upon its activity.

Response : Accept in principle

The White Paper *Securing Wales' Future* focused on a number of strategic areas where potential impacts of Brexit were identified as particular risks. These potential risks included: the loss of access to the single market and possible consequences related to international trade; reducing the access to workers and skills needed for businesses and public services as a result of restrictions to migration from the EU/EEA; cuts to the levels of funding available to Wales for rural development, regional economic development

and other areas as a result of the loss of funding currently received from the EU; constitutional issues and the risk of a 'power grab' from the UK Government; the threat of removing or watering down social and environmental protections; and the potential 'cliff edge' if transitional arrangements are not put in place at an early stage of the negotiations. These reflected early work on risks and opportunities by departments over the summer, which were then developed into the six strategic priorities – reflecting our assessment of cross-cutting risks – through consideration at the Cabinet Sub-Committee on European Transition.

We will be undertaking a fresh risk assessment exercise as we move into the next phase of the work after the triggering of Article 50 and the start of the negotiations with EU partners, and will share further information on risks and mitigation measures once this exercise is complete.

Financial Implications – None directly arising from the response set out above to the recommendation.

Recommendation 5

The Committee recommends that the Welsh Government sets out the steps it has taken since 24 June 2016 to ensure that the maximum amount of European funding is secured and utilised before we exit the EU.

Response: Accept

Immediately following the referendum outcome, the Welsh Government sought a cast iron guarantee from the UK Government that Wales would not lose a penny of EU funding up to the end of the EU Financial perspective running until 2023. Subsequent guarantees were confirmed by the UK Treasury in August 2016 and October 2016, underwriting all EU funding committed to projects before the UK leaves the EU, including agri-environment schemes under the Rural Development Plan. The Treasury also confirmed the current level of direct farm payments (CAP pillar 1) will be supported until 2020.

We are confident of bringing the entire EU funding available to Wales under the 2014–2020 programmes within the scope of this guarantee and are making strong progress with our investments.

We achieved our aim to invest 60 per cent of EU Structural Funds by the end of November 2016. Building on this achievement, latest figures (end of February 2017) show that we have committed around 64 per cent (£1.3 billion) of our £2 billion EU funds allocation to 149 projects, driving a total investment of £2.5 billion.

For the Rural Development Plan (RDP) 2014-2020, total commitment currently stands at £594m (62% of programme value), of which £361m is EU funding.

The European Maritime and Fisheries Fund is also now fully open and is helping us deliver against our commitment to safeguard fishing industry jobs and develop a vibrant, competitive and sustainable fishing sector in Wales.

Going forward, across all of the European Structural and Investment programmes we have a strong pipeline of investments in development. For example, for the Structural Funds, we expect to invest 80 per cent (£1.6bn) of our allocation by the end of this calendar year and achieve full commitment by early 2019.

The UK Government's guarantee also covers projects supported through the European Territorial Co-operation programmes, including the Ireland-Wales Cross Border programme, and those managed directly by the European Commission, including Horizon 2020.

The Ireland-Wales programme, managed by the Welsh European Funding Office, continues to make considerable progress with 50 percent (€40m) of EU funds committed to date. Wales has also attracted over €54m from the Horizon 2020 programme with 112 participations. We will continue to engage actively with stakeholders to encourage continued participation in these programmes. For example, our annual Horizon 2020 event in Cardiff on 30 March will be attended by stakeholders and potential applicants, particularly from HE/FE and the private sector.

Our White Paper, *Securing Wales' Future*, reinforces the value of the ESI funds to Wales and the importance of Wales securing replacement funds from the UK Government over the long term at the same level we currently receive - around £370m per annum across the European Structural and Investment Funds. We have begun to speak to partners and stakeholders across Wales to hear initial views about the best approach to regional policy in Wales outside of the EU and to learn lessons from best practice across the world and from previous investments. This Committee's inquiry into Regional Policy in Wales will be an important contribution to that discussion.

Financial Implications – HM Treasury has guaranteed to underwrite all European Structural and Investment Fund projects approved or due to be approved during the ordinary course of business before the UK exits the EU. This guarantee also covers the CAP, the European Territorial Cooperation programmes (including the Ireland Wales programme) and funding awards under the EU's directly managed programmes (including Horizon 2020).

Recommendation 6

The Committee recommends that the Welsh Government presses the UK Government for full involvement in shaping its negotiating positions and direct participation to those negotiations which involve devolved areas of responsibility, or matters that affect devolved areas of responsibility, using the model of devolved administrations' participation in the Council of Ministers.

Response : Accept

I have stressed on a number of occasions to the Prime Minister and others that we must be fully involved in forming the UK's negotiating position, and Ministerial colleagues and officials have been equally clear with their UK Government counterparts. We remain committed to seeking common ground and a common negotiating position for the UK as we approach the negotiation phase of our exit from the EU, but there is still a need for considerable clarification and discussion on a range of points. This will include our involvement in these negotiations.

We have made it clear that we must be a part of these negotiations in particular within the fields of competence devolved to Wales. Our position is that we should have a seat at the table at the negotiation on devolved matters and observer status at the negotiations as a whole. The context of our involvement will also become clearer as the EU sets out its framework for these negotiations following the triggering of Article 50.

The current model of devolved administrations' representation at Council of Ministers and related meetings – as set out in the Concordat on Coordination of EU Policy between the UK Government and the devolved administrations – would be an appropriate starting point to build on for reaching agreement on our role. The Concordat makes clear that we have a role to play in meetings of the Council of Ministers during discussions of devolved relevance and that attendance by Ministers of the devolved administrations should be considered unless reasons are compelling not to do so.

Financial Implications – Costs are being met in the first instance from prioritisation within existing administrative budgets.

Carwyn Jones
First Minister