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**Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister**



**Llywodraeth Cymru
Welsh Government**

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20 December 2019

Dear Chair,

**Written Response by the Welsh Government to the report of the EAAL
Committee Report: Changes to freedom of movement after Brexit - the
implications for Wales**

I welcome the Committee's report looking at the implications for Wales of changes to freedom of movement after Brexit. Wales is home to thousands of EU, EEA and Swiss citizens who are valued in our communities and make a significant contribution to our essential public services and our businesses every day. They are our friends, our neighbours and our work colleagues, and we want all EU citizens in Wales to be able to continue living and working here.

Wales has a long history of being a welcoming and inclusive nation. We celebrate the fact that citizens from other European nations have come to our country as neighbours, colleagues, friends and family for many years.

We recognise that current circumstances and the uncertainty around Brexit are very unsettling and we are grateful for the opportunity to reassure EU citizens living in Wales that it is important to us that their rights and status are protected, and to reiterate that we will use every chance to press that point with the UK government. In particular, we are keen to support EU nationals in applying for settled status to secure their entitlements. We have set out below what action the Welsh Government is taking to provide support and advice to EU citizens during this time, and particularly for those who may find the process of applying for settled status difficult.

Migration is a strategically vital policy agenda for the Welsh Government and in *Brexit and Fair Movement*, we proposed that free movement should be maintained but linked more closely to employment; and should be complimented by a much more vigorous policy to combat the exploitation of workers.

The Welsh Government has been proactive in seeking to contribute and shape the development of migration policy in the UK, emphasising the importance and benefits of migration to Wales, based on a growing evidence base with which to influence the UK Government. It is disappointing therefore that the UK Government has proposed to introduce a skill and salary selective approach to future immigration. We believe this will needlessly exacerbate negative social and economic impacts in Wales after Brexit

The UK Government's proposals, as far as we currently understand them, and despite their assertions, would impact those with intermediate skills, particularly in manufacturing and the care sector, as much as other skill levels.

Based on our analysis some sectors emerge as being particularly vulnerable to future reductions in EU migration. These include social care, health, and manufacturing including agri-food, tourism, hospitality, retail and higher education. We will continue to argue for a migration policy which meets the needs of Wales.

It is also unacceptable that the UK Government have announced that for those subject to immigration control, the annual cost of accessing the NHS will rise from £400 to £625. We will continue to press the UK Government to streamline and simplify the visa immigration system so that the administrative burdens and costs are kept to a minimum.

I would like to thank the members of the EAAL Committee for their report on the implications for Wales in relation to changes to freedom of movement after Brexit. I am particularly pleased to see the Committee's conclusions and recommendations are, in the main, in line with our current thinking and future plans.

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

Recommendation 1. *The Committee recommends that the Welsh Government uses all the means at its disposal to ensure that the current proposed salary threshold is reduced, or scrapped in any post-Brexit immigration system.*

Response: Accept

The Welsh Government fundamentally disagrees with the proposals in the Immigration White Paper, which would see both EU and non-EU migrants who wish to come to the UK to work having normally to apply via the Tier 2 skilled worker route. Those earning less than £30,000 (subject to consultation) would generally not qualify.

Drawing on the evidence and analysis from Welsh Centre for Public Policy (WCPP) report on *Migration in Wales: The impact of post-Brexit policy changes*¹ the priority

¹ <https://www.wcpp.org.uk/wp-content/uploads/2019/03/FINAL-WCPP-report-Immigration-in-Wales-post-Brexit.pdf>

for Welsh Government has been to argue that there should not be a salary threshold, and that, if one must be set, then it should be set at £20,000 for the UK as a whole.

During the UK Government's 12-month engagement programme, the evidence and analysis presented in the WCPP report has been used by Ministers and officials to press the UK Government to remove, or otherwise reduce, the proposed salary threshold. This approach has resonated with the wider business community's calls for a lower threshold. We believe this contributed to the UK Government asking the Home Office's Migration Advisory Committee (MAC) to look at this issue again.

If the UK Government insists on introducing a salary threshold it will also be important that any future threshold can be calculated on a pro-rata basis. Without a pro-rata allowance, part-time workers – predominantly women - will face discrimination under the new immigration system. For this reason we would support the committee's conclusion that it will be important that the UK Government's revised proposals are accompanied by a robust equality impact assessment.

Financial Implications – None. Any additional costs will be drawn from existing programme budgets.

Recommendation 2. *The Committee recommends that the Welsh Government creates a central hub of information on immigration policy which signposts all devolved sectors to authoritative information in relation to potential freedom of movement changes after Brexit and updates us on its efforts in this area in its response to this report.*

Response: Accept

We welcome this recommendation which has been reflected in a package of work that is currently underway within the Welsh Government. The Welsh Government's *Preparing Wales* website is a single, comprehensive source of information for Wales about the actions citizens can take to prepare for Brexit. It sets out guidance and advice for EU citizens, organisations and sectors across Wales. *Preparing Wales* hosts both Welsh Government advice and links to the latest advice from the UK Government and other bodies.

A new section on 'EU citizens in Wales' has been developed on *Preparing Wales*. This section has been populated with information on EU citizens' rights for accessing public sector services in Wales. This hub of information will be maintained as new UK Government policies are made available.

In addition, the Welsh Government is writing to education, local government, social services, NHS, Higher Education Institutes, third sector organisations, business representative organisations and economic stakeholders economy networks to provide information on EU citizens' rights and advice services available for EU citizens applying for the Settlement Scheme. This is to ensure that they have clear authoritative information on rights of EU citizens until December 2020 and statutory checks to confirm entitlement for service areas.

Financial Implications – None. Any additional costs will be drawn from existing programme budgets.

Recommendation 3. *The Committee recommends that the Welsh Government provides, in its response to this report, an update on:*

- *what discussions it has had with the UK Government on future cooperation in the arts sector after Brexit, including on the agreement of new cooperative accords between the UK and the EU;*
- *what discussions it is having on the future involvement of the UK in the Erasmus+ programme, and any discussions it is having on a successor scheme;*
- *what discussions it is having on the mutual recognition of medical education and training qualifications.*

Response: Accept

Response to bullet point 1. Welsh Government officials have had direct discussions with DCMS counterparts about future access to the Creative Europe Programme (including the Culture sub-programme). These discussions have included:

- arrangements to allow existing Welsh recipients to be funded by the UK Government under the terms of the HMT Guarantee if we leave the EU without a deal (these arrangements are now in place);
- the possibility of future access to Creative Europe from the start of the new Programme in 2021]
- potential options for bridge funding, to allow new UK projects that would otherwise have applied to Creative Europe to seek funding in the period prior to new arrangements from 2021 onwards being agreed and implemented - either from the point we leave the EU (in the event of no deal), or from the start of 2021.

Discussions on the latter two points have been taken forward via the UK Creative Europe partnership board, on which the Welsh Government is represented. These matters are ongoing and we expect discussions to continue now that the new UK administration is in place.

The Arts Council of Wales (ACW) contributes resource to the Creative Europe Desk in Wales. ACW also liaises closely on Brexit issues with the other UK Arts Councils and provides briefings to the arts sector in Wales. As part of that work it coordinates regular dialogue between these UK bodies, in which the Welsh Government also participates. This has been extremely valuable in informing our direct engagement with DCMS on Brexit matters.

Welsh Government officials have engaged with external stakeholders and the other devolved administrations on visa and immigration issues faced by the sector and have encouraged the UK Government to participate in the summit of visa issues proposed by the Scottish Government; this is currently scheduled for February 2020. We have engaged DCMS for discussions about the cooperative accords between the UK and the EU and we expect these to continue.

Response to bullet point 2.

There have been regular discussions at Cabinet Sub-Committee, and the Counsel General and Brexit Minister has worked closely with the Minister for Education on the potential impacts of Brexit on the Erasmus+ programme in the future. The Welsh

Government has consistently made clear its position that the UK Government must secure continued participation in Erasmus+ for both current and future programmes. The Minister for Education has emphasised the importance of securing our future participation in Erasmus+ with Chris Skidmore MP, Minister for Universities, Science, Research and Innovation at ministerial quadrilateral meetings on 23 September and 21 October. The Withdrawal Agreement, if passed, allows for the UK to continue to participate in Erasmus+ in the final year of the programme in 2020.

Whilst we are clear that securing participation in Erasmus+ in the future is our clear priority, officials have engaged closely with the UK Government about successor schemes and will continue to do so in 2020.

Response to bullet point 3. Welsh Government officials in the health department have worked closely with their counterparts in the UK, Scotland and Northern Ireland to put in place the arrangements detailed below for the recognition of medical qualifications and training. UK regulators of the health and care professional qualifications have also been engaged in the cross-governmental discussions to plan for both scenarios of No Deal and Deal Brexit arrangements. These discussions will continue.

The approach taken is intended to give assurances, and also to help businesses and public services such as the NHS to retain and recruit EEA and Swiss-qualified health practitioners to address staffing needs.

The UK Government, Devolved Administrations and UK regulators have worked together to introduce legislation, which means that UK regulators will continue to accept qualifications that they currently must accept automatically, including those relating to health and care staff (for health professions this applies to doctors, dentists, nurses, midwives and pharmacists) from the EU, Iceland, Liechtenstein, Norway and Switzerland. Medical/health professional qualifications that are not accepted automatically will continue to be assessed under the general recognition route, and will be against the standard of UK qualifications, as is currently the case. Health and care staff from these countries who are currently practicing in the UK can continue to do so. Applications made before the UK leaves the EU but ongoing after exit, will be allowed to be concluded under current arrangements as far as possible.

Financial Implications – None. Any additional costs will be drawn from existing programme budgets.

Recommendation 4. *The Committee recommends that the Welsh Government updates its Community Cohesion Plan to take account of the new challenges to community cohesion in Wales.*

Response: Accept

The Welsh Government is committed to working towards a Wales of Cohesive Communities and to keeping our community cohesion planning up to date reflecting current challenges and each of the regional community cohesion teams deliver a

bespoke workplan agreed between the Welsh Government and local authorities in each region, which incorporates actions from the previous Community Cohesion Plan as well as emerging priorities such as Brexit and EU Settled Status, as well as local priorities.

We have utilised the European Transition Fund to expand our *Community Cohesion Programme*. The existing programme provided eight Regional Community Cohesion Coordinators operating across Wales, supporting local government and the Welsh Government with insights into community tensions, improving engagement between public bodies and communities, and bringing communities together. The updated programme provides additional resources for the provision of two full time equivalent cohesion officers per region (supporting the Coordinator) and funds for additional community engagement and awareness raising activities.

The Welsh Government is currently developing its next set of Strategic Equality Objectives for 2020-24 and have recently consulted on draft Objectives. As part of that we will develop a monitoring framework to measure progress towards community cohesion and foster good relations between all groups, building on our existing policies and interventions. We are currently analysing consultation responses which will help inform actions to underpin the Welsh Government's Strategic Equality Plan.

The Welsh Government is currently developing its next set of Strategic Equality Objectives. We are continuing to consider the most effective and appropriate means of updating our community cohesion plan for the coming years.

The Welsh Government is also undertaking work to commence the socio-economic duty in Part One of the Equality Act 2010, to require certain Welsh public bodies to consider the impact of their strategic decisions on the poorest people and groups. Our consultation was launched on 22 November ahead of the duty being commenced on the 1 April 2020.

Financial Implications – None. Any additional costs will be drawn from existing programme budgets.

Recommendation 5. *The Committee recommends that the Welsh Government raise our concerns as set out in our conclusions, with the UK Home Office, and report back to this Committee on its efforts in that regard.*

Response: Accept

The Welsh Government agrees with the concerns and the conclusions raised. The Welsh Government will continue to highlight these concerns with UK Government and report back to the Committee.

Financial Implications – None. Any additional costs will be drawn from existing programme budgets.

Recommendation 6. *The Committee recommends that the Welsh Government takes a stronger lead by redoubling its efforts to provide advice and support to EU citizens. One possible route to achieving this could be to bring forward a revised communications plan, containing key messages and to be disseminated through public services e.g. local health boards, schools and local government.*

Response: Accept

The Welsh Government's communication strategy for the EU Settlement Scheme is currently being reviewed, with a view to revising it to ensure the effective messaging to hard to reach EU citizens.

Supported by the EU Transition Fund, the Welsh Government is providing advice and support to EU Citizens. This includes EU Settlement Scheme advice through: Newfields Law (including complex case advice); Citizens Advice Cymru (introductory advice); and additional funding for Settled to manage a network of volunteers providing advice and support to EU citizens (also delivering introductory advice). The Welsh Government has set up the EUSS Wales Co-ordination group, to co-ordinate advice provision across Wales, ensuring the best use of resources and cross referrals to ensure the best support for EU citizens.

In addition, the Welsh Government and EUSS advice providers have presented to the first meetings of the Regional Advice Networks in Wales. These networks provide the opportunity to offer more joined-up advice services, and support cross referrals between different advice service providers, to better co-ordinate and target advice services across Wales.

An additional £30,000 from the EU Transition Fund has also been allocated to communications with EU Citizens, to convey the message that they are welcome in Wales, and should apply for the Settlement Scheme. The specification for this information campaign is currently out to tender. The materials are due to be developed by the end of March 2020 for immediate distribution.

Recent communications work has included:

- Distributions of posters and flyers promoting the Settlement Scheme to: supermarkets, the Wales Council for Voluntary Action and their members, Local Authority Brexit Co-ordinators and Community Cohesion Officers, and Local Authority economic teams;
- Newsletters to businesses subscribing to the Food and Drink Wales newsletters (reaching 8,000 directly); and a Business Facing Guide outlining key messages and avenues for advice for Welsh Government's business facing staff;
- Distribution of posters, flyers and key messages to business groups, such as the Federation of Small Businesses (FSB), for wider distribution to their members in Wales;
- Facebook adverts aimed at EU Citizens, outlining that EU citizens are Welcome in Wales in addition to Welsh Government Facebook posts and the Counsel General's twitter account;
- A press notice and video posted on the Counsel General and Brexit Minister's twitter account highlighting the message "We want EU citizens to stay".
- A presentation to Honorary Consuls with offices in Wales, chaired by the Counsel General, presenting the support package available to EU citizens;
- A letter to education, local government, social services, NHS, Higher Education Institutes, third sector organisations, Business Representative Organisations and economy networks, providing information on EU citizens rights and advice available for EU citizens applying for the Settlement Scheme; and

- Supporting Welsh Government funded organisations, 'EYST' and 'Settled', to work across Wales to identify and engage with informal networks utilised by EU Citizens, including food shops, cafes, churches and social media groups, to raise awareness of the advice available, rather than having a reliance on traditional media or formal networks.
- Issuing a press notice to media announcing Welsh Government's package of support for the EUSS Wales co-ordination group in July. The co-ordination group's website (EUSSWales.com) has since been promoted through the Welsh Government corporate Twitter and Facebook platforms, as well as on the Counsel General's Twitter feed.

Financial Implications – None. Any additional costs will be drawn from existing programme budgets.

Recommendation 7. *The Committee recommends that the Welsh Government reiterates its message of support to EU citizens in Wales.*

Response: Accept

As stated earlier in this letter, EU citizens in Wales are our friends, our neighbours and our work colleagues, and we want all EU citizens in Wales to stay here and continue making their valuable contribution to our economy and society.

On 14 November 2019, the Counsel General and Brexit Minister released a press notice titled "We want EU citizens to stay". The press notice highlighted those messages; that EU citizens are valued in Wales, and that the Welsh Government wants all EU citizens in Wales to be able to continue living and working in Wales.

On 24 June, the First Minister issued a Written Statement about the valuable contribution of EU nationals in Wales, with the reassurance that the Welsh Government is doing all we can to support them and that we value the contribution they make to life in Wales.

As highlighted above, we are reviewing our communications plan to ensure that the messages are clear.

Financial Implications – None. Any additional costs will be drawn from existing programme budgets.

Recommendation 8. *The Committee recommends that the Welsh Government reviews the resources that it has made available to partner organisations via the EU Transition Fund to ensure they are sufficient to support vulnerable groups, and others, to apply to the EU Settlement Scheme.*

Response: Accept

Through the EU Transition Fund, the Welsh Government is providing advice and support to EU Citizens. This includes EU Settlement Scheme advice through: Newfields Law (up to OISC level 3); Citizens Advice Cymru (up to OISC level 1); and additional support for Settled (up to OISC level 1). These advice providers are working together, as part of the EUSS Wales Co-ordination group to co-ordinate

advice provision across Wales, ensuring the best use of resources and cross referrals to ensure the best support for EU citizens.

As mentioned above, we have also utilised the EUTF to develop the Strengthening Community Cohesion Programme to increase our support for vulnerable communities as we approach EU exit and allocated an additional £30,000 for EU Citizens messaging.

The Welsh Government is currently reviewing the allocations of the EU Transition Fund up until March 2020. A further review of funding post March 2020 will be carried out as additional UK Government provision is identified. We will write to the Chair of the committee to update as work on these reviews progress.

Financial Implications – None. Any additional costs will be drawn from existing programme budgets.

Recommendation 9. *The Committee recommend that the Welsh Government undertakes exploratory work on a spatially-differentiated immigration policy after Brexit and updates us on the Welsh Government's policy in this area.*

Response: Accept

To date the UK Government's attitude to any devolution of migration policy has been negative, although there is some suggestion that this may be changing with the recent focus on 'an Australian style points-based system'.

The Welsh Government have, however, given early consideration to a number of proposals that have come forward. The Welsh Centre for Public Policy report concluded that the case for spatial differentiation of immigration policy based on wage levels was not particularly strong, since the labour market of Wales was very similar to those in all other parts of the UK with the exception of London and South East.

Nevertheless if the UK Government's future immigration policy does not address the economic, demographic and social needs of Wales then we will further explore options for spatially-differentiated immigration policy after Brexit. This does not necessarily require a devolution of powers over immigration,

The previous Home Secretary Sajid Javid raised the prospect of geographical variation in the minimum salary thresholds for migrants seeking work after Brexit. In his commissioning letter to the Home Office's MAC he asked them to consider what the future salary thresholds should be for workers coming into the UK [and] whether there should be different thresholds for different [nations and] regions of the UK. The Committee is expected to report in January 2020. Introducing spatially-differentiated salary thresholds could take account of lower average earnings in Wales at present.

However there has been general agreement with the decision of the Low Pay Commission to set the national minimum wage at UK-wide level in order to reduce wage inequality and the Welsh Government has also been critical of UK Government attempts to set lower pay thresholds for the public sector in Wales. The Welsh Government is therefore not convinced that a lower salary threshold exclusively for Wales is the best option.

Since becoming Prime Minister, Boris Johnson has advocated adopting an 'Australian style' points-based system. The UK Government has asked the MAC to make proposals for the introduction of an 'Australian-style' points-based immigration system alongside its review of future salary thresholds. The current Home Secretary, Priti Patel, recently suggested people could be awarded additional points if they work away from London and the south east. Depending on the design of the scheme an 'Australian type points-based system' could be more flexible than the current UK Tier 2 (General) visa system where candidates must meet all of the criteria. Under the Australian system a candidate can qualify with an aggregate score. This suggests that as further details of the proposals are developed by the UK Government there is scope to explore whether a points-based system could mitigate some of the most damaging impacts on Wales of an overly rigid skill and salary selective immigration system which could significantly ramp up costs and worsen recruitment difficulties in future.

Other spatially-differentiated immigration approaches such as national and regional differentiation based on demographic need and a geographic extension to the Shortage Occupational List (SOL) for Wales are discussed under recommendations 10, 11 and 12 below.

Financial Implications – None. Any additional costs will be drawn from existing programme budgets.

Recommendation 10. *The Committee recommends that the Welsh Government commissions research on future demographic trends, which takes into account lower levels of migration, and its potential impact on the Welsh economy.*

Response: Accept

Both *Brexit and Fair Movement* and the WCPP report highlighted that the demographic challenges facing Wales are significantly more acute than those in England, since Wales has slower growth in the overall population but faster growth in the over-65s. At the same time, the 16-64 population is projected to shrink by 6% by 2039.

The latest Office for National Statistics [2018-based national population projections](#) show that the population of Wales is projected to decrease in the longer-term (from 2024 onwards). This is the first time a population decrease has been projected for Wales in recent times. The ONS population projections, are highly uncertain not least due to their sensitivity to migration and particularly migration that is internal to the UK. Nevertheless they point to a specific risk to the future Welsh tax base, with "working age"² population forecast to grow more slowly than in England. This also has broader implications for future Welsh relative economic performance and for social outcomes.

We will therefore commission further research on the economic and fiscal implications and associated policy options of demographic trends covering both

² A fixed age cohort is shown to remove the effect of changes in state retirement age on the definition of working age.

international and internal migration congruent with the social and cultural aspects of migration.

Financial Implications – None. Any additional costs will be drawn from existing programme budgets.

Recommendation 11. *The Committee recommends that the Welsh Government calls on the UK Government to establish a Shortage Occupation List for Wales, which the Welsh Government is able to amend according to Welsh needs.*

Response: Accept in Principle

We believe that a dedicated Wales SOL could form part of a spatially-differentiated approach that would be more fitting to Wales' needs subject to the UK Government clarifying how the SOL would in practice operate under the new immigration system. The reason for indicating acceptance 'in principle' only, is that the value of a separate SOL for Wales is contingent upon that.

However, there is a risk that this could be portrayed by the UK Government as a significant concession, but in fact is one which in practice would have little substantial impact. So before attaching priority to this approach, we will need to consider whether having a discrete Welsh SOL will confer sufficiently significant advantages.

On the basis of the present proposals from the Migration Advisory Committee (which the UK Government is still considering), this seems a very moot point.

First, the profile of shortage sectors and occupations is likely to be similar to the UK as a whole. It is notable that the Scotland-only SOL is currently very short, containing just two additional occupation fields to the UK-list (physical scientists and medical practitioners).

Second, in the present Tier 2 (General) visa system, the SOL enables prioritisation of certain occupations within the overall numeric cap set for non-EU migrants and allows employers an exemption from applying the 'resident labour market test' However, the UK Government's Immigration White Paper proposes following earlier MAC recommendations to abolish both the cap on the number of migrants and the resident labour market test. The only remaining benefits of being on the SOL in a future immigration system are likely to be the lower salary requirement for settlement³ and lower visa fees.

Overall, then, there are real questions about the future purpose of the SOL and the MAC have recommended a review of the SOL once the detail of the UK's future migration system is known.

³ Migrants on Tier 2 (General) visas are eligible to apply for settlement (indefinite leave to remain) after 5 years in the UK. Those migrants coming to the UK on or after the 6th April 2011 have also had to meet a minimum salary threshold, currently £35,800, in order to be successful in their application for settlement. There is an exemption to this salary threshold for migrants employed in shortage occupations.

Immigration is reserved to the UK government and the attitude of successive UK Governments' to devolving responsibility for migration policy has been negative. Thus the extent to which the Welsh Government is able to influence in future the criteria for inclusion on a Welsh SOL may be limited.

While a number of options exist for greater use of bottom up indicators, greater involvement of Welsh Ministers in commissioning and determining what occupations are in shortage in Wales, making the list faster more responsive to the labour market changes etc., it is becoming increasingly clear that the UK Government's immigration policy outlined in the White Paper does not address some of the fundamental demographic and social needs of Wales. Thus, in the longer term, there remains a question about whether SOLs are a helpful measure to address more generalised challenges that Wales faces and whether a more systemic approach to future immigration policy is actually required.

Financial Implications – None. Any additional costs will be drawn from existing programme budgets.

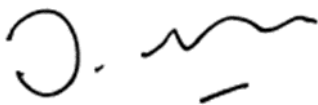
Recommendation 12. *The Committee recommends that the Welsh Government outlines in response to this report whether it has undertaken a review to establish how a Wales-specific Shortage Occupation List would take account of some of the specific needs of Wales.*

Response: Accept

Many of the occupations where the MAC received evidence of shortage from Scotland, Northern Ireland and Wales were also shown to be in shortage in the UK as well. This means the occupations where there is evidence of shortage have been placed on the UK wide SOL and the MAC did not recommend placing any occupations on the Northern Irish or Welsh SOLs. The case for any regional scheme should therefore be made (as it has been in Scotland) by reference to Wales' longer-term demographics and skills needs.

Financial Implications – None. Any additional costs will be drawn from existing programme budgets.

Yours sincerely,

A handwritten signature in black ink, consisting of a stylized 'J' followed by a wavy line and a short horizontal stroke.

Jeremy Miles AC

Y Cwnsler Cyffredinol a Gweinidog Brexit
Counsel General and Brexit Minister