

Agenda – Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Lleoliad:	I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgora 1 – y Senedd	Gareth Williams
Dyddiad: Dydd Llun, 3 Mehefin 2019	Clerc y Pwyllgor
Amser: 13.30	0300 200 6362
	SeneddMCD@cynulliad.cymru

- 1 Cyflwyniad, ymddiheuriadau, dirprwyon a datganiadau o fuddiant**
13.30
- 2 Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru): Sesiwn dystiolaeth**
13.30–14.30 (Tudalennau 1 – 8)
Julie Morgan AC, y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Karen Cornish, Dirprwy Gyfarwyddwr Yr Is-adran Plant a Theuluoedd
Emma Gammon, Cyfreithiwr

CLA(5)-17-19 – Papur briffio

[Bil Plant \(Diddymu Amddiffyniad Cosb Resymol\) \(Cymru\) 2019](#), fel y'i
cyflwynwyd
[Memorandwm esboniadol](#)

- 3 Offerynnau sy'n cynnwys materion i gyflwyno adroddiad arnynt i'r Cynulliad o dan Reol Sefydlog 21.2 neu 21.3**
14.30–14.35
Offerynnau'r Penderfyniad Negyddol
- 3.1 SL(5)413 – Rheoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Diwygio) (Cymru) 2019**
(Tudalennau 9 – 16)



CLA(5)-17-19 – Papur 1 – Adroddiad
CLA(5)-17-19 – Papur 2 – Rheoliadau
CLA(5)-17-19 – Papur 3 – Memorandwm Esboniadol

**4 Adroddiad o dan Reol Sefydlog 30B: Deddf yr Undeb Ewropeaidd
(Ymadael) a Fframweithiau Cyffredin**

14.35–14.40 (Tudalennau 17 – 74)
CLA(5)-17-19 – Papur 4 – Datganiad Ysgrifenedig
CLA(5)-17-19 – Papur 5 – Adroddiad
CLA(5)-17-10 – Papur 6 – Dadansoddiad o'r Fframweithiau Diwygiedig

5 Papur(au) i'w nodi

14.40–14.45

**5.1 Llythyr gan y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol at
Gadeirydd y Pwyllgor Plant, Pobl Ifanc ac Addysg: Bil Plant (Diddymu
Amddiffyniad Cosb Resymol) (Cymru)**

(Tudalennau 75 – 76)

**CLA(5)-17-19 – Papur 7 – Llythyr gan y Dirprwy Weinidog Iechyd a
Gwasanaethau Cymdeithasol, 5 Ebrill 2019**

**5.2 Llythyr gan y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol at
Gadeirydd y Pwyllgor Plant, Pobl Ifanc ac Addysg: Bil Plant (Diddymu
Amddiffyniad Cosb Resymol) (Cymru)**

(Tudalennau 77 – 92)

**CLA(5)-17-19 – Papur 8 – Llythyr gan y Dirprwy Weinidog Iechyd a
Gwasanaethau Cymdeithasol, 25 Ebrill 2019**

**5.3 Llythyr gan Gadeirydd y Pwyllgor Materion Allanol a Deddfwriaeth
Ychwanegol at y Prif Weinidog: Presenoldeb Gweinidogion mewn pwyllgorau
ar ddydd Llun**

(Tudalennau 93 – 94)

**CLA(5)-17-19 – Papur 9 – Llythyr gan Gadeirydd y Pwyllgor Materion Allanol
a Deddfwriaeth Ychwanegol, 20 Mai 2019**

5.4 Llythyr gan y Gweinidog Cyllid a'r Trefnydd: Gorchmynion Cychwyn

(Tudalennau 95 – 96)

CLA(5)-17-19 – Papur 10 – Llythyr gan y Gweinidog Cyllid a'r Trefnydd, 21 Mai 2019

5.5 Llythyr gan Brif Weinidog Cymru: Cyhoeddi fersiwn wedi'i diweddar o'r Llawlyfr Deddfwriaeth ar Filiau'r Cynulliad

(Tudalen 97)

CLA(5)-17-19 – Papur 11 – Llythyr gan Brif Weinidog Cymru, 22 Mai 2019

5.6 Llythyr gan y Gweinidog yr Amgylchedd, Ynni a Materion Gwledig: Grŵp Rhngweinidogol yr Amgylchedd, Bwyd a Materion Gwledig

(Tudalen 98)

CLA(5)-17-19 – Papur 12 – Llythyr gan y Gweinidog yr Amgylchedd, Ynni a Materion Gwledig, 24 Mai 2019

6 Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o'r cyfarfod ar gyfer y mater a ganlyn:

14.45

7 Memorandwm Cydsyniad Deddfwriaethol Atodol ar y Bil Amaethyddiaeth: Adroddiad Drafft

14.45-15.15

(Tudalennau 99 – 111)

CLA(5)-17-19 – Papur 13 – Adroddiad drafft

CLA(5)-17-19 – Papur 14 – Cytundeb Dwyochrog ar ddarpariaethau'r WTO yn y Bil Amaethyddiaeth

Dyddiad y cyfarfod nesaf – 10 Mehefin 2019

Mae cyfyngiadau ar y ddogfen hon

Item 3.1 SL(5)413 – Rheoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) (Diwygio) 2019

Cefndir a Diben

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) 2019 (O.S. 2019/50 (Cy. 15)) ("Rheoliadau 2019") er mwyn cywiro gwall teipograffyddol yn nhestun Cymraeg Rheoliadau 2019.

Mae Rheoliadau 2019 yn pennu pob tanwydd sydd wedi ei awdurdodi ar hyn o bryd i'w ddefnyddio mewn ardaloedd rheoli mwg yng Nghymru at ddibenion adran 20 o Ddeddf Aer Glân 1993 (p. 11).

Gweithdrefn

Negyddol.

Materion technegol: craffu

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.2 mewn perthynas â'r offeryn hwn.

Rhinweddau: craffu

Nodwyd un pwynt i gyflwyno adroddiad arno o dan Reol Sefydlog 21.3(ii) (sef ei fod o bwysigrwydd gwleidyddol neu gyfreithiol neu ei fod yn codi materion polisi cyhoeddus sy'n debyg o fod o ddiddordeb i'r Cynulliad).

Roedd adroddiad y Pwyllgor ar Reoliadau 2019 yn cynnwys pwynt adrodd technegol mewn perthynas ag anghysondeb rhwng y testun Cymraeg a'r testun Saesneg ym mharagraff 71(c) o'r Atodlen. Roedd y testun Saesneg yn cynnwys y cymal a ganlyn: "...between approximately 30 millimetres and 130 millimetres in length". Fodd bynnag, roedd y testun Cymraeg yn cynnwys y ffigur "150" yn lle "130". Roedd y fanyleb gywir i'w gweld yn y testun Saesneg, ac felly roedd angen cywiro'r testun Cymraeg. Mae'r Rheoliadau hyn yn darparu ar gyfer gwneud y cywiriad hwnnw.

Y goblygiadau yn sgil gadael yr Undeb Ewropeaidd

Ni nodwyd unrhyw bwyntiau i gyflwyno adroddiad arnynt o dan Reol Sefydlog 21.3 mewn perthynas â'r offeryn hwn.

Ymateb y Llywodraeth

Nid oes angen ymateb gan y Llywodraeth.

Cynghorwyr Cyfreithiol

Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

24 Mai 2019



OFFERYNNAU STATUDOL
CYMRU

2019 Rhif 932 (Cy. 163)

AER GLÂN, CYMRU

Rheoliadau Ardaloedd Rheoli Mwg
(Tanwyddau Awdurdodedig)
(Cymru) (Diwygio) 2019

NODYN ESBONIADOL

(*Nid yw'r nodyn hwn yn rhan o'r Rheoliadau*)

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) 2019 (O.S. 2019/50 (Cy. 15)) ("Rheoliadau 2019").

Mae'r Rheoliadau hyn yn cywiro gwall teipograffyddol yn nhestun Cymraeg Rheoliadau 2019.

Mae Rheoliadau 2019 yn pennu pob tanwydd sydd wedi ei awdurdodi ar hyn o bryd i'w ddefnyddio mewn ardaloedd rheoli mwg yng Nghymru at ddibenion adran 20 o Ddeddf Aer Glân 1993 (p. 11).

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Rheoliadau hyn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Rheoliadau hyn.

OFFER Y NNAU STATUDOL
CYMRU

2019 Rhif 932 (Cy. 163)

AER GLÂN, CYMRU

Rheoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) (Diwygio) 2019

Gwnaed 9 Mai 2019

Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru 14 Mai 2019

Yn dod i rym 5 Mehefin 2019

Mae Gweinidogion Cymru, drwy arfer y pŵer a roddir gan adran 20(6) o Ddeddf Aer Glân 1993(1), yn gwneud y Rheoliadau a ganlyn.

Enwi a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) (Diwygio) 2019.

(2) Daw'r Rheoliadau hyn i rym ar 5 Mehefin 2019 .

Diwygio Rheoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) 2019

2. Yn nhestun Cymraeg Rheoliadau Ardaloedd Rheoli Mwg (Tanwyddau Awdurdodedig) (Cymru) 2019(2), yn yr Atodlen, ym mharagraff 71(c), yn lle “150” rhodder “130”.

(1) 1993 p. 11. Trosglwyddwyd swyddogaeth berthnasol yr Ysgrifennydd Gwladol, i'r graddau yr oedd yn arferadwy o ran Cymru, i Gynulliad Cenedlaethol Cymru yn rhinwedd erthygl 2 o Orchymyn Cynulliad Cenedlaethol Cymru (Trosglwyddo Swyddogaethau) 1999 (O.S. 1999/672) ac Atodlen 1 iddo. Mae'r swyddogaeth honno'n arferadwy bellach gan Weinidogion Cymru yn rhinwedd adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32) a pharagraff 30 o Atodlen 11 iddi.

(2) O.S. 2019/50 (Cy. 15).

Lesley Griffiths
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig,
un o Weinidogion Cymru
9 Mai 2019

EXPLANATORY MEMORANDUM TO THE SMOKE CONTROL AREAS (AUTHORISED FUELS) (WALES) (AMENDMENT) REGULATIONS 2019

This Explanatory Memorandum has been prepared by the Department for Environment, Energy and Rural Affairs and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

Minister's Declaration

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of The Smoke Control Areas (Authorised Fuels) (Wales) (Amendment) Regulations 2019.

Lesley Griffiths AM
Minister for Environment, Energy and Rural Affairs
14 May 2019

1. Description

The Smoke Control Areas (Authorised Fuels) (Wales) (Amendment) Regulations 2019 correct the typographical error made in The Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2019 (“the 2019 Regulations”).

The 2019 Regulations revoke and replace The Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2017 (SI 2017 No.421 (W.89)). The 2019 Regulations update the current legislation with newly authorised fuels for the purposes of Part III of The Clean Air Act 1993 (“the 1993 Act”).

An amending Statutory Instrument is required to rectify an error within the 2019 Regulations.

2. Matters of special interest to the Constitutional and Legislative Affairs Committee

At its meeting on 28 January 2019, the Constitutional and Legislative Affairs Committee identified a Technical Point within the 2019 Regulations under Standing Order 21.2.

On 31 January 2019, the Welsh Government undertook to make an amending Statutory Instrument to rectify the error.

The English version was identified as including the correct text which specifically refers to the authorised fuel and its length in millimetres: “*charcoal pieces between approximately 30 millimetres and 130 millimetres in length*” (*Schedule, Regulation 2, section 9*).

The corresponding Welsh text refers to charcoal pieces between approximately 30 millimetres and 150 millimetres in length. The discrepancy amounts to a difference of 20 millimetres.

The amending Statutory Instrument will correct this typographical error.

3. Legislative Background

The enabling power is contained in section 20(6) of the 1993 Act.

This power was originally conferred on the Secretary of State but was, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by virtue of Article 2 of and Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999/672. This power is now exercisable by the Welsh Ministers by virtue of section 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

Section 63 of the 1993 Act provides for the procedure to be followed for statutory instruments. Accordingly, this Statutory Instrument is subject to the negative resolution procedure.

4. Purpose and intended effect of the legislation

The 1993 Act (a consolidation of The Clean Air Act 1956 and The Clean Air Act 1968) aims to safeguard public health from emissions of smoke. It empowers local authorities to declare Smoke Control Areas in which it is an offence to emit smoke from chimneys. Households in those areas must use an “authorised” smokeless fuel or use an “exempt” appliance capable of operating without emitting smoke, regardless of the fuel used.

The 1993 Act provides the Welsh Ministers with the power to authorise fuels and appliances for use in Wales’ designated Smoke Control Areas. Authorised fuels are prescribed in regulations.

The fuels listed in the Schedule to the 2019 Regulations have been recently approved as suitable for inclusion on the list of fuels authorised for use in designated Smoke Control Areas. They are included in the Schedule to the 2019 Regulations, alongside fuels previously authorised. The 2019 Regulations revoke and replace The Smoke Control Areas (Authorised Fuels) (Wales) Regulations 2017 and provide a consolidated, up-to-date list of authorised fuels.

The amending Statutory Instrument corrects the typographical error identified in the 2019 Regulations.

5. Implementation

Updating the lists of authorised fuels in the 2019 Regulations ensured the legislation keeps pace with the development of new smokeless fuels, making them available to households in designated Smoke Control Areas.

Air quality can have fundamental impacts on human health, affecting both the quality and duration of people’s lives. A more effective air quality regime will have an important contributory impact in terms of the goals of “A healthier Wales” under the Well-being of Future Generations (Wales) Act 2015.

Updating the lists of authorised fuels also contributes to the achievement of the Healthy and Active strategy within Prosperity for All, the Welsh Government’s national strategy as improving air quality improves the health and wellbeing of individuals, families and communities.

The amendment to correct the identified error in the 2019 Regulations will correct the error made and ensure consistency in both Welsh and English texts.

6. Consultation

It was considered neither necessary nor appropriate to publicly consult on the amendment of the 2019 Regulations as they leave the nature of the smoke control regime in Wales unchanged. The 2019 Regulations simply update the list of fuels authorised for use within Wales' designated Smoke Control Areas. Similarly, the amending Statutory Instrument was not subject to public consultation as it simply corrects a typographical error identified in the 2019 Regulations.

7. Regulatory Impact Assessment (RIA)

The amendment to correct the identified error in the 2019 Regulations does not impose costs on the public, private, or voluntary sectors. An RIA is not therefore deemed necessary.



Llywodraeth Cymru
Welsh Government

DATGANIAD YSGRIFENEDIG GAN LYWODRAETH CYMRU

TEITL **Deddf yr Undeb Ewropeaidd (Ymadael) a Fframweithiau Cyffredin**

DYDDIAD **20 Mai 2019**

GAN **Jeremy Miles AC, y Cwnsler Cyffredinol a'r Gweinidog Brexit**

Mae Deddf yr Undeb Ewropeaidd (Ymadael) yn ei gwneud yn ofynnol i Lywodraeth y DU adrodd i'r Senedd yn gyson am faterion sy'n ymwneud â fframweithiau cyffredin a'r defnydd dros dro y mae Lywodraeth y DU wedi ei wneud, os o gwbl, o bwerau o dan adran 12 o'r Ddeddf (y 'pwerau rhewi' fel y'u gelwir) mwyn cynnal cyfyngiadau presennol cyfraith yr UE ar gymhwysedd datganoledig.

Rwy'n hysbysu'r aelodau bod y trydydd adroddiad o'r fath wedi'i osod yn Senedd y DU ar 16 Mai.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/801833/Third-EU-Withdrawal-Act-and-Common-Frameworks-report.pdf



Cabinet Office

The European Union (Withdrawal) Act and Common Frameworks

26 December 2018 to 25 March 2019



Cabinet Office

The European Union (Withdrawal) Act and Common Frameworks

26 December 2018 to 25 March 2019

**Presented to Parliament pursuant to paragraph 4 of Schedule 3 to the European Union
(Withdrawal) Act 2018**

**This document is available in large print,
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**The Rt Hon David Lidington CBE MP
Chancellor of the Duchy of
Lancaster and Minister for the
Cabinet Office**



**The Rt Hon Karen Bradley MP
Secretary of State for Northern Ireland**



**The Rt Hon David Mundell MP
Secretary of State for Scotland**



**The Rt Hon Alun Cairns MP
Secretary of State for Wales**

Foreword

In the context of the UK's departure from the European Union, the Government remains committed to ensuring a smooth and orderly exit. Officials from the UK, Scottish, and Welsh Governments and Northern Ireland Civil Service have continued to work closely over the period covered by this report (26 December 2018 to 25 March 2019) to prepare the UK for EU Exit.

This Government recognises the importance of accountability and transparency and has therefore committed in legislation to report to Parliament every three months and to share this report with the devolved administrations (DAs). The report includes the steps we are taking, with those administrations, to establish common frameworks and any use of the powers in section 12 of the European Union (Withdrawal) Act 2018 to temporarily freeze devolved competence. The first report was laid before Parliament on 13 November 2018 covering the period from 26 June to 25 September 2018. Subsequent to this the second report was published on 7 February 2019 covering the period from 26 September to 25 December 2018.

It is important that the process of developing common frameworks is not just carried out between governments. We welcome the input and scrutiny from businesses and stakeholders as well as Parliament and the devolved legislatures as we move closer to implementation. With the DAs, we are developing a wider programme of stakeholder engagement, to ensure that proposals for future frameworks meet the needs of those who will be impacted by them. The Northern Ireland Civil Service will continue to participate in this area of work.

In addition, 199 Statutory Instruments (SIs) relating to devolved matters were laid in the UK Parliament before 29 March with the agreement of the devolved administrations. This contributes to meeting the UK Government's commitment to have a functioning statute book on exit day. The DAs and UK government departments have noted the positive working relations that joint work to deliver EU Exit secondary legislation has fostered.

Following the reporting period covered by this report, the revised frameworks analysis was published. We intend to update the analysis using future publications of this report.

This report details the progress made in the third reporting period (26 December 2018 to 25 March 2019) as required under schedule 3 to the European Union (Withdrawal) Act 2018. On the basis of this continuing joint progress and collaboration on future frameworks which ensures the statute book is ready for exit day, the UK Government has again concluded that it does not need to bring forward any section 12 regulations at this juncture. In addition, the Scottish and Welsh

Governments have reaffirmed their commitment not to create divergent policy in ways that would cut across future frameworks, where it has been agreed they are necessary or where discussion continues.

Implementation of Future Common Frameworks

1.1 Part 2 of Schedule 3 to the European Union (Withdrawal) Act 2018 requires that a Minister of the Crown report to Parliament at three month intervals on various matters pertaining to common frameworks, and the use of the powers in section 12 of, and Schedule 3 to, the 2018 Act to temporarily maintain the existing EU law limits on devolved competence. Reports are shared with the devolved administrations to enable them to maintain a concurrent level of scrutiny. The first and second reports were published on 13 November 2018 and 7 February 2019 respectively. These reports covered consecutive three month periods after the Act was granted Royal Assent (26 June to 25 September and 26 September to 25 December).

1.2 The purpose of these reports is to ensure that the process of developing common frameworks, in collaboration with the devolved administrations, is transparent and subject to robust parliamentary scrutiny.

Principles for Common Frameworks

1.3 Under the current devolution settlements, the devolved legislatures and administrations cannot act incompatibly with EU law. The EU laws that are in place work to create common UK-wide approaches - or 'frameworks' - even where those policy areas otherwise fall within devolved competence. The Scottish and Welsh Governments agree that common frameworks will continue to be required in some areas after we leave the EU.

1.4 In October 2017, the Joint Ministerial Committee (EU Negotiations) (JMC(EN)) agreed principles to guide the work to create common frameworks. These principles are set out below:

1. *Common frameworks will be established where they are necessary in order to:*
 - *enable the functioning of the UK internal market, while acknowledging policy divergence;*
 - *ensure compliance with international obligations;*
 - *ensure the UK can negotiate, enter into and implement new trade agreements and international treaties;*
 - *enable the management of common resources;*
 - *administer and provide access to justice in cases with a cross-border element; and*
 - *safeguard the security of the UK.*

2. *Frameworks will respect the devolution settlements and the democratic accountability of the devolved legislatures, and will therefore:*
 - *be based on established conventions and practices, including that the competence of the devolved institutions will not normally be adjusted without their consent;*
 - *Maintain, as a minimum, equivalent flexibility for tailoring policies to the specific needs of each territory, as is afforded by current EU rules; and*
 - *lead to a significant increase in decision-making powers for the devolved administrations.*
3. *Frameworks will ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK which shares a land frontier with the EU. They will also adhere to the Belfast Agreement.*

1.5 These principles continue to guide all discussions between the UK Government and the devolved administrations on common frameworks.

Progress Towards Establishing Future Frameworks

1.6 The following section sets out the steps taken by the UK Government, during the reporting period, toward implementing our future, long-term common frameworks, and explains how the frameworks principles have been taken into account.

1.7 This work to establish common frameworks has five phases. The first phase took place between October 2017 and March 2018 and focused on establishing the principles and proof of concept for this programme of joint work between the UK Government and the devolved administrations. During this phase, the UK Government published an initial common frameworks analysis.

1.8 The second phase of this work, running from April 2018 onwards, has focused on more detailed policy development, including iterative multilateral engagement on the 24 priority framework areas. Alongside this, work continues on cross-cutting issues, notably future free trade agreements, the UK internal market and the review of intergovernmental relations that was commissioned by the Joint Ministerial Committee in March 2018.

1.9 The third phase of work will provide a review of progress to date, wider engagement and consultation with interested stakeholders, and more detailed policy development up to and beyond March 2019. This will lead, in due course, to preparation for the implementation of final frameworks.

1.10 Progress has continued in the latest reporting period (26 December 2018 to 25 March 2019) to deepen the policy development of future common frameworks. This work is underpinned by joint guidance produced collaboratively by the UK Government and the devolved administrations, and supported by the joint structures that have been developed under JMC(EN) and the political commitment made by the Scottish and Welsh Governments in the first and second reports not to pursue policy divergence in areas where frameworks discussions are ongoing and no section 12 ‘freezing’ regulations have been made.

1.11 Common frameworks continue to be developed through constructive discussions between the UK Government and the devolved administrations. Policy teams have also been working on preparing for a no deal scenario. During the latest reporting period (26 December 2018 to 25 March 2019), detailed multilateral engagement has continued to take place at official level, including standalone sessions on:

- Chemicals and Pesticides (22 January 2019)
- Food and Feed Safety and Hygiene (22 January 2019)
- Nutritional Health Claims, Composition and Labelling (30 January 2019)
- Public Health (7 February 2019)
- Plant Health (12 February 2019)
- Agriculture - Fertiliser Regulations (21 February 2019)
- Public Procurement (11 March 2019)
- Nutritional Health Claims, Composition and Labelling (20 March 2019)

1.12 In the absence of Northern Ireland Executive Ministers, officials from the Northern Ireland Civil Service continue to participate in this work on a factual and analytical basis.

1.13 Within the latest reporting period (26 December 2018 to 25 March 2019), where possible policy teams have continued to develop “outline agreements” in the 24 priority areas where frameworks are likely to require legislative elements, in whole or in part, at this time. In addition “outline agreements” have been developed in a few areas where frameworks are likely to be primarily non-legislative.

1.14 Among the policy and operational issues being considered are: the scope of the frameworks and where, if any, legislation may be required; decision making processes and the potential use of third parties; mechanisms for monitoring, reviewing and amending frameworks; the roles and responsibilities of each administration; and the detail of future governance structures, including arrangements for resolving disputes and information sharing.

1.15 The Fisheries, Management and Support framework for example is intended to be implemented through a limited set of legislative provisions, partially established in

the Fisheries Bill, supplemented by a concordat that includes ways of working, dispute resolution and enforcement processes.

1.16 Policy teams are also now considering the development of the 78 non-legislative policy areas where common rules or ways of working are likely to be needed. Where such agreements are necessary, we expect them to be implemented through non-legislative common framework agreements (e.g. concordats). In some of these areas, consistent fixes to retained EU law (made using secondary legislation) may create a unified body of UK law alongside the non-legislative framework agreement.

1.17 The UK Government will work with the Scottish and Welsh Governments and the Northern Ireland Civil Service, to seek to develop a shared approach to the internal market, including exploring a range of evidence and ideas, and together will continue to support policy teams in considering how to manage internal market-related issues in individual framework areas. The UK Government has led work to explore the evidence base for the level of economic integration between different nations and across different sectors in the UK; look at relevant international examples; and considered the case for principles and governance structures which could be applied to the UK internal market, including how these could be put into practice. The UK, Scottish and Welsh Governments and Northern Ireland Civil Service recognise that mutual cooperation is vital to ensure that the interests of other governments, businesses and consumers, are fully taken into account in decision making in areas where frameworks are being considered.

1.18 A programme of informal multilateral engagements with stakeholders has begun. On 19 March 2019, the ‘Hazardous Substances Planning’ policy teams from the UK, Welsh and Scottish Governments, and the Northern Ireland Civil Service consulted with interested stakeholders to test provisional conclusions made within the framework outline.

1.19 The UK, Scottish and Welsh Governments and Northern Ireland Civil Service recognise the importance of engaging Parliament, the devolved legislatures and wider stakeholders in the work on common frameworks, as activity moves into the third phase of work described above. The Northern Ireland Civil Service will continue to participate in this area of work.

Northern Ireland

1.20 Frameworks need to ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land frontier with the EU. As set out in the agreed principles frameworks will also adhere to the Belfast Agreement.

1.21 Due to the absence of a Northern Ireland Executive, there remain significant limits to the decision-making capacity of the Northern Ireland Civil Service. Guidance issued by the Secretary of State under the Northern Ireland (Executive Formation and Exercise of Functions) Act (EFEF) - legislation which enables senior officers of NI departments to continue to take a limited range of decisions, where they are satisfied that it is in the public interest to do so - provides departments with increased clarity and certainty about when they can make decisions in the absence of Ministers. The Secretary of State for Northern Ireland issued guidance under the Act on 5 November 2018. This guidance has, and will continue to inform our ongoing collective processes regarding changes to primary and secondary legislation, as well as non-legislative mechanisms. The Secretary of State extended the Act for a period of 5 further months on the 21st March. Pending the agreement of Parliament the Act will expire at the end of August.

1.22 Officials from the Northern Ireland Civil Service have engaged in the common frameworks process where the policy area intersects with the devolved competence of the Northern Ireland Assembly. However, in the absence of the Northern Ireland Executive, officials' input has been limited to analytical and factual responses only. Where framework arrangements have been developed, they are without prejudice to the views of future Northern Ireland Executive Ministers.

Common Frameworks Analysis

1.23 We published a revised copy of the common frameworks analysis on 4th April 2019, which sets out the progress we have made to develop common frameworks in collaboration with the devolved administrations since the first analysis was published in March 2018. The analysis has been published during the reporting period of the next statutory common frameworks report and will be covered in that report.

1.24 Updates on the progression of work in the policy areas set out in the frameworks analysis will be provided in future publications of this report. This will enable us to show progress in these areas on a more regular basis.

Legislation Relating to Retained EU Law Restrictions

2.1 Section 12 of the EU (Withdrawal) Act removes the current requirements in each of the devolution statutes that the devolved legislatures can only legislate in ways that are compatible with EU law. The Act then replaces those requirements with powers for the UK Government to apply, by regulations, a temporary ‘freeze’ on devolved competence in specified areas, subject to the approval of the UK Parliament, via the draft affirmative scrutiny procedure.

2.2 The process for making, agreeing and revoking these regulations can be found in our first report: The European Union (Withdrawal) Act and Common Frameworks - 26 June 2018 to 25 September 2018¹.

Regulations to ‘Freeze’ Devolved Competence

Retained EU law restrictions applied during reporting period

2.3 No regulations have been made to apply retained EU law restrictions under these powers during the reporting period.

Progress towards removal of retained EU law restrictions

2.4 No retained EU law restrictions made under the powers in sections 30A and 57(4) of the Scotland Act 1998, sections 80(8) and 109A of the Government of Wales Act 2006, or sections 6A and 24(3) of the Northern Ireland Act 1998 had effect at the end the reporting period.

Regulations to Repeal the ‘Freezing’ Powers

2.5 In addition to the ‘freezing’ powers inserted into the devolution statutes by the EU (Withdrawal) Act, section 12(9) confers a power on UK Ministers to repeal, by regulations, the new provisions containing those powers.

Powers to apply retained EU law restrictions repealed during reporting period

2.6 No regulations have been made under section 12(9) of the EU (Withdrawal) Act to repeal the powers to apply retained EU law restrictions during the reporting period.

¹<https://www.gov.uk/government/publications/the-european-union-withdrawal-act-and-common-frameworks-report>

Progress required in order to repeal the powers to apply retained EU law restrictions

2.7 The UK Government has not sought to make use of the powers to apply retained EU law restrictions at this juncture. As outlined earlier in this report, significant progress is being made across the policy areas where it is envisaged that legislative frameworks will be needed, and where there is outstanding disagreement on the boundaries of devolved competence. Our priority is to continue working with the devolved administrations to establish a shared understanding of where common approaches will need to be given effect through shared legislation, so that we can jointly design and implement those approaches.

2.8 The ‘freezing’ powers provide a mechanism to give certainty across those areas where common rules do need to be maintained, by ensuring that there will not be substantive policy change in different parts of the UK until those future arrangements are in place. In order to remove those powers from the statute book, further progress towards the implementation of those future frameworks would be needed. We will keep this position under review, in line with the statutory duty in section 12(10) of the EU (Withdrawal) Act.

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Cabinet Office

Revised Frameworks Analysis:

Breakdown of areas of EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland

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A Collaborative Approach to Common Frameworks

EU rules currently create consistent approaches across the UK in policy areas within devolved competence, although the UK, Scottish and Welsh Governments and the Northern Ireland Executive (when in place) make different choices on how to implement the rules in some of these policy areas. When the UK leaves the European Union, powers previously exercised at EU level that intersect with devolved competence will flow back directly to Edinburgh, Cardiff and Belfast. In some areas, the UK Government and the Scottish and Welsh Governments agree it will be necessary to maintain UK-wide approaches, or common frameworks, after we leave the EU.

Principles for Common Frameworks

In October 2017, the UK, Scottish and Welsh Governments agreed a set of principles to underpin this work. They agreed that common frameworks will be established where they are necessary in order to: enable the functioning of the UK internal market, while acknowledging policy divergence; ensure compliance with international obligations; ensure the UK can negotiate, enter into and implement new trade agreements and international treaties; enable the management of common resources; administer and provide access to justice in cases with a cross-border element, and safeguard the security of the UK.¹

It was further agreed that the frameworks established would respect the devolution settlements and democratic accountability of the devolved legislatures. They would maintain current levels of flexibility; increase the decision making powers of the devolved institutions; and would be based on existing conventions and practices, such as those around not normally adjusting devolved competence without their consent.

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/652285/Joint_Ministerial_Committee_communique.pdf

Northern Ireland

Frameworks also need to ensure recognition of the economic and social linkages between Northern Ireland and Ireland and that Northern Ireland will be the only part of the UK that shares a land frontier with the EU. They will also adhere to the Belfast Agreement.

Officials from the Northern Ireland Civil Service have engaged in the common frameworks process where the policy area intersects with the devolved competence of the Northern Ireland Assembly. However, in the absence of the Northern Ireland Executive, officials' input has been limited to analytical and factual responses only. Where framework arrangements have been developed, they are without prejudice to the views of future Northern Ireland Executive Ministers.

Progress to Date

A detailed programme of collaboration between the UK, Scottish and Welsh Governments and the Northern Ireland Civil Service has been undertaken to agree the scope of where common frameworks areas are needed and how they might be implemented. This work has been undertaken without prejudice to ongoing negotiations with the EU. Whilst our future partnership with the EU is being agreed, it has been important that we make progress on common frameworks, so that businesses and consumers can be confident that appropriate arrangements will be put in place and in recognition of the importance of those arrangements for co-operation in related areas, notably wider international obligations and ensuring that the UK internal market functions once we leave the EU. This work has been underpinned by strong intergovernmental structures and overseen by the Joint Ministerial Committee (EU Negotiations).

This work to establish common frameworks has five phases. The first phase took place between October 2017 and March 2018 and focused on establishing the principles and proof of concept for this programme of joint work between the UK Government and the devolved administrations. During this phase, the UK Government published an initial common frameworks analysis, which set out 153 areas where EU law intersected with devolved competence, including 24 areas where legislation may be needed in whole or in part, 82 areas where non-legislative frameworks may be required and 49 areas where no further action was identified. The initial analysis also listed 12 areas that the UK Government believed were reserved, subject to ongoing discussions with the devolved administrations.

The second phase of this work, running from April 2018 onwards, has focused on more detailed policy development, including iterative multilateral engagement on the 24 priority framework areas. Alongside this, work continued on cross-cutting issues, notably work streams on the internal market, future free trade agreements and a review of intergovernmental relations. This work is subject to the need for consideration by Ministers.

The third phase of work will provide a review of progress to date, from March 2019 wider engagement and consultation with interested stakeholders and more detailed policy development will take place. This will lead to further phases in due course for the preparation and implementation of final frameworks.

The cooperative approach on frameworks so far demonstrates the progress that can be achieved through proceeding collaboratively. The UK, Scottish and Welsh Governments remain committed to the direction of travel set out in the work to date, including committing to continuing to work together to develop common frameworks in line with the principles. We are also committed to cooperative working in line with the arrangements for intergovernmental working, including in areas where no formal framework is required.

To date, less emphasis has been given to establishing frameworks in the areas classified as potentially requiring non-legislative frameworks, due to their relative risk assessments, but this work is now being taken forward on a similar basis as policy areas initially identified as requiring legislation, in whole or in part. In some areas where action isn't needed to retain a common approach, cooperation will continue. Further updates on the progression of work in these areas will be provided in future European Union (Withdrawal) Act and Common Frameworks statutory reports.

Common Frameworks Analysis

In March 2018 the UK Government published the first iteration of the common frameworks analysis, which set out 153 areas where EU law intersected with devolved competence, including 24 areas where legislation may be needed in whole or in part, 82 areas where non-legislative frameworks may be required and 49 areas where no further action was identified.

Progress over the last year has been set out publicly in the two reports the UK Government has presented to Parliament on common frameworks. These have underlined the positive nature of this collaboration by setting out that the UK Government has not brought forward section 12 regulations under the EU (Withdrawal) Act to “freeze” devolved competence in any of these policy areas, and the commitment by the Scottish and Welsh Governments not to pursue policy divergence where we agree frameworks are necessary or while discussions are ongoing. The UK, Scottish and Welsh Governments continue to maintain this reciprocal arrangement.

This second iteration of the common frameworks analysis provides a snapshot of how the underlying risk analysis and categorisation of policy areas is evolving in light of this programme of work. It remains part of an ongoing dialogue that will continue to change and develop as work continues. The frameworks analysis is being published now, in advance of Exit Day, as part of our collective commitment to transparency within this process and to provide a platform for a more detailed multilateral and bilateral programme of engagement with external stakeholders.

This analysis sets out a number of changes. The descriptors for each category have been amended to provide a more accurate picture of the way in which future frameworks will be implemented. For example, it acknowledges the need for continuing co-operation in areas where no further action to create a common framework is required, and the relevance of the amended retained EU law framework, to areas where otherwise only non-legislative framework arrangements are required. There is an increase in the number of policy areas within the analysis from 153 to 160 and some change in the number of policy areas in each category, including a reduction from 24 to 21 in the category where legislation may be required in whole or in part. The number of areas non-legislative arrangements are being considered has reduced from 82 to 78. The number of areas where no further action

is required to create a common framework has increased from 49 to 63. There are now four policy areas that the UKG believes are reserved but remain subject to ongoing discussion with the devolved administrations; the other areas listed in this category in the initial analysis have been resolved.

Underpinning these changes is a discussion between the UK, Scottish and Welsh Governments and Northern Ireland Civil Service of the relevant policy issues and agreement that new arrangements should be implemented according to the needs of the particular area. At this stage, primary legislation is only likely to be required in a small number of policy areas and in these areas only some elements of the framework will be implemented in primary legislation. In some instances, this will be accompanied by substantive non-legislative arrangements articulating agreed ways of working between the administrations. In the majority of areas, non-legislative arrangements, such as a concordat, are being considered and it is envisaged that the fixes to EU law, being put in place under the EU (Withdrawal) Act, may provide the basis for interim or longer-term framework arrangements, depending on the outcome of negotiations with the EU.

Establishing Future Common Frameworks

The examples set out below illustrate the variety of issues being discussed and what future arrangements could be put in place in a range of policy areas. They demonstrate the consideration that has been given to establishing where it may be necessary to maintain common arrangements. These arrangements are still subject to discussion between the UK, Scottish and Welsh Governments and an incoming Northern Ireland Executive. Northern Ireland Civil Service are providing analytical and factual input.

FISHERIES MANAGEMENT AND SUPPORT

Current proposals state that, where necessary, parts of the existing EU framework could be replaced by a UK framework. This would comprise a limited set of legislative provisions, partially established in the Fisheries Bill, supplemented by a concordat that

includes ways of working, dispute resolution and enforcement processes. This will ensure common control and compliance standards, preserve equal access for UK vessels throughout UK waters and require a joint statement on fisheries management.

AGRICULTURE - ZOOTECH

Secondary EU Exit legislation will amend the directly effective provisions of EU law. Further EU Exit domestic legislation is planned for each part of the UK to ensure the competent authority or Secretary of State has the right powers (e.g. to take enforcement against breed societies). The framework will set out how joint decision making will work, expand on safeguards, and make sure the devolved administrations and their Ministers have the necessary input in legislating in this area. Work is being done to ensure the UK's ability to meet international standards is preserved.

The framework will seek to provide recognition of breed societies, standards for controlling/regulating breed societies, recognition of non-UK breed societies operating in the UK and approach to EU third country approvals and other trade matters.

Discussions are ongoing as to whether the Farm Animal Genetic Resources Committee (FAnGR) continues to serve as an independent source of advice on zootech and wider genetic resource issues. International Reference Centres will be used in preference to the EU Reference Centre.

ANIMAL HEALTH AND WELFARE

The existing EU framework for Animal Health and Welfare (AHW) is set through a combination of rules and regulations covering animal health, welfare and traceability. The framework would include high-level principles (including minimum standards), as well as mechanisms for new joint governance, decision making and dispute resolution. The framework will be designed to permit NI to continue to benefit from cross-border agrifood supply chains, while also maintaining unfettered access across the UK internal

market. This would ensure the framework operates in a way that allows each administration the flexibility to diverge, as currently afforded by EU rules, and leaves decision making authority with the relevant Minister.

Engagement continues between the UK Government and devolved administrations on the use of existing UK-level fora, groups and structures, including roles and responsibilities. UK-wide specialist policy and information-sharing groups may be used to replicate or mitigate the loss of certain functions currently undertaken by EU institutions. This is likely to be supplemented by a new dispute resolution body to ensure the smooth running of the framework. Discussions continue on high-level principles and the need for overarching UK committee/body that would, among other things, provide a home for the UK replacement for the Santé F function. This would provide international quality assurance to the countries where the UK exports live animals and other agrifood products.

FOOD AND FEED SAFETY AND HYGIENE

The framework is intended to provide an enduring agreement to a common approach, where deemed necessary, based on the recognition that businesses and consumers in all four nations (as well as international trading partners) benefit from the existence of UK-wide legislation in this area. The framework will also manage divergence in a way that fully respects the devolution settlements.

Engagement continues on the principles for joint framework governance, covering risk assessment, arrangements for joint policy development, decision making and dispute prevention/dispute resolution processes for managing issues of divergence.

HAZARDOUS SUBSTANCES (PLANNING)

Draft proposals indicate that the existing EU regulations could be replaced by an administrative framework that sets out agreed ways of joint working, including a number of high-level principles, set against the background of continuing international

obligations. The intention is to set a framework for continued close co-operation between the UK Government, including local planning and hazardous substances authorities, and the devolved administrations, with the overall objective of maintaining safety standards and honouring international obligations.

It is proposed that the Health and Safety Executive and the Health and Safety Executive Northern Ireland continue to play their existing role in advising local planning authorities and hazardous substances authorities and the devolved administrations on the risks associated with hazardous substances; discussions are ongoing.

MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS (MRPQ)

The need for a framework within this area is dependent on our future economic relationship with the European Union. The UK Government and devolved administrations are working together to consider a framework for the recognition of EEA and Swiss professional qualifications. This will be based largely on the existing arrangements for MRPQ, and will be implemented via EU Exit secondary legislation.

Cross-Cutting Issues

Work has also taken place to develop a collective position on some of the key issues relevant to all the policy areas within the scope of the analysis. In relation to the governance arrangements for future frameworks, consideration is being given to the degree to which a consistent approach is required in areas such as information sharing, decision making, dispute resolution and the role of evidence, including in some cases, expert opinion/technical advice. The UK, Scottish and Welsh Governments and Northern Ireland Civil Service are working together to ensure consistency and the sharing of learning and best practice across individual framework areas. There are a wide variety of approaches, levels of detail and progression among the framework outlines currently being developed by policy teams.

There is a recognition that, in the place of overarching arrangements provided for by EU membership, detailed technical arrangements will, in some areas, be supplemented by additional arrangements for policy cooperation and political engagement. The UK, Scottish and Welsh Governments and Northern Ireland Civil Service are working together to promote the establishment of such arrangements, as part of a broader review of intergovernmental relations commissioned by the Joint Ministerial Committee.

The UK Government will work with the Scottish and Welsh Governments and the Northern Ireland Civil Service, to seek to develop a shared approach to the internal market, including exploring a range of evidence and ideas, and together will continue to support policy teams in considering how to manage internal market-related issues in individual framework areas. The UK Government has led work to explore the evidence base for the level of economic integration between different nations and across different sectors in the UK; look at relevant international examples; and considered the case for principles and governance structures which could be applied to the UK internal market, including how these could be put into practice. The UK, Scottish and Welsh Governments and Northern Ireland Civil Service recognise that mutual cooperation is vital to ensure that the interests of other governments, business and consumers, are fully taken into account in decision making in areas where frameworks are being considered.

Other relevant issues include the approach to the relationship with EU negotiations, involvement in future free trade agreements and international obligations, and decision making and agreement in Northern Ireland in the absence of an Executive.

Next Steps for Common Frameworks

Future Publications

Work to develop future common frameworks is ongoing and this publication is a snapshot of the work to date. To date, work has been prioritised to address those frameworks that might need legislative underpinning, but as we move into the next phase we will also be working on those policy areas that might need a non-legislative framework. In some areas where action isn't needed to retain a common approach, cooperation will continue.

As we leave the EU the context of these frameworks will become clearer and in those areas which are dependent on our future relationship with the EU, such as the Justice and Home Affairs policy areas, swift progress will be able to be made. Further updates on the progression of work in all areas, including these, will be provided in future European Union (Withdrawal) Act and Common Frameworks statutory reports.

Next Steps

The UK, Scottish and Welsh Governments and Northern Ireland Civil Service recognise the importance of engaging Parliament, the devolved legislatures and wider stakeholders in the work on common frameworks. As activity moves into the third phase of work described above. We will look to develop a wider programme of stakeholder engagement, to ensure that proposals for future frameworks meet the needs of those who will be impacted by them. The Northern Ireland Civil Service will continue to participate in this area of work.

Breakdown of areas of EU law that intersect with devolved competence in Scotland, Wales and Northern Ireland

This analysis sets out each of the 160 areas of EU law that intersect with devolved competence in one or more devolved administrations. As the devolution settlements are asymmetrical, a different range of powers is relevant to Scotland, Wales and Northern Ireland.

This analysis is the second iteration of the [working document](#) that was published on 9 March 2018 and sets out the latest policy positions, including the reclassification of some policy areas and further detail on the shape that some of these frameworks might take. The analysis sets out:

1. 63 policy areas where no further action to create a common framework is required, and the UK Government and devolved administrations will continue to cooperate.
2. 78 policy areas where we think that common rules or ways of working will be needed and we expect to implement this through a non-legislative common framework agreement (e.g. a concordat). In some of these areas, consistent fixes to retained EU law (made using secondary legislation) will create a unified body of UK law alongside the non-legislative framework agreement.
3. 21 policy areas where future legislation may be needed, in whole or in part, to implement the common rules and ways of working, alongside a non-legislative framework agreement and - potentially - a consistent approach to retained EU law.²

In some instances, policy areas include a mixture of reserved and devolved competence, including where technical standards that derive from EU law are relevant. These policy areas are marked with an asterisk. The analysis also includes 4 policy areas that the UK Government believes are reserved; which are subject to ongoing discussion with the devolved administrations.

²In total, 160 individual policy areas sit within these categories. Two policy area appears in the analysis twice, in different categories, depending on the devolution intersect. These are 'Equal Treatment Legislation' and 'High efficiency cogeneration/Combined heat and power'.

The analysis will be refined further in the coming months as the UK, Scottish and Welsh Governments continue to work together. All positions are set out without prejudice to the outcome of negotiations with the European Union. They are also subject to the need to find practical solutions that recognise the unique economic, social and political context of the land border between Northern Ireland and Ireland; frameworks will adhere to the Belfast Agreement.

63 Policy areas where no further action to create a common framework is required, and the UK Government and devolved administrations will continue to cooperate

Responsible UK Government Department	Area of EU Law	Devolution Intersect			Additional Information - what the EU law does
		NI	S	W	
BEIS	Consumer law including protection and enforcement	x			A body of law providing rights and protections for consumers consisting of principles-based, enforcement and sector-specific legislation, including Unfair Contract Terms (93/13/EC), Consumer Rights (2011/83/EC), Unfair Commercial Practices (2005/29/EC) and a cross-border Consumer Protection Cooperation Regulation (EC 2006/2004).
BEIS	Carbon capture and storage	x*	x*	x*	Directive 2009/31/EC on the geological storage of CO2 establishes a legal framework for the environmentally safe geological storage of CO2 to contribute to combating climate change.
BEIS	Elements of employment law	x			Employment law is not an exclusive EU competence but there are a number of directives concerning individual and collective rights implemented in UK law, including the Working Time Directive 2003/88/EC and Pregnant Workers Directive 1992/85/EEC. EU law sets the minimum standards and Member States (and DAs, where competence is devolved) may legislate freely above this level.
BEIS	Environmental law concerning energy industries	x*	x*	x*	EU legislation contains rules and environmental standards relevant to offshore oil and gas exploration and production, offshore gas unloading and storage, and offshore carbon dioxide storage activities.
BEIS	Heat metering and billing information	x	x*		Energy Efficiency Directive 2012/27/EU sets duties for heat suppliers in respect of installing and maintaining heat metering devices and billing, minimum requirements for billing information, and determination of cost effectiveness and technical feasibility.
BEIS	High efficiency	x*			Measures that promote the use of high-efficiency cogeneration (Combined Heat and Power) in

	cogeneration / Combined Heat and Power (CHP) [NB - this appears in category 2 for Scotland]				order to increase the energy efficiency and improve the security of supply of energy (Energy Efficiency Directive 2012/27/EU).
BEIS	Internal energy market / Third Energy Package	x			Package of legislation on the development of the internal energy market, particularly cross-border trading.
BEIS	Onshore hydrocarbons licensing	x	x	x	Directive 94/22/EEC sets the conditions for tendering and determining applications for hydrocarbon licenses and imposes restrictions on the terms which may be included in licences and their extension.
BEIS	Renewable Energy Directive	x*	x*	x*	The Renewable Energy Directive (2009/28/EC) places a 15% renewable energy target, and a 10% renewable energy sub target for the transport sector on the UK. The Directive sets out a number of other measures and frameworks to support the production and promotion of energy from renewable sources.
BEIS	Security of supply (emergency stocks of oil)	x*			Directive 2009/119/EC obligates Member States to maintain emergency stocks of crude oil and petroleum products.
BEIS	Security of supply (gas)	x			Regulations concerning the security of gas supply, preventing potential supply disruptions and supporting a response to them should they occur. The regulations also create common standards to measure serious threats and define how much gas is needed to be able to supply households and vulnerable consumers.
BEIS	Environmental law concerning energy planning consents	x*		x*	Directives set out provisions for Environmental Impact Assessments for generating stations and overhead lines (85/337/EEC, 97/11/EC, 2003/35/EC, 2009/31/EC, 2011/92/EU and 2014/52/EU).
BEIS	Transport of dangerous goods and transportable pressure equipment - Class 7 only	x			Regulation establishes a common regime for all aspects of the transport of radiological (Class 7) dangerous goods, by road, rail, and inland waterway subject to some national derogations. It links to the Euratom legislation Directive 2008/68/EC on the inland transport of dangerous goods.
BEIS	GEO-Blocking	x*	x*	x*	Regulation prohibits blocking or redirecting users away from versions of websites available to

					other EU nationals. It therefore prohibits discriminatory terms of access on the basis of location in EU when purchasing distance goods, wholly online services, and services tied to a specific location (some exceptions apply), as well as discrimination based on place of issue of payment method.
Cabinet Office	Voting rights and candidacy rules for EU citizens in local government elections	x	x		Article 20(2)(b) TFEU, Article 22 TFEU sets out that all parts of the UK must allow EU citizens the right to vote and stand in local government elections. In England and Wales local elections also include Police and Crime Commissioner elections, mayoral elections and combined authority mayoral elections. This is set out in detail in UK legislation, specifically in Section 4 of the Representation of the People Act 1983.
DCMS	The Rental and Lending Directive (concerning library lending)	x			The lending articles of this Directive give rightholders the right to allow or to prohibit the lending of their work. The Directive also allows Member States to derogate from the lending right in respect of public lending, provided that the rightholder receives remuneration.
DEFRA	Flood Risk Management	x	x	x	These policies and regulations (primarily the EU Floods Directive) aim to reduce the risks to people, properties and infrastructure from flooding and coastal erosion.
DEFRA	Management of Waste from Extractive Industries	x*	x*	x*	<p>The Directive is concerned with the management of waste from extractive (mining) industries. Specific EU Directives 2006/21/EC and the three Seveso-Directives Directives (82/501/EEC, 96/82/EC, 2012/18/EU) relating to the disposal of waste and overlapping safety of operations. Interaction with UNECE workshops in providing best practice guidance and Eurasian standards. Further interactions based on industry specific circumstances e.g. Water Framework Directive 2000/60/EC.</p> <p>Directive 2011/92/EU outlines future operational planning under Environmental Impact Assessments.</p>
DEFRA	Water Quality	x	x	x	These policies and regulations (primarily the EU Water Framework Directive and the EU Drinking Water Directive) aim to improve the ecological and chemical status of the UK's rivers, lakes, estuaries, coastal waters and groundwater, and provide safe, quality drinking water.
DEFRA	Water Resources	x	x	x	These policies and regulations cover the provision of sustainable, safe and affordable water supplies for households, businesses, energy production and agriculture.
DEFRA	Forestry (domestic)	x*	x*	x*	These policies and regulations cover timber production and woodland management, including EU Environmental Impact Assessment.

DEFRA	Land use	x*	x*	x*	Elements of Environmental Impact Assessment Directive and Strategic Environmental Assessment Directive cover rural land use.
DEFRA	Noise directives	x	x	x	The Directive is concerned with noise mapping and action planning and does not address trade or cross-border issues.
DfT	Airport charges	x			Relating to Directive 2009/12/EC on airport charges.
DfT	Air Passenger Rights	x*			Regulation 1107/2006 imposes certain obligations on airports in respect of passengers with disabilities and reduced mobility (specifically Articles 5-9)
DfT	Aviation - compensating PSO air routes		x*	x	Relating to regulation (EC) 1008/2008 on the Operation of Air Services (Articles 16-18).
DfT	Aviation - groundhandling at airports	x			Relating to Directive 96/67/EC on access to the groundhandling market at certain airports.
DfT	Aviation noise management at airports	x*			Regulation 598/2014, establishing rules and procedures with regard to the introduction of noise-related operating restrictions at airports within a balanced approach.
DfT	Aviation Slots	x			Regulation 95/93 on common rules for the allocation of slots at airports.
DfT	Bus Franchising rules	x	x	x	Regulation (EC) 1370/2007 as amended by 2016/2338 relating to the way in which competent authorities are able to award public passenger services contracts.
DfT	Cableways	x			EU Regulation 2016/424 on cableway installations and repealing Directive 2000/9/EC relating to cableway installations designed to carry persons.
DfT	Driver hours and tachographs	x			Regulations around working hours and break requirements for commercial vehicle drivers and requirements for the installation and use of tachograph devices to record driver activities (EU regulations 561/2006 and 165/2014). Also mobile road transport working time rules (Directive 2002/15/EC).
DfT	Electronic road toll systems	x	x	x	Directive 2004/52/EC on interoperability of electronic road toll systems and EU Regulation 219/2009.
DfT	Elements of	x	x*	x*	Directive 2011/92 amended by Directive 2014/52/EU on the assessment of the effects of certain

	harbours (marine environment issues)				public and private projects on the environment.
DfT	Maritime - public service contracts/obligations, and financial assistance for shipping services which both start and finish within Scotland/to, from and within Wales	x	x		Regulation 3577/92 that applies the principle of freedom to services to provide cabotage maritime transport.
DfT	Maritime – ports services and port reception facilities, including for ship-generated waste	x*	x*	x*	Regulation 2017/352 that establishes a framework for the provision of port services and common rules on the financial transparency of ports. Directive 2000/59 contains a mix of competence and is relevant here insofar as it relates to harbours only.
DfT	Maritime Employment and Social Rights	x			Directives and Regulations relating to employment, social rights and health and safety for seafarers on ships. These rules cover, inter alia, coordination of social security systems, and the minimum safety and health requirements for improved medical treatment on board vessels.
DfT	Passenger rights (rail)	x			Regulation (1071/2009) establishing common rules for the licensing of commercial goods and passenger transport operators.
DfT	Rail franchising rules - insofar as they do not relate to state aid rules	x			Regulation (EC) 1370/2007 as amended by 2016/2338 relating to the way in which competent authorities are able to award public passenger services contracts.

DfT	Rail markets and operator licensing (governance, structure, track access & charging)	x*			Directive 2012/34/EU, to be amended by Directive 2016/2370/EU (both part of the market pillar of the 4th railway package) which recasts a number of EU Directives and establishes a single European railway area with common rules on: the governance of railway undertakings and infrastructure managers, on infrastructure financing and charging, on conditions of access to railway infrastructure and services and on regulatory oversight of the rail market.
DfT	Rail markets - train driving licenses and other certificates	x			Directives 2007/59/EC and 2014/82/EU on train driving licensing rules, setting out the conditions and procedures for the licensing and certification of train drivers operating in the EU.
DfT	Rail safety	x			Directive 2004/49/EC on safety on the Community's railways and amending Council Directive 95/18/EC (which will be replaced by Directive 2016/798 in June 2019 or 2020 - technical pillar of 4th railway package) along with relevant Regulations and Decisions.
DfT	Rail Workers Rights Directive	x			Directive 2005/47/EC on the agreement between the social partners on working conditions of mobile workers engaged in cross-border rail services, supplementing the Working Time Directive (Directive 1993/104/EC).
DfT	Retrofitting of HGV mirrors	x			Directive 2007/38/EC on the retrofitting of mirrors to registered heavy goods vehicles.
DfT	Road infrastructure safety management	x	x	x	Directive 2008/96/EC on that supports road infrastructure safety management.
DfT	Use of goods vehicles hired without drivers	x			Directive 2006/1/EC on the use of vehicles hired without drivers for the carriage of goods by road.
DfT	Charging of HGVs	x*	x*	x*	Directive 1999/62/EC on the charging of heavy goods vehicles for the use of certain infrastructures.
DfT	Coach and bus services	x			Regulation 181/2011 that set out the rights of passengers on bus and coach transport.
DfT	Roadworthiness Directive	x			Rules (directives 2014/45/EC and 2014/47/EC) relating to roadworthiness tests for motor vehicles and their trailers, plus associated inspections.
DfT	Speed limitation devices	x			Directive 1992/6/EEC on the installation and use of speed limitation devices for certain categories of motor vehicles (amended by Directive 2002/85/EEC).

DfT	Driver CPC (certificates of professional competence)	x			Directive 2003/56/EC - transposed by SI 2007/605 - CPC is a condition of access to EU27 under ECMT permit system and likely to be a condition of negotiated agreements with EEA states.
DfT	Mutual recognition of qualifications (but not CPC)	x			Directive 2005/36/EC on the recognition of professional qualifications.
DfT	Safety specifications	x			Directive 91/671/EEC on the compulsory use of safety belts in vehicles of less than 3.5 tonnes (amended by 2003/20/EC).
DfT	Trans European Transport Network	x*	x*	x*	The EU Regulation establishes the trans European transport network, it includes maps of the core and comprehensive networks and sets specific standards to be implemented by 2030 and 2050 respectively. It is the geographic focus for EU transport regulation referencing individual pieces of legislation in different transport modes. .
DfT	Transporting Dangerous Goods by Rail, Road and Inland Waterway Directive	x			Directive covering the carriage of dangerous goods and use of transportable pressure equipment by road, rail and inland waterway.
DHSC	Implementation of cross-border healthcare rights to treatment and reimbursement	x*	x*	x*	Directive 2011/24/EU codified a series of case law. It sets out the conditions under which a patient may travel to another EU country to receive medical care and reimbursement. The requirements under the Directive have been transposed by England and Wales, Scotland, Northern Ireland and Gibraltar.
DWP	Elements of EU social security coordination	x*	x*		This is an area of shared EU competence for devolved benefits. The EU Social Security Coordination Regulations require Member States to ensure that citizens who exercise their right to free movement are not disadvantaged, e.g. by taking into account periods of residence and work and contributions paid in other Member States when considering the entitlement of claimants for UK benefits, including state pensions. The rules also require the UK to export benefits to persons living in another EU Member State in certain circumstances.

DWP	Private cross border pensions	x			EU legislation on the operation of the EEA internal market in financial services allows occupational pension schemes based in one country to operate (have members) in another.
GEO	Equal treatment legislation		x*	x*	It bans discrimination and harassment in employment on the following grounds: sex, race, age, disability, sexual orientation and religion or belief. It also bans discrimination in the provision of services on grounds of sex and race. It also requires the existence of an equalities monitoring body, such as EHRC.
HSE	Health and safety at work	x			Directives, including the Health and Safety At Work Framework Directive (89/391/EEC), that require employers to protect the health and safety of their employees. Requirements cover, inter alia, the general layout of workplaces, hazards at work, specific sectors (e.g. construction, mining and onshore and offshore drilling) and work equipment.
HSE	Ionising radiation (occupational exposures)	x			Ionising radiation occur as either electromagnetic rays (such as X-rays and gamma rays) or particles (such as alpha and beta particles). It occurs naturally (e.g. radon gas) and can also be produced artificially. Directive 2013/59/Euratom lays down basic safety standards for protection against exposure to ionising radiation. This includes occupational exposures.
MHCLG	Environmental Impact Assessment (EIA) Directive	x	x	x	The Environmental Impact Assessment Directive (85/337/EEC) integrates environmental considerations into the preparation of proposals for development to reduce their impact on the environment.
MHCLG	Energy Performance of Buildings Directive	x	x	x	The Energy Performance of Buildings Directive (2010/31/EU) aims to improve and make transparent the energy performance of buildings.

78 Policy areas where we think that common rules or ways of working will be needed and we expect to implement this through a non-legislative common framework agreement (e.g. a concordat). In some of these areas, consistent fixes to retained EU law (made using secondary legislation) will create a unified body of UK law alongside the non-legislative framework agreement

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - what the EU law does
		NI	S	W	
BEIS	Company law	x			These Directives and Regulations cover aspects of the life cycle of a company, including company formation, capital & disclosure requirements, cross border mergers, shareholders rights, accounting and reporting, and audit. Regulations set out the framework for certain EU-specific legal entities. Also includes the establishment of branches, subsidiaries and agencies in other Member States, underpinned by Treaty Article 49.
BEIS	Late payment (commercial transactions)	x*	x		Late Payment Directive (2011/7/EU) protects businesses within the EU against late payment in commercial transactions.
BEIS	Efficiency in energy use	x*	x*	x*	The Energy Efficiency Directive (2012/27/EU) sets energy efficiency targets and other requirements to encourage and improve energy efficiency.
BEIS	High efficiency cogeneration / Combined Heat and Power (CHP) [NB - this appears in category 1 for		x*		Measures that promote the use of high-efficiency cogeneration (Combined Heat and Power) in order to increase the energy efficiency and improve the security of supply of energy (Energy Efficiency Directive 2012/27/EU).

	Northern Ireland]				
BEIS	Radioactive substances	x*	x*	x*	Directive establishes a framework for responsible and safe management of spent fuel and radioactive waste, both for current workers and the general public, and to avoid imposing burdens on future generations.
BEIS	Recognition of insolvency proceedings in EU Member States	x	x*		Regulation 2015/848 on Insolvency Proceedings focusses on resolving conflicts of jurisdiction and cross-border insolvencies, providing rules to determine which EU states' courts have jurisdiction to open insolvency proceedings, ensuring that those proceedings and their effects are recognised throughout the EU, and coordinating between proceedings in different member states. This Regulation recasts and supersedes an earlier instrument, Regulation 1346/2000.
BEIS	Specified quantities and packaged goods legislation	x*			EU law sets the rules for quantity control, quantity labelling and specified quantities for packaged goods.
Cabinet Office	Public procurement	x*	x*	x*	The regime provided by the EU procurement Directives, covering public procurement contracts for supplies, services, works and concessions above certain financial thresholds awarded by the public sector and by utilities operating in the energy, water, transport and postal services sectors (Directives 2014/24/EU, 2014/25/EU and 2014/23/EU).
Cabinet Office	Statistics	x*	x*	x*	Provision of prescribed datasets to the EU on a wide variety of topics (statistics is cross-cutting).
DEFRA	Air Quality	x	x	x	Policies, directives and regulations that aim to reduce harmful emissions and concentrations of air pollutants that can damage human health and the environment, including in relation to national emission ceilings, ambient air quality, industrial emissions and relevant product standards (Directives 2008/50/EC, 2004/107/EC). This includes regulations that implement international commitments under the UNECE Convention on Long-range Transboundary Air Pollution and Kiev Protocol to the UNECE Aarhus Convention.
DEFRA	Biodiversity - Access and Benefit Sharing of Genetic Resources (ABS)	x	x	x	Rules set up under the Nagoya Protocol to help preserve biodiversity. The rules regulate access to the genetic resources of other countries and how the benefits from research and development using these resources are shared with the provider country. Implemented into EU Law under Regulation (EU) No 511/2014 with Regulation (EU) 2015/1866 providing implementation for register of collections, monitoring user compliance and best practices.

DEFRA	Marine Environment	x	x	x	Rules relating to management and protection of, but not limited to, marine pollution, litter, biodiversity, food webs and seafloor integrity. Implemented under Directives 2008/56/EC, 2017/845/EU with reference to the OSPAR Convention between the governments of North-East Atlantic.
DEFRA	Spatial Data Infrastructure Standards	x	x	x	EU INSPIRE system under Directive 2007/2/EC that ensures a harmonised approach to spatial data publishing to improve environmental reporting.
DEFRA	Natural Environment and Biodiversity	x*	x*	x*	Policies and common standards covering the conservation of the UK's terrestrial, freshwater and marine species and habitats in compliance with international obligations such as the Convention on Biological Diversity. This is joined by EU Regulations (EU) No 1143/2014, (EU) No 1143/2014, and (EEC) No 3254/91 and Directives 2009/147/EC, 92/43/EEC, 1999/22/EC, and 83/129/EEC. This particularly concerns the network of sites which currently form part of the EU's Natura 2000 (N2K) network.
DEFRA	Waste Management	x	x	x	Policies and regulations covering waste and its recovery/recycling (Landfill Directive, Waste Framework Directive) including producer responsibility (reuse/recovery/recycling targets under the Waste Electrical and Electronic Equipment Directive, Batteries Directive, End of Life Vehicles Directive and Packaging Directive). Also covering the shipment of waste.
DfT	Access for non-UK hauliers and passenger transport operations, plus combined transport	x			Regulations 1072/2009 (for goods vehicles), 1073/2009 (for road passenger transport), and Directive EC 1992/106/EC Directive for Combined Transport (including access). All these rules involve access arrangements for non-UK vehicles and may be affected (and need to be consistent with) international agreements.
DfT	Intelligent transport systems	x*	x*	x*	Policies and common standards relating to national electronic registers and data for intelligent transport systems. This includes Regulations made under Directive 2010/40.
DfT	Operator licensing (roads)	x			Regulation (1071/2009) establishing common rules for the licensing of commercial goods and passenger transport operators.

DfT	Rail technical standards (Interoperability)	x*			Directive 2008/57/EC establishing interoperability requirements for rail systems (which will be replaced by Directive 2016/797 technical pillar of 4th railway package - soft transposition deadline June 2019, hard transposition deadline June 2020).
DfT	Driver licensing	x			Driver Licensing Directive (roads) and directive and regulations relating to driver certificates of professional competence.
DfT	Compulsory (3rd Party) Motor Insurance - as per Part VI Road Traffic Act 1988	x			Directive 2009/103/EC. Directive relating to insurance against civil liability in respect of the use of motor vehicles. There are also a number of pieces of domestic HMT legislation which may operate in the area.
DHSC	Clinical trials of medicinal products for human use	x			Regulations and Directives on clinical trials on medicinal products for human use.
DHSC	Elements of the regulation of tobacco and related products	x*	x*	x*	Provision made for print and press advertising and promotion of electronic cigarettes in Directive 2014/40/EU on the approximation of the laws, regulations and administrative provisions of the member states concerning the manufacture, presentation and sale of tobacco and related products. Provision made for print and press advertising, display and promotions in Directive 2003/33/EC on the approximation of the laws, regulations and administrative provisions of the Member States relating to the advertising and sponsorship of tobacco products.
DHSC	Good laboratory practice	x*	x*	x*	Directives relating to the inspection and verification of good laboratory practice and harmonising laws, regulations and administrative provisions on good laboratory practice (Directives 2004/9/EC and 2004/10/EC).
DHSC	Medicinal products for human use	x			EU Directives and Regulations that relate to medicinal products for human use and, inter alia, lay down procedures for the marketing authorisation, supervision and pharmacovigilance of these products.
DHSC	Medicine prices	x			Directive 89/105/EEC relating to the transparency of measures regulating the pricing of medicinal products for human use and their inclusion in national health insurance systems.

DHSC	Nutrition health claims, composition and labelling	x*	x*	x*	Regulations and Directives on the nutrition and health claims made on food; food for special medical purposes and weight control; food intended for infants; the addition of vitamins and other substances to food; and food supplements.
DHSC	Blood safety and quality	x	x	x	Defines the quality and safety standards for blood and its components as set out in Directive 2002/98/EC. It covers all steps in the transfusion process from donation, collection, testing, processing, and storage to distribution. Its implementation is supported by Commission Directive 2004/33/EC, Commission Directive 2005/61/EC and Commission Directive 2005/62/EC. There are also some specific technical requirements in the following commissioning directives 2009/135/EC, 2011/38/EU, 2014/110/EU, 2016/1214.
DHSC	Organs	x	x	x	Directives setting out standards on the quality and safety of human organs intended for transplantation and laying down the information procedures for exchange between Member States (Directives 2010/53/EU and 2012/25/EU).
DHSC	Public health (serious cross-border threats to health) (notification system for pandemic flu, Zika etc)	x*	x*	x*	Decision No 1082/2013/EU on serious cross-border threats to health. This sets rules on epidemiological surveillance, monitoring, early warning of, and combating serious cross-border threats to health, including preparedness and response planning related to those activities, in order to coordinate and complement national policies. It aims to support cooperation and coordination between Member States.
DHSC	Tissues and cells (apart from embryos and gametes)	x	x	x	Directives setting out standards on the quality and safety of human tissues and cells intended for human application as part of medical treatment (Directives 2004/23/EC, 2006/17/EC, 2006/86/EC, 2012/39/EU, 2015/656, 2015/566).
GEO	Equal treatment legislation³	x*			It bans discrimination and harassment in employment on the following grounds: sex, race, age, disability, sexual orientation and religion or belief. It also bans discrimination in the provision of services on grounds of sex and race. It also requires the existence of an equalities monitoring body, such as EHRC.
HSE	Civil use of explosives	x			Directives setting out the permissions required to transfer, track and trace civil explosives (2008/43/EC) and rules on the product safety and market surveillance of these (2014/28/EU).

³ This area is in Cat 1 for Scotland and Wales

HSE	Control of major accident hazards	x*	x*	x*	Seveso III Directive on the control of major accident hazards involving dangerous substances (2012/18/EU). This place duties on businesses using dangerous substances to take measures to prevent major accidents to people and the environment. This mainly applies to the chemical manufacture sector but covers any business that uses, produces or stores dangerous substances at or above determined thresholds.
HSE	Genetically modified micro-organisms contained use (i.e. rules on protection of human health and the environment during the development)	x	x*	x*	Directive 2009/41/EC on the contained use of genetically modified microorganisms (GMMs) to protect humans and the environment. This relates to work with GMMs in contained facilities, e.g. a research laboratory or biotechnology production facility, to ensure barriers (containment measures) are in place.
MHCLG	Hazardous substances planning	x	x	x	Ensures that the objectives of preventing major accidents and limiting the consequences of such accidents are taken into account in land-use policies. This includes controls on the siting of new establishments and modifications to establishments which fall within the scope of the Directive (i.e. storing or using significant amounts of hazardous substances), and on new developments and public areas in the vicinity of such establishments.
MHCLG	Strategic Environmental Assessment (SEA) Directive	x	x	x	The Strategic Environmental Assessment (SEA) Directive on the assessment of the effects of certain plans and programmes on the environment.
HO	Police and criminal justice cooperation - practical cooperation - European Judicial Network	x*	x*		Council Decision 2008/976/JHA on the European Judicial Network aims to facilitate judicial cooperation by establishing a network of Contact Points in Member States who are experts in matters such as Mutual Legal Assistance. These Contact Points assist with establishing direct contacts between competent authorities and by providing legal and practical information necessary to prepare an effective request for judicial cooperation or to improve cooperation more generally.
HO	Police and criminal justice cooperation - practical cooperation - Joint	x*	x*		Joint Action 97/827/JHA establishes a peer-evaluation mechanism that enables Member States to evaluate each other on the application and implementation of instruments designed to combat international organised crime.

	Action on Organised Crime				
HO	Police and criminal justice cooperation - practical cooperation - mutual legal assistance	x*	x*		The Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union (EU MLAC) encourages and facilitates mutual assistance between the judicial, police and customs authorities of Member States on criminal matters.
HO	Police and criminal justice cooperation - data sharing - False and Authentic Documents Online (FADO)	x*	x*		Joint Action 98/700/JHA establishing the European Image Archiving System, also known as False and Authentic Documents Online (FADO), is an EU database that facilitates the exchange of information between document experts in Member States on genuine and false identity documents, visas and border officer stamps used across the EU.
HO	Police and criminal justice cooperation - agencies - EU-LISA	x*	x*		Regulation 1077/2011/EU establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (EU-LISA) - the European Agency responsible for the operational management of large-scale IT systems in the area of freedom, security and justice, including EURODAC, SIS II and the Visa Information System.
HO	Police and criminal justice cooperation - agencies - Eurojust	x*	x*		Council Decision 2002/187/JHA (as amended) setting up Eurojust with a view to reinforcing the fight against serious crime - the EU's judicial cooperation agency, which supports Member States' investigation and prosecution agencies in tackling serious cross-border and organised crime. Eurojust helps prevent and resolve conflicts of jurisdiction and facilitates the execution of mutual legal assistance and mutual recognition instruments, such as the European Arrest Warrant (EAW). It also provides funding, technical support and legal expertise on the requirements of different legal systems.
HO	Police and criminal justice cooperation - agencies - Europol	x*	x*		Regulation 2016/794/EU on the European Union Agency for Law Enforcement Cooperation (Europol) - an EU agency that assists Member States' law enforcement agencies in tackling cross-border crime by supporting practical cooperation for cross-border investigations; holding central databases with information on suspected criminals and objects associated with crime; and providing analytical support to make links between crimes committed in different countries.

HO	Police and criminal justice Cooperation - data sharing - European Criminal Records Information System (ECRIS)	x*	x*		Council Framework Decision 2009/315/JHA on the organisation and content of the exchange of information extracted from the criminal record between Member States and Council Decision 2009/316/JHA on the establishment of the European Criminal Records Information System (ECRIS) - a secure electronic system providing for the exchange of information between Member States' authorities in relation to criminal records. It also places requirements on Member States to hold the criminal records of their nationals for offences committed across the EU.
HO	Police and criminal justice cooperation - data sharing - Prüm framework	x*	x*		Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime and Council Decision 2008/616/JHA on implementation of 2008/615/JHA created 'Prüm', which is both a legal framework requiring Member States to allow the reciprocal searching of each other's databases for DNA profiles, vehicle registration data and fingerprint (or dactyloscopic) data, and a legal basis for joint operations relating to police cooperation. There is also a communications network enabling exchange of the forms of data set out above.
HO	Police and criminal justice cooperation - data sharing - Schengen Information System (SIS II)	x*	x*		Council Decision 2007/533/JHA on the establishment, operation and use of the second generation Schengen Information System ('SIS II') (and see also Council Implementing Decision 2015/215) - a system providing law enforcement 'alerts', including on wanted or suspected criminals, suspected terrorists, missing people, and stolen or missing property. SIS II is a 'Schengen' measure. Whilst the UK is not part of the Schengen border-free zone, we have agreed access to SIS II for law enforcement purposes.
HO	Police and criminal justice cooperation - minimum standards legislation - cybercrime	x*	x*		Directive 2013/40/EU establishes common minimum standards for the definition of criminal offences and sanctions in the area of attacks against information systems. This measure also aims to facilitate the prevention of cybercrime and to improve cooperation between judicial and other competent authorities.
HO	Police and criminal justice cooperation - minimum standards legislation - human trafficking	x*	x*		Directive 2011/36/EU establishes common minimum standards for the definition of criminal offences and sanctions in the area of trafficking in human beings. This measure also introduces common provisions on the prevention of human trafficking and the protection of victims of human trafficking.

HO	Police and criminal justice cooperation - practical cooperation - asset recovery offices	x*	x*		Council Decision 2007/845/JHA concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or property related to, crime. AROs are national central contact points that facilitate EU-wide identification and tracing of assets derived from crime. The UK's ARO is housed within the UK Financial Intelligence Unit in the National Crime Agency.
HO	Police and criminal justice cooperation - practical cooperation - basic cooperation legislation on child sexual exploitation	x*	x*		Council Decision 2000/375/JHA sets common rules requiring all Member States to set up 24 hour contact points to receive and act on intelligence related to child pornography or indecent images of children.
HO	Police and criminal justice cooperation - practical cooperation - Convention Implementing the Schengen Agreement (law enforcement cooperation)	x*	x*		The law enforcement cooperation provisions of the Convention implementing the Schengen Agreement aim to tackle the threat of cross-border crime within the Schengen Area by facilitating police cooperation and cross-border surveillance. In particular, Article 40 provides that law enforcement in one Member State who have a suspect under surveillance can continue their surveillance of that suspect in the territory of another Member State as long as the latter has authorised it. Member States can also request for other Member States to undertake the surveillance of a suspect on their behalf.
HO	Police and criminal justice cooperation - practical cooperation - European Investigation Order	x*	x*		The European Investigation Order Directive (2014/41/EU) aims to make judicial cooperation in assisting in the investigation and prosecution of criminal offences on investigations between EU Member States faster and more efficient. The new measure standardised requests made between EU Member States for information and evidence, allows for there to be mutual recognition of judicial decisions from other Member States and sets deadlines for recognising and executing requests.
HO	Police and criminal justice cooperation - practical	x*	x*		Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams. A JIT is an investigation team set up for a specific purpose and a fixed period, which can be extended, between two or more parties (at least two of which must be a competent authority of an EU

	cooperation - joint investigation teams				Member State) to investigate a specific matter or type of crime.
HO	Police and criminal justice cooperation - practical cooperation - mutual recognition of asset freezing orders	x*	x*		Council Framework Decision 2003/577/JHA covers the mutual recognition and execution in one Member State of orders freezing property and evidence that were issued in another Member State.
HO	Police and criminal justice cooperation - practical cooperation - mutual recognition of confiscation orders	x*	x*		Council Framework Decision 2006/783/JHA facilitates the mutual recognition and execution in one Member State of confiscation orders issued in another Member State.
HO	Police and criminal justice cooperation - practical cooperation - Swedish initiative	x*	x*		Council Framework Decision 2006/960/JHA (the 'Swedish Initiative'), simplifies the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union. The Initiative sets out rules for the cross-border exchanges of criminal information and intelligence, ensuring time-bound procedures for cross-border data exchanges.
HO	Regulatory systems - firearms - deactivation standards and techniques	x*			Regulation 2015/2403/EU establishing common guidelines on deactivation standards and techniques for ensuring that deactivated firearms are rendered irreversibly inoperable.
HO	Regulatory systems - firearms - illicit manufacturing and trafficking	x*			Council Decision 2014/164/EU approving Article 10 of the United Nations Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Counterparts and Ammunition; and Regulation 258/2012/EU implementing that protocol by laying down rules governing export authorisation, and import and transit measures for firearms, their parts and essential components and ammunition.

HO	Regulatory systems - firearms - control on acquisition and possession of weapons	x*			Directive 91/477/EEC, as amended by Directives 2008/51/EC and EU/2017/853, on the control of the acquisition and possession of weapons, setting out certain minimum standards for the circulation of firearms within the EU.
HO	Police and criminal justice cooperation - practical cooperation - cooperation on football disorder	x*	x*		Council Decision 2002/348/JHA that sets up National Football Information Points in each Member State. These Information Points share information and intelligence for facilitating international police cooperation in connection with international football matches.
HO	Police and criminal justice cooperation - accreditation of Forensic Service Providers (FSP) and mutual recognition of results of FSPs - Prüm Framework	x*	x*		Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities, requires Member States to ensure that FSPs undertaking laboratory activities in relation to DNA and fingerprints are accredited to international standard EN ISO/IEC 17025. Member States must also ensure that national authorities recognise the results of accredited FSPs in other MS as equally reliable as the results of domestic FSPs.
HO	Police and criminal justice cooperation - agencies - CEPOL	x*	x*		Council Decision 2005/681/JHA establishing the European Police College (CEPOL) - a European agency that brings together a network of training institutes for law enforcement officials and supports them in frontline training on security priorities, law enforcement cooperation and information exchange.
HO	Police and criminal justice cooperation - data sharing - passenger name records (PNR)	x*	x*		Directive 2016/681/EU creates a common legal basis for Member States to process passenger name record (PNR) data in order to prevent, detect, investigate and prosecute terrorist offences and serious criminal offences. PNR data is personal information provided by passengers and collected and held by airlines. It includes the name of the passenger, travel dates, itineraries, seats, baggage, contact details and means of payment. It can be used by law enforcement authorities in different countries to identify criminal and terrorist movements.

HO	Regulatory systems - minimum standards legislation - the protection of animals used for scientific purposes	x			Directive 2010/63/EU implementing common minimum standards for the protection of animals used for experimental and scientific purposes. This is implemented through the use of risk-based inspections and increased transparency. Sets out a licencing regime covering establishments, people, and projects using animals in science and broader principles of animal welfare.
MoJ	Civil judicial co-operation - applicable law in contracts and non-contractual obligations	x	x		Rome I Regulation (593/2008) covers applicable law in contracts. Rome II Regulation (864/2007) covers applicable law in non-contractual obligations.
MoJ	Civil judicial co-operation - cross border mediation (Mediation Directive)	x	x		The Mediation Directive (2008/52) facilitates access to alternative dispute resolution and promotes amicable settlement of disputes through the use of mediation in cross-border disputes.
MoJ	Civil judicial co-operation - jurisdiction and recognition and enforcement of judgments in civil and commercial matters	x	x		The Brussels I Regulation (1215/2012) covers jurisdiction and recognition and enforcement of judgments and applies between EU Member States. Insolvency Regulation (1346/2000 and 2015/848) covers jurisdictional rules and applicable law and recognition of insolvency proceedings in cross-border insolvencies.
MoJ	Civil judicial co-operation - jurisdiction and recognition and enforcement of	x	x		The Brussels IIa Regulation (2201/2003) covers jurisdictional rules in matrimonial and parental responsibility matters and the recognition and enforcement of judgments. The Maintenance Regulation (4/2009) covers rules for determining which court has jurisdiction, and the recognition and enforcement of maintenance decisions. Regulation on protection measures in civil matters (606/2013) covers recognition and enforcement of protection measures, including for victims of

	judgments: instruments in family law				domestic violence.
MoJ	Civil judicial co-operation - legal aid in cross border cases	x	x		The Legal Aid Directive (2002/8) establishes common minimum rules for the grant of legal aid in cross-border disputes.
MoJ	Civil judicial co-operation - service of documents and taking of evidence	x	x		EU Service Regulation (2007/1393) covers rules for serving documents in other EU countries. Taking of Evidence Regulation (2001/1206) covers cross-border processing of requests to take evidence. European Judicial Network in Civil and Commercial Matters (2001/470) facilitates cross-border cooperation for judges and practitioners and access to justice for those involved in disputes.
MoJ	Civil judicial co-operation - uniform fast track procedures for certain civil and commercial claims	x	x		The Small Claims (861/2007 revised by 2015/2421), Enforcement Order (805/2004) and Order for Payment (1896/2006) Regulations facilitate means for obtaining decisions on claims that can be enforced throughout the EU.
MoJ	Criminal offences minimum standards measures	x	x		The Combating Child Sexual Exploitation Directive (2011/92) establishes common minimum rules concerning the definition of criminal offences and sanctions in the area of sexual abuse and sexual exploitation of children, child pornography and solicitation of children for sexual purposes. It contains provisions aimed at preventing these crimes and protecting victims.
MoJ	Mutual recognition of criminal court judgments measures and cross border cooperation	x	x		Mutual Recognition of Financial Penalties (MRFP) (2005/214) provides for Member States to recognise and enforce financial penalties (of over 70 euros) issued by judicial or administrative authorities of another Member State, in which the person required to pay the fine is normally resident or has property or income. It covers criminal financial penalties including those imposed for road traffic offences. The Criminal European Protection Order (2011/99) allows individuals, including domestic violence victims, to have the terms of certain protection measures that are issued in one Member State recognised and, if necessary, enforced in any other EU Member State. Prisoner Transfer Framework Decision (PTFD) (2008/909) is the principal mechanism for

					transferring prisoners between EU Member States. European Supervision Order (ESO) (2009/829) establishes a legal framework that enables the court in a Member State which is prosecuting a suspect for a crime committed there to allow the suspect to go to another (usually their 'home') Member State to await trial, and for the "home" country to assume responsibility for supervising compliance with the conditions of that bail. Victims Compensation Directive (2004/80) requires Member States to set up a system of cooperation to facilitate access to compensation to victims of crimes in cross-border situations, which should operate on the basis of Member States' schemes on compensation to victims of violent intentional crime, committed in their respective territories.
MoJ	Procedural rights (criminal cases) – minimum standards measures	x	x		The Right to Information in Criminal Proceedings Directive (2001/13) sets common minimum standards for information to be provided to people suspected or accused of having committed a criminal offence. The Interpretation and Translation Directive (2010/64) sets common minimum standards on interpretation and translation in criminal proceedings throughout the EU.
MoJ	Provision of legal services (temporary and permanent basis)	x	x		Lawyers Establishment Directive (98/5) provides the framework for permanent establishment of lawyers from one EU member state in another, under home or host state title. Lawyers Services Directive (77/249) provides the framework for temporary provision of legal services under home state title (including fly-in/fly-out). (Both Directives apply only to specified titles. In the UK, these are solicitor, barrister, advocate.)
MoJ	Sentencing - taking convictions into account	x	x		Framework Decision on taking convictions into account (2008/675) requires the national criminal courts of all Member States to take account of a defendant's known previous convictions in other Member States to the extent previous national convictions are taken into account.
MoJ	Victims' rights measures in criminal cases – minimum standards (Victims' Rights Directive)	x	x		Victims' Rights Directive (2012/99) sets common minimum standards on the rights, support and protection afforded to the victims of crime across all Member States.

21 Policy areas where future legislation may be needed to implement the common rules and ways of working, alongside a non-legislative framework agreement and - potentially - a consistent approach to retained EU law

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - what the EU law does
		NI	S	W	
BEIS	Implementation of EU Emissions Trading System (EU ETS)	x*	x*	x*	Directive 2003/87/EC establishes the European Union Emissions Trading System for greenhouse gases. The Scheme sets a maximum volume of gas that can be emitted by all participating installations and aircrafts. These operators then monitor, verify and report their emissions, and must surrender allowances equivalent to their emissions annually. Allowances are issued either by being sold at auction or allocated for free to some operators, and can be traded, with the price determined by the market.
BEIS (DHSC, MHCLG, DEFRA, DfE and MoJ also have interest)	Mutual recognition of professional qualifications (MRPQ)	x*	x*	x*	The Directive creates systems for EU citizens to have their professional qualifications recognised in order to establish or provide services on a temporary and occasional basis in another EU state
BEIS	Services Directive	x*	x*	x*	The Directive seeks to realise the full potential of services markets in Europe by removing legal and administrative barriers to trade, by increasing transparency and by making it easier for businesses and consumers to provide or use services in the EU Single Market. The Directive is implemented by the Provision of Services Regulations in the UK. The Regulations set out rules for how competent authorities can design authorisation schemes for service providers in the UK. The Regulations prevent regulators imposing new regulatory or administrative requirements that act as discriminatory barriers to the provision of services, ensuring authorisation schemes are proportionate and justified by the public interest.
DEFRA	Agricultural support	x*	x*	x*	Policies and Regulations under the EU Common Agricultural Policy covering Pillar 1 (income and market support); Pillar 2 (rural growth, agri-environment, agricultural productivity grants or

					services and organic conversion and maintenance grants); and cross-cutting issues, including cross compliance, finance & controls.
DEFRA	Agriculture - GMO marketing and cultivation	x	x	x	<p>Directive 2001/18 – decisions on authorising GMO trials (delegated to Member States) and on marketing GMOs (decisions taken at EU level).</p> <p>Regulation 1830/2003 – requires the traceability and labelling of GMOs approved for marketing.</p> <p>Regulation 1946/2003 – requires notification to third countries of proposed GMO exports.</p> <p>Enforcement powers for these directly applicable Regulations are set out in parallel SIs in all four nations.</p>
DEFRA	Agriculture - zootech	x*	x*	x*	<p>EU Regulation 2016/1012 replaces a host of current zootech regulations by species from 1 November 2018. For the purpose of this exercise we treat the EU position as it will be at 1 November 2018 as the relevant framework.</p> <p>The EU rules support trade of pedigree breeding animals and germinal products by e.g. defining what constitutes “purebred”. They provide for individual breed societies to be officially recognised and breeding programmes to be approved by competent authorities. The rules impose rights and obligations on societies and proscribe rules when breeding animals and germinal products are traded between recognised breed societies across the EU.</p>
DEFRA	Fisheries management & support	x*	x*	x*	Policies and Regulations relating to rules relating to the sustainability of fisheries (quotas), access to waters, conservation measures, enforcement and financial support.
DEFRA	Ozone depleting substances and F-gases	x	x	x	The UK has international obligations under the Montreal Protocol to phase out the use of ODS, phase down hydrofluorocarbons by 85% by 2036, licence imports and exports and report on usage to the UN. EU Regulations and institutions currently deliver these obligations through quota restrictions, licencing and reporting requirements. The EU Regulations also go further with product bans, leakage controls measures and certification requirements for technicians.

DEFRA	Animal health and traceability	x	x	x	EU rules and standards that aim to maintain animal health and allow their movement, including policies covering: prevention of disease (entering UK), control of disease (endemic and exotic), surveillance (for exotic disease) movement of livestock, pet passports and veterinary medicines.
DEFRA	Animal welfare	x	x	x	EU rules relating to aspects of animal welfare including on-farm issues, movement of livestock and slaughter.
DEFRA	Chemicals	x*	x*	x*	Regulation of the manufacture, authorisation and sale and use of chemical products primarily through the REACH regulation but also including: Persistent Organic Pollutants (POPs), Polychlorinated Biphenyls (PCBs) and Minamata.
DEFRA	Waste packaging and product regulations	x*	x*	x*	Policies and Regulations that aim to meet certain essential product requirements and set product standards including for packaging (e.g. ROHS in Electrical and Electronic Equipment, Batteries and Vehicles) in order to manage waste.
DEFRA	Pesticides	x	x	x	Regulations governing the authorisation and use of pesticide products and the maximum residue levels in food, and a framework for action on sustainable use of pesticides.
DEFRA	Plant health, seeds and propagating material	x	x	x	Requirements in relation to the import and internal EU movement of plants and plant products, risk assessment of new plant pests and outbreak management. Assurance and auditing of policies across the UK to protect plant biosecurity. Requirements for plant variety rights, registration of plant varieties and quality assurance of marketed seed and propagating material.
DEFRA	Food compositional standards	x	x	x	Minimum standards for a range of specific food commodities such as sugar, coffee, honey, caseins, condensed milk, chocolate, jams, fruit juices and bottled water.
DEFRA	Food labelling	x	x	x	Regulations setting out requirements on provision of information to consumers on food labels.
Defra and HSE	Chemicals Regulation (including pesticides)	x*	x*	x*	There are directly acting EU Regulations on the classification, labelling and packaging of substances and mixtures (CLP); the placing on the market and use of biocidal products ; the export and import of hazardous chemicals (PIC); the registration, evaluation, authorisation and restriction of chemicals (REACH); and plant protection products (e.g. pesticides).

DEFRA	Agriculture - organic farming	x	x	x	Regulation 834/2007 sets out the principles and overarching standards for organic production certification. Specific Regulations also apply such as 889/2008 on labeling of organic produce and 710/2009 on organic aquaculture.
DEFRA	Agriculture - fertiliser regulations	x	x	x	Regulations providing common standards for compositional ingredients, labelling, packaging, sampling and analysis of fertilisers. The UK is also signed up to a number of international agreements (e.g. the Gothenburg Protocol) and EU agreements (the National Ceilings Directive) related to fertiliser regulation.
DHSC	Reciprocal Healthcare	x*	x*	x*	Regulations 1408/71 and 883/2004 are the main pieces of EU legislation providing for reciprocal healthcare.
Food Standards Agency	Food and feed safety and hygiene law	x	x	x	EU Regulations laying down the general principles and requirements of food and feed safety and hygiene; food and feed law enforcement (official controls); food safety labelling; risk analysis; and incident handling. The regulations set out an overarching and coherent framework for the development of food and feed legislation and lay down general principles, requirements and procedures that underpin decision making in matters of food and feed safety, covering all stages of food and feed production and distribution.

4 Policy areas that the UK Government believes are reserved, but are subject to ongoing discussion with the devolved administrations

Responsible UK Government Department	Area of EU Law (Policy Area)	Devolution Intersect			Additional Information - what the EU law does
		NI	S	W	
BEIS	Elements of product safety and standards relating to explosive atmospheres				ATEX covers equipment and protective systems intended for use in explosive atmospheres, safety devices and components for such equipment.
BEIS	State aid				Articles 107 - 109 of TFEU and associated Treaty articles, Regulations and EU legislation prohibit State aid by Member States and create a framework for assessing compatibility of aid with the internal market, investigating and making complaints about allegedly unlawful aid and creating exemptions for certain categories of aid.
DEFRA	Food Geographical Indications (Protected Food Names)				Geographical Indications (GIs) are a form of intellectual property protection. Under the EU schemes, producers can apply to protect regionally distinct or traditional agri-food products. Once registered, these products are protected throughout the EU against imitation or misuse of their names.
HO	Data sharing - Eurodac				Regulation 603/2013/EU established Eurodac - an EU database containing fingerprints of illegal entrants and asylum applicants. Its primary purpose is to support the effective application of the Dublin Convention by helping to determine which EU Member State is responsible for examining an asylum application.

Ein cyf: MA-L/JM/194/19

Llywodraeth Cymru
Welsh Government

Lynne Neagle AC
Cadeirydd
Y Pwyllgor Plant, Pobl Ifanc ac Addysg
Cynulliad Cenedlaethol Cymru

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5 Ebrill 2019

Annwyl Lynne

Yn dilyn cyflwyno Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru) i'r Cynulliad Cenedlaethol ar 25 Mawrth 2019, rwy'n ysgrifennu i roi rhagor o wybodaeth ichi mewn perthynas â data gwasanaethau cymdeithasol y rhoddir sylw iddynt yn yr Asesiad Effaith Rheoleiddiol sy'n gysylltiedig â'r Bil.

Darperir yr wybodaeth hon i helpu'r Pwyllgor wrth gynnal eu gwaith craffu ar y Bil.

Nid yw Llywodraeth Cymru wedi gallu pennu llinell sylfaen nifer yr achosion o gosbau rhesymol a gaiff eu cyfeirio at adrannau'r gwasanaethau cymdeithasol, gan ddefnyddio data presennol y gwasanaethau cymdeithasol. Gan fod amddiffyniad cosb resymol yn bodoli ar hyn o bryd, nid yw adrannau gwasanaethau cymdeithasol yng Nghymru yn casglu gwybodaeth am gosbau corfforol yn benodol. Felly, nid oes data a gyhoeddwyd neu sydd ar gael yn rhwydd i'w defnyddio fel llinell sylfaen.

Rydym wedi cynnal llawer o waith i geisio pennu llinell sylfaen ar gyfer achosion a gyfeirir at y gwasanaethau cymdeithasol. Fel rhan o'r gwaith hwnnw ar y cyd â'r awdurdodau lleol, rydym wedi dod i wybod nad yw'r awdurdodau lleol o reidrwydd yn cofnodi'r manylion penodol am achos a gyfeirir nac yn cofnodi achos yn y lle cyntaf ar ffurf y gellir chwilio amdano. Mae manylion pob achos, cofnod neu adroddiad fel arfer yn cael eu cadarnhau yn nes ymlaen yn y broses. Mae hyn wedi creu heriau wrth geisio gwahanu'r data sy'n ymwneud â chosbi plant yn gorfforol lle byddai amddiffyniad cosb resymol yn berthnasol.

Mae'r ffordd y mae achosion yn cael eu cofnodi yn amrywio ymhli y 22 o awdurdodau lleol. Er enghraift, mae rhai ohonynt yn cofnodi'r manylion o dan faterion amddiffyn plant, ac eraill o dan faterion lles plant neu o dan gategoreiddiadau eraill.

Rydym wedi ystyried nifer o opsiynau er mwyn inni gael hyd i ddata perthnasol y gellid eu defnyddio fel amcan agos ar gyfer llinell sylfaen, ond nid ydym eto wedi gallu pennu set ddata sylfaenol presennol sy'n ddigon cadarn.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynir 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 responding in Welsh will not lead to a delay in responding.

Tudalen y pecyn 75

Rydym yn bwrw ymlaen â'r gwaith hwn, ac wrthi ar hyn o bryd yn cydweithio â rhai o'r awdurdodau lleol i geisio pennu llinell sylfaen ddigon manwl, sy'n seiliedig ar y dull yr oedd y pedwar heddlu yng Nghymru wedi gallu ei ddefnyddio wrth ddadansoddi eu data.

Byddaf yn rhoi'r wybodaeth ddiweddaraf ichi am y broses i bennu llinell sylfaen ar gyfer data gwasanaethau cymdeithasol wrth i'r wybodaeth ddod i law, ac edrychaf ymlaen at gyflwyno tystiolaeth i'r pwylgor maes o law.

Rwy'n anfon copi o'r llythyr hwn at gadeiryddion y pwylgorau Cyllid a Materion Cyfansoddiadol a Deddfwriaethol, gan eu bod nhw'n craffu ar y Bil hwn hefyd.

Yn gywir



Julie Morgan AC/AM

Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Deputy Minister for Health and Social Services



Ein cyf/Our ref MA-L/JM/0382/19

Llywodraeth Cymru
Welsh Government

Lynne Neagle AC
Cadeirydd
Y Pwyllgor Plant, Pobl Ifanc ac Addysg
Cynulliad Cenedlaethol Cymru
Tŷ Hywel
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Caerdydd
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25 Ebrill 2019

Annwyl Lynne,

Diolch i chi am eich llythyr dyddiedig 5 Ebrill yn gofyn am eglurhad ynghylch rhai pwyntiau penodol mewn perthynas â Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru).

Hyderaf y bydd yr wybodaeth a ddarperir yn yr Atodiad i'r llythyr hwn o ddefnydd i'r Pwyllgor. Edrychaf ymlaen at drafod â'r Pwyllgor ar 2 Mai sut bydd y Bil yn diogelu hawliau plant.

Yn gywir,

Julie Morgan AC/AM

Y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol
Deputy Minister for Health and Social Services

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Tudalen y pecyn 77

ATODIAD

Ymosod a churo

“Ar wahanol bwyntiau yn y Memorandwm Esboniadol (e.e. paragraff 1.1 a pharagraff 1.4) dywedir bod y Bil yn diddymu'r amddiffyniad cosb resymol fel amddiffyniad i ymosod ar blentyn neu'i guro. Mae adran 1 o'r Bil yn dileu'r amddiffyniad o gosb resymol mewn perthynas â chosb gorfforol i blentyn gan rieni neu'r rheini sy'n gweithredu in loco parentis. Diffinnir cosb gorfforol yn adran 1(5) o'r Bil i olygu curo a wneir fel cosb. A allwch gadarnhau sut y caiff yr amddiffyniad ei ddileu mewn achosion o ymosodiad?”

Mae'r dull sy'n cael ei nodi yn y Bil yn gyson â'r hyn a ddigwyddodd mewn perthynas â chosb gorfforol mewn ysgolion drwy adran 548 o Ddeddf Addysg 1996. Nid ydym yn ymwybodol o unrhyw awgrym neu bryder fod adran 548 wedi caniatáu'r posibilrwydd y gallai athrawon ddefnyddio'r amddiffyniad fod bygythiadau i gosbi disgylion yn gorfforol yn gyfreithlon.

I ymosodiad ddigwydd, rhaid i berson ofni bod trais neu rym anghyfreithlon yn mynd i gael ei ddefnyddio ar unwaith. Felly, yn dilyn hynny, nid yw ofni bod gym *cyfreithlon* yn mynd i gael ei ddefnyddio ar unwaith yn ymosodiad (er enghraifft rhagweld gwrthdrawiad mewn gêm o rygbi; lle bo cydsynio i gymryd rhan yn peri i'r cysylltiad fod yn un cyfreithlon). Ar hyn o bryd, mae'n bosibl i unrhyw weithred sy'n achosi i blentyn ofni ei fod yn mynd i gael smacen, er enghraifft, gael ei amddiffyn a bod yn gyfreithlon, drwy gyfeirio at yr amddiffyniad presennol (a bwrw bod yr oedolyn dan sylw yn rhiant neu in loco parentis).

Bydd diddymu'r amddiffyniad mewn perthynas ag unrhyw fath o gosb gorfforol, ni waeth beth fo lefel y niwed a achosir, yn golygu y bydd pob gweithred sy'n gyfystyr â churo a ddiffinnir yn adran 1 o'r Bil yn anghyfreithlon. Felly, yn fras, ni all unrhyw weithred sy'n achosi i rywun ofni bod 'cosb gorfforol' yn mynd i gael ei defnyddio ar unwaith gael ei amddiffyn mewn perthynas â honiad o ymosodiad neu o dresmasu yn erbyn y person. Mae'r rhngweithio rhwng, ar y naill law, ddiddymu'r amddiffyniad drwy statud mewn perthynas â math penodol o guro, ac ar y llall, y gyfraith gyffredin bresennol mewn perthynas ag ymosod, yn cyflawni'r canlyniad cywir.

Hynny yw, ar ôl i'r amddiffyniad gael ei ddiddymu mewn perthynas â churo sy'n gyfystyr â chosb gorfforol, ni all ymosodiad drwy fygythiad o gosb gorfforol o unrhyw fath yn dilyn hynny (a fydd yn anghyfreithlon pan fydd y Bil yn dod i rym, ni waeth pa mor ddifrifol yw'r gosb) gael ei amddiffyn mewn achosion cyfreithiol.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Gweithredu ac anghenion hyfforddi

“Pa asesiad / trafodaethau sydd wedi digwydd gyda CAFCASS am effaith ddisgwylledig y Bil hwn ar eu gwaith a'u rhestr achosion, o ran achosion cyfraith gyhoeddus a phreifat?”

Mae swyddogion wedi cynnal trafodaethau rheolaidd â Cafcass Cymru ynghylch effaith bosibl y Bil ar eu gwaith. Mae Cafcass Cymru eisoes yn ymateb i honiadau a wneir drwy wahanu cyplau mewn achosion cyfraith preifat. Mae hwn yn fater cymhleth ac mae gweithwyr proffesiynol eisoes yn gwneud penderfyniadau cytbwys i sicrhau bod plant yn cael eu cadw'n ddiogel, a'u bod yn gallu cynnal perthynas â'r ddau riant pan fo gwneud hynny'n ddiogel ac er budd y plentyn. Nid yw'r Bil yn newid hynny.

Nid oes cysail yn y Deyrnas Unedig (DU) i ddiddymu'r amddiffyniad, ac felly mae'n anodd darogan yr union effaith. Mae'n bosibl y bydd effaith ar lwythi achosion, ar y dechrau o leiaf, oherwydd y cynnydd o ran ymwybyddiaeth gyhoeddus a phroffesiynol o'r mater.

Byddwn yn parhau i gydweithio'n agos â Cafcass Cymru i ystyried sut y gallwn fonitro effaith y Bil. Caiff cynrychiolydd o Cafcass Cymru ei wahodd i fod yn rhan o'r Grŵp Gweithredu sy'n cyfarfod ar 14 Mai. Bydd gwaith y Grŵp yn ein helpu i ddatblygu prosesau monitro ac adrodd ar gyfer gwerthuso effeithiau'r newid yn y gyfraith yn y dyfodol (os caiff y Bil ei basio).

Rwy'n cydnabod bod gwahanu plant oddi wrth eu rhieni yn effeithio ar nifer o blant a'u teuluoedd. Os yw'r sefyllfa'n cael ei thrin yn dda, mae'r effaith andwyol yn cael ei lleihau. Yn 2017, roedd Llywodraeth Cymru wedi darparu £32,000 i sicrhau bod cwrs Cafcass Cymru, sef Gweithio Gyda'ch Gilydd Er Lles Plant, ar gael i fwy o rieni. Mae'r cwrs hwnnw'n helpu rhieni i ddeall y ffordd orau o gydweithio i gefnogi eu plant yn ystod y broses wahanu ac wedi hynny.

“Pa asesiad / trafodaethau a gynhalwyd gyda chynrychiolwyr y farnwriaeth (y farnwriaeth sifil, y farnwriaeth teulu a'r farnwriaeth droseddol) ynghylch yr anghenion hyfforddi a materion trawsffiniol sy'n codi o weithredu'r Bil hwn?”

Roedd swyddogion wedi cyfarfod â chynrychiolwyr o Wasanaeth Llysoedd a Thribiwnlysoedd Ei Mawrhydi (GLITEM) ym mis Gorffennaf 2018, ac mae cyfarfod arall wedi'i drefnu ym mis Ebrill 2019.

Roedd cydweithwyr GLITEM wedi rhoi sylw i bwysigrwydd feithrin cysylltiadau ar draws y system gyfiawnder gyfan. Roeddent wedi cynnig nifer o awgrymiadau i feithrin cysylltiadau a chodi ymwybyddiaeth a fydd yn cael eu hystyried drwy waith y Grŵp Gweithredu.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Mae'r Arglwydd Brif Ustus yn gyfrifol am drefnu hyfforddiant y farnwriaeth yng Nghymru a Lloegr. Mae'r cyfrifoldebau hynny'n cael eu harfer drwy'r Coleg Barnwrol. Mae gan Lywodraeth Cymru ymrwymiad i ymgynghori â'r Arglwydd Brif Ustus ac ymgysylltu â'i Swyddfa Farnwrol mewn perthynas â chynigion sy'n achosi newidiadau i'r gyfraith trosedd neu a allai gael effaith ar weithredu'r farnwriaeth a system y llysoedd a'r tribiwlysoedd. Fel sy'n digwydd yn achos pob Bil, mae Swyddfa'r Arglwydd Brif Ustus wedi cael ei hysbysu am y cynigion hyn, ac maent yn ymwybodol bod y Bil wedi'i gyflwyno.

Mae cynrychiolydd o GLITEM wedi'i wahodd i fod yn rhan o'r Grŵp Gweithredu sy'n cyfarfod ar 14 Mai, a fydd yn ystyried yr anghenion hyfforddiant posibl a materion trawsffiniol.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

“A fydddech cystal â rhoi rhagor o fanylion ar:

Yr asesiadau a gynhaliwyd mewn perthynas ag argaeledd Cyfryngwyr Cofrestredig y mae paragraff 28 o Atodiad 4 o'r Memorandwm Esboniadol yn nodi y mae'n 'rhaid ystyried' eu defnyddio 'ar gyfer pob achos sy'n ymwneud â thyst sy'n blentyn.'”

“Y cyfeiriad ym mharagraff 29 o Atodiad 4 o'r Memorandwm Esboniadol at brinder o Gyfryngwyr Cofrestredig ar hyn o bryd, a nifer cyfyngedig iawn o Gyfryngwyr sy'n siarad Cymraeg, ac y 'gallai hyn greu oedi yn y broses'.”

Cafodd cynllun y Cyfryngwyr Cofrestredig ei adolygu gan y Farwnes Newlove, Comisiynydd Dioddefwyr. Mae'r adolygiad, 'A Voice for the Voiceless', a gafodd ei gyhoeddi ym mis Ionawr 2018 yn nodi bod prinder o Gyfryngwyr Cofrestredig ar gael i i weithio mewn rhai ardaloedd daearyddol, fel Gogledd Cymru, a bod diffyg Cyfryngwyr Cofrestredig sy'n siarad Cymraeg.

Cafodd tystiolaeth ysgrifenedig ar gynllun y Cyfryngwyr Cofrestredig ei darparu i'r Comisiwn ar Gyfiawnder yng Nghymru, a sefydlwyd gan Brif Weinidog Cymru ym mis Medi 2017 i adolygu gweithrediad y system gyfiawnder yng Nghymru. Wrth roi tystiolaeth i'r Comisiwn roedd Cyfryngwr Cofrestredig wedi nodi, pan oedd yn cyflwyno ei dystiolaeth (Gorffennaf 2018), fod un Cyfryngwr Cofrestredig amser llawn a oedd yn siarad Cymraeg a dau Gyfryngwr Cofrestredig rhan-amser a oedd yn siarad Cymraeg yng Nghymru. Nododd fod y rhan fwyaf o gyfryngwyr a oedd yn gweithio yng Nghymru yn teithio o Loegr i asesu ymddygiad a chynnwlidiadau.

Roedd tystiolaeth ysgrifenedig wedi'i darparu hefyd i'r Comisiwn ar Gyfiawnder yng Nghymru ym mis Awst 2018, gan y Farwnes Newlove, Comisiynydd Dioddefwyr. Roedd y Farwnes wedi adrodd y gall dioddefwyr ag anghenion cyfathrebu aros yn hir i gael Cyfryngwr Cofrestredig i'w helpu i roi tystiolaeth i'r heddlu ac i roi tystiolaeth mewn llys.

Cynhaliodd Gwasanaeth Llysoedd a Thribiwnlysoedd Ei Mawrhydi a'r Weinyddiaeth Gyfiawnder ymarfer recriwtio rhwng mis Hydref a mis Rhagfyr 2018, er mwyn recriwtio Cyfryngwyr Cofrestredig ychwanegol. Roedd 15 o ymgeiswyr yn llwyddiannus ac mae 12 ohonynt wedi cwblhau'r cwrs hyfforddi cydnabyddedig sydd wedi'i asesu, a byddant yn gallu dechrau ymarfer fel Cyfryngwyr Cofrestredig yng Nghymru cyn hir.

Canllawiau a hyfforddiant i weithwyr proffesiynol rheng flaen (para 4.14-4.15 o'r Memorandwm Esboniadol)

“A wnewch ddarparu rhestr o'r holl bolisiâu a chanllawiau cyhoeddus perthnasol yng Nghymru yr ydych wedi eu hasesu fel rhai y mae angen eu diweddar os bydd y Bil yn cael ei basio, ynghyd â'r dyddiad y cawsant eu diweddar ddiwethaf?”

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

“A wnewch ddarparu cost amcangyfrifedig diweddar: holl canllawiau Llywodraeth Cymru mewn perthynas â Gofal Cymdeithasol, Addysg (paragraff 61 o Atodiad 4 i'r Memorandwm Esboniadol), Iechyd, Rhianta a'r trydydd sector (paragraff 8.19 o'r Memorandwm Esboniadol)?”

Mae diweddaru canllawiau Llywodraeth Cymru yn un o'r gweithgareddau arferol y mae swyddogion yn eu gwneud yn rheolaidd i sicrhau bod canllawiau o'r fath yn cydymffurfio ag unrhyw newidiadau i'r ddeddfwriaeth neu i weithdrefnau. Felly, byddem yn disgwyl i waith o'r fath gael ei dalu gan gostau rhedeg gweinyddol, ac na fydd unrhyw gostau ychwanegol neu ychydig iawn o gost mewn perthynas â gwaith o'r fath.

Bydd y Grŵp Gweithredu yn ystyried a fydd angen diweddaru'r canllawiau a ddarperir gan gyrrf cyhoeddus eraill. Gan nad ydym yn creu trosedd newydd, rydym yn disgwyl y bydd canllawiau sydd eisoes yn bodoli ar draws cyrrf cyhoeddus yn cael eu diweddaru, yn hytrach na'u cynhyrchu o'r newydd. Mae'r sefydliadau sy'n gyfrifol am y canllawiau hyn, er enghraift Gwasanaeth Erlyn y Goron neu'r Coleg Plismona Cenedlaethol, yn diweddaru eu canllawiau'n rheolaidd i adlewyrchu newidiadau yn y gyfraith ac mewn arferion. Rydym yn rhagweld y byddant yn defnyddio adnoddau sydd eisoes yn bodoli i wneud hynny. Mewn nifer o achosion mae canllawiau ar weithredu amddiffyniad cosb resymol yn un agwedd yn unig o ganllawiau ehangach sy'n cynnwys amrediad eang o faterion yn ymwneud â materion diogelu neu gyfiawnder troseddol. Mae Safon Gyhuddo Gwasanaeth Erlyn y Goron, er enghraift, yn darparu canllawiau i erlynwyr a swyddogion yr heddlu mewn perthynas â nifer o wahanol droseddau yn erbyn y person. Mae'r ffordd o weithredu mewn achosion o ymosodiad cyffredin lle gallai amddiffyniad cosb resymol gael ei ddefnyddio yn un rhan o'r canllawiau hynny yn unig.

“Mae paragraff 8.47 o'r Memorandwm Esboniadol yn cyfeirio at ddiweddaru Gweithdrefnau Diogelu Plant Cymru Gyfan 2002 yn rheolaidd. Ers diwygio'r gweithdrefnau hyn yn 2008, a wnewch chi nodi:

- *pa mor aml y maent wedi'u diweddaru;*
- *pryd y cawsant eu diweddaru ddiwethaf;*
- *faint o amser a gymerodd y gwaith diweddaru;*
- *cyfanswm costau'r gwaith hwn o ran ailddrafftio, dosbarthu a hyfforddi.”*

Cafodd Gweithdrefnau Amddiffyn Plant Cymru Gyfan 2008 eu cynhyrchu a'u mabwysiadu gan yr holl Fyrddau Diogelu Plant yng Nghymru. Nid canllawiau Llywodraeth Cymru ydynt. Roedd Grŵp Adolygu Gweithdrefnau Amddiffyn Plant Cymru Gyfan (sydd bellach wedi'i chwalu) yn gyfrifol am gadw'r gweithdrefnau mor ddiweddar ag sy'n bosibl, ac roeddent wedi ychwanegu nifer o brotocolau at y gweithdrefnau craidd.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Ar hyn o bryd, mae Gweithdrefnau Amddiffyn Plant Cymru Gyfan a'r Polisi a'r Gweithdrefnau ar gyfer Amddiffyn Oedolion Agored i Niwed yn cael eu hadolygu gan Fwrdd Diogelu Caerdydd a'r Fro ar ran yr holl Fyrddau Diogelu yng Nghymru. Caiff hynny ei wneud er mwyn rhoi ystyriaeth i Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014, a ddaeth i rym ar 6 Ebrill 2016, a'i chanllawiau statudol ategol. Caiff y gwaith ei oruchwyllo gan Fwrdd Prosiect sy'n cael ei gadeirio gan Gyfarwyddwr Gwasanaethau Bro Morgannwg, ac sy'n cynnwys cynrychiolwyr o'r holl Fyrddau Diogelu a'u partneriaid. Bwriedir i'r Gweithdrefnau Diogelu newydd ar gyfer Cymru, a fydd yn disodli Gweithdrefnau Amddiffyn Plant Cymru Gyfan a gweithdrefnau Amddiffyn Oedolion Agored i Niwed, gael eu lansio yn hydref 2019.

Yn ogystal, mae Llywodraeth Cymru wedi trefnu ar y cyd â rhanddeiliaid i gynhyrchu nifer o ganllawiau ar arferion sy'n disodli protocolau cyfredol Gweithdrefnau Amddiffyn Plant Cymru Gyfan er mwyn diogelu plant dan amgylchiadau penodol, er enghraifft, mewn perthynas â masnachu mewn plant a phlant coll o gartrefi neu o leoliadau gofal.

Bydd Gweithdrefnau Diogelu Cymru yn cael eu cynnal gan Gofal Cymdeithasol Cymru ar ffurf digidol a fydd yn sicrhau eu bod yn hawdd eu defnyddio, eu hadolygu a'u diweddu. Mae'r Bwrdd Prosiect yn ystyried trefniadau ffurfiol er mwyn cadw Gweithdrefnau Diogelu Cymru yn gyfredol fel eu bod yn adlewyrchu newidiadau mewn arferion a chanllawiau. Cyfrifoldeb y Byrddau Diogelu fydd hynny.

Mae'r prosiect presennol yn adolygiad sylweddol, yn hytrach nag yn ddiweddu, ac fe'i dechreuwyd yn 2017. Mae cyllid o £185,000 wedi cael ei roi dros y ddwy flynedd ddiwethaf i gynhyrchu, digidoleiddio a chyfieithu Gweithdrefnau Diogelu Cymru. Bydd angen cyllid ychwanegol i'w rhoi ar waith ac ar gyfer adnoddau hyfforddi. Mae Llywodraeth Cymru wedi darparu'r cyllid ar gyfer yr adolygiad, a bydd yn ceisio cael cytundeb ynghylch darparu cyllid ar gyfer lansio'r gweithdrefnau a'u rhoi ar waith. Mae hynny'n cynnwys gwaith Gofal Cymdeithasol Cymru ar y cyd â'r Bwrdd Prosiect i gynhyrchu deunyddiau hyfforddi i'w defnyddio gan yr holl Fyrddau Diogelu yng Nghymru.

Mae'r Bwrdd Prosiect wedi cael eu briffio ar y Bil. Fel rhan o'u gwaith, byddant yn ystyried y goblygiadau canlyniadol (os bydd y Bil yn cael ei basio) o ran diweddu Gweithdrefnau Diogelu Cymru fel rhan o'r trefniadau cynaliadwy a wneir i gadw'r gweithdrefnau'n gyfredol, fel eu bod yn adlewyrchu newidiadau mewn arferion, cyfraith achosion a chanllawiau. Bydd aelodau Bwrdd Prosiect Gweithdrefnau Diogelu Cymru yn cael eu gwahodd i gyfrannu at waith y Grŵp Gweithredu.

"A fydddech cystal â rhoi rhagor o wybodaeth am y costau sy'n gysylltiedig â llwyth gwaith y gwasanaethau cymdeithasol sy'n deillio o baragraff 50 o Atodiad 4 o'r Memorandwm Esboniadol. Mae hwn yn nodi y gall fod cynnydd o ran adrodd am ddigwyddiadau gan 'unigolion yn y gymuned a sefydliadau fel ysgolion' yn unol â'r 'ddyletswydd i roi gwybod' yn y Ddeddf Gwasanaethau Cymdeithasol a Llesiant."

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Nid oes unrhyw gynsail yn y DU ar gyfer dileu amddiffyniad cosb resymol, ac felly nid yw'n ofynnol i wasanaethau cyhoeddus gofnodi achosion o gosbi corfforol neu adrodd amdanynt. Yn sgil hynny, nid oes unrhyw ddata cyhoeddedig neu ddata sydd ar gael yn rhwydd i'w defnyddio fel llinell sylfaen, nac ychwaith brofiad gan wlad arall, er mwyn gallu bwrw amcan sy'n ddigon cadarn am y cynnydd posibl o ran atgyfeiriadau gwasanaethau cymdeithasol. O ganlyniad i hynny, mae'n anodd darogan yn gywir y costau sy'n gysylltiedig â chynnydd posibl mewn llwyth gwaith ar gyfer gwasanaethau cymdeithasol. Erbyn hyn, os yw'r ddeddfwriaeth yn cael ei chyflwyno, rhagwelir na fydd angen ymateb i gyfran sylweddol o achosion o gosbi corfforol o dan y broses diogelu plant.

Rydym yn cydweithio â nifer fach o awdurdodau lleol i geisio pennu llinell sylfaen sy'n ddigon cywir; fod bynnag, mae nifer o faterion yn gysylltiedig â hynny. Cafodd y rheini eu hamlinellu yn fy llythyr at Lynne Neagle AC, y Cadeirydd, ar 5 Ebrill. Un o'r rhesymau dros geisio pennu llinell sylfaen a rhoi systemau ar waith i gofnodi achosion yn well yw ein galluogi i ystyried ein gofynion o ran adnoddau a deall y goblygiadau o ran costau.

Bydd gwaith yn parhau, drwy'r Grŵp Gweithredu, ar y cyd â gwasanaethau cymdeithasol, i sefydlu system cofnodi a monitro er mwyn datblygu system ddibynadwy ar gyfer casglu data perthnasol am gyfnod cyn i'r ddeddfwriaeth ddod i rym. Bydd hynny'n ein galluogi i bennu llinellau sylfaen. Hefyd, yn dilyn cyflwyno'r ddeddfwriaeth, bydd y system honno'n galluogi inni fonitro effaith y Bil.

"Pa drafodaethau a gynhalwyd gyda Gwasanaeth Erlyn y Goron ynghylch diwygio'r Safon Gyhuddo am Droseddau yn erbyn y Person i sicrhau nad yw Adran 58 o Ddeddf Plant 2004 yn gymwys yng Nghymru yn unol â pharagraff 3.23 o'r Memorandwm Esboniadol? Faint o amser fydd yr adolygiad hwn yn ei gymryd, faint y disgwyli'r iddo ei gostio a phwy fydd yn gyfrifol am y gost hon?"

Roedd Huw Irranca-Davies, y cyn-Weinidog Plant, Pobl Hŷn a Gofal Cymdeithasol, wedi cyfarfod â Phrif Erlynydd y Goron ar gyfer Cymru a chydweithwyr o Wasanaeth Erlyn y Goron ar 9 Hydref 2018, a chyfarfues i â nhw ar 7 Mawrth 2019. Mae fy swyddogion hefyd wedi bod mewn cysylltiad rheolaidd â chydweithwyr yng Ngwasanaeth Erlyn y Goron. Cafwyd trafodaethau ar amrediad o faterion, gan gynnwys diwygio'r 'Offences Against the Person Charging Standard' (y Safon Gyhuddo).

Mae Gwasanaeth Erlyn y Goron yn sefydliad sydd heb ei ddatganoli ac sydd ag adran bolisiâu sy'n diweddar udogfennau canllaw fel rhan o'r gwaith y maent yn cael ei gyflogi i'w wneud. Rhwng Gorffennaf ac Awst 2017, ymgynghorodd Gwasanaeth Erlyn y Goron ar ddiwygiadau i'r Safon Gyhuddo. Gwnaed hynny fel rhan o'u gwaith diweddar rheolaidd, i adlewyrchu nifer o ddatblygiadau cyfreithiol a chymdeithasol ac i egluro agweddau ar y Safon Gyhuddo. Roedd y diwygiadau'n cynnwys egluro'r ffordd o weithio sy'n ofynnol os oes angen ystyried amddiffyniad cosb resymol. Bydd y newidiadau yn y ffordd y caiff yr amddiffyniad ei ddefnyddio yn neddfwriaeth Cymru yn cael eu hadlewyrchu drwy ddiwygiadau i Safon Gyhuddo Gwasanaeth Erlyn y Goron yn unol ag arferion cyffredin Gwasanaeth Erlyn y Goron.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Gwasanaeth Erlyn y Goron sy'n talu'r costau a ysgwyddir mewn perthynas ag adolygu a diweddaru eu canllawiau cyfreithiol. Yn dilyn trafodaethau, deëllir y bydd Gwasanaeth Erlyn y Goron yn talu costau a ysgwyddir mewn perthynas ag adolygu'r Safon Gyhuddo i adlewyrchu deddfwriaeth sy'n sicrhau nad yw Adran 58 o Ddeddf Plant 2004 yn berthnasol yng Nghymru, yn unol â'u harfer arferol.

"Pa drafodaethau a gynhaliwyd gyda'r Heddlu ynghylch y canllawiau diwygiedig y cyfeiriwyd atynt ym mharagraff 15 o Atodiad 4 o'r Memorandwm Esboniadol? Faint o amser fydd yr adolygiad hwn yn ei gymryd, faint y disgwyli'r iddo gostio a phwy fydd yn gyfrifol am y gost hon?"

"Pa drafodaethau sydd wedi'u cynnal â'r Heddlu ynghylch y gwahaniaeth yn y gofynion cofnodi rhwng Cymru a Lloegr ar gyfer y gronfa ddata genedlaethol Gorfodi'r Gyfraith y cyfeiriwyd ati ym mharagraffau 14 a 15 o Atodiad 4 o'r Memorandwm Esboniadol? Sut y cafodd dichonoldeb y gwaith hwn ei asesu, faint y disgwyli'r iddo ei gostio a phwy fydd yn gyfrifol am y gost hon?"

Cyfarfu Huw Irranca-Davies, y cyn-Weinidog Plant, Pobl Hŷn a Gofal Cymdeithasol, â'r pedwar Prif Gwnstabl (neu eu Dirprwyon) o'r pedwar heddlu yng Nghymru ar 3 Awst 2018, a chyfarfûm â nhw ar 24 Ionawr 2019. Mae fy swyddogion hefyd wedi bod mewn cysylltiad rheolaidd â chynrychiolwyr o'r pedwar heddlu yng Nghymru. Cafwyd trafodaethau ar amrediad o faterion, gan gynnwys canllawiau a'r gofynion o ran cofnodi achosion.

Fel yr eglurwyd ym mharagraff 14 o Atodiad 4 o'r Memorandwm Esboniadol, bydd y Gronfa Ddata Genedlaethol ar Orfodi'r Gyfraith yn cael ei sefydlu i ddisodli Cronfa Ddata Genedlaethol yr Heddlu a Chyfrifiadur Cenedlaethol yr Heddlu sydd eisoes yn bodoli. Ar hyn o bryd, mae gwybodaeth am euogfarnau'n cael ei chadw ar Gyfrifiadur Cenedlaethol yr Heddlu, ac mae cofnodion am wybodaeth nad yw'n ymwneud ag euogfarnau (e.e. cudd-wybodaeth, datrysiau anstatudol y tu allan i'r llys fel datrysiau cymunedol) yn cael eu cadw ar Gronfa Genedlaethol yr Heddlu.

Yn ein trafodaethau â'r heddlu, rydym wedi sôn bod angen ystyried sut y bydd y Gronfa Ddata Genedlaethol ar Orfodi'r Gyfraith yn gwahaniaethu rhwng y ffaith y gallai rhai ymosodiadau cyffredin ar blant fod yn wybodaeth nad yw'n ymwneud ag euogfarn yn Lloegr ond yn wybodaeth yn ymwneud ag euogfarn yng Nghymru. Felly, mae hynny'n fater i'w ystyried ymhellach.

Ar hyn o bryd, ein barn yw na fyddai'n anodd ymdrin â'r gwahaniaeth o fewn cronda ddata sy'n cynnwys cofnodion am euogfarnau a gwybodaeth nad yw'n ymwneud ag euogfarnau. Nid yw dileu amddiffyniad cosb resymol yng Nghymru yn creu trosedd newydd; mae trosedd ymosod cyffredin eisoes yn bodoli yn y gyfraith gyffredin ar draws Cymru a Lloegr, ac felly dylai fod yn bosibl adrodd am achosion o ymosod cyffredin ar blant, naill ai fel gwybodaeth am euogfarn (e.e. os bydd rhybuddiad wedi'i dderbyn gan y cyflawnwr) neu fel gwybodaeth nad yw'n ymwneud ag euogfarn.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Bydd cael canllawiau clir am yr wybodaeth sy'n cael ei rhoi yn Gronfa Ddata Genedlaethol ar Orfodi'r Gyfraith yn hanfodol, fel bod eglurder ynghylch a yw achosion o 'gosb resymol' yn cael eu cofnodi fel gwybodaeth am euogfarn neu wybodaeth nad yw'n ymwneud ag euogfarn. Ar ôl i'r wybodaeth gael ei chofnodi, dylai fod yn glir i unedau datgelu pa wybodaeth nad yw'n ymwneud ag euogfarn y dylent ei rhyddhau at ddibenion gwriad manylach y Gwasanaeth Datgelu a Gwahardd.

Rydym o'r farn y byddai unrhyw gostau sy'n gysylltiedig â chanllawiau o'r fath yn isel iawn, ac yn rhan o ganllawiau llawer ehangach a fyddai eu hangen mewn perthynas â rhoi gwybodaeth yn y Gronfa Ddata Genedlaethol ar Orfodi'r Gyfraith. Fodd bynnag, mae'r materion hyn yn ymwneud â phroses weithredu fanwl y byddwn yn ei thrafod ymhellach â'r heddlu ac eraill yn ôl yr angen.

"A wnewch roi manylion unrhyw gostau sy'n gysylltiedig â mynd ar gwrs fel rhan o rybuddiad amodol y cyfeirir ato ym mharagraff 21 o Atodiad 4 o'r Memorandwm Esboniadol? A fydd angen datblygu cwrs ar gyfer y math hwn o drosedd? Os bydd, pwy y disgwylir a fydd yn datblygu ac yn ariannu'r cwrs hwn?"

"A fydddech cystal â rhoi manylion ar y cynnydd o ran datrysiau cymunedol y cyfeirir atynt ym mharagraff 24 o Atodiad A y Memorandwm Esboniadol a'r costau sy'n gysylltiedig â'r rhain?"

Cyfarfu Huw Irranca-Davies, y cyn-Weinidog Plant, Pobl Hŷn a Gofal Cymdeithasol, â Chomisiynwyr Heddlu a Throseddu ar 29 Hydref 2018, a chyfarfûm â nhw ar 24 Ionawr 2019. Mae fy swyddogion hefyd wedi bod mewn cysylltiad rheolaidd â Gwasanaeth Erlyn y Goron a chynrychiolwyr o'r pedwar heddlu yng Nghymru. Cafwyd trafodaethau ar amrediad o faterion, gan gynnwys datrysiau y tu allan i'r llys.

Caiff rhybuddiadau amodol eu rhoi gan yr heddlu yn unol â chanllawiau'r Weinyddiaeth Gyflawnder. Mae penderfyniadau'n ymwneud â'r defnydd o ddatrysiau y tu allan i'r llys, a'r amodau mwyaf priodol i roi ar rybuddiad, yn faterion nad oes gennym gyfrifoldeb datganoledig drostynt. Byddwn yn parhau i gydweithio â'r Swyddfa Gartref, y Weinyddiaeth Gyflawnder, Gwasanaeth Erlyn y Goron, yr Heddlu, a Chomisiynwyr Heddlu a Throseddu i ystyried ymyriadau addas.

Mae'r ffordd y caiff cyrsiau eu hariannu yn amrywio rhwng yr heddluoedd. Fel arfer maent yn cael eu talu drwy gyllid gan y Comisiynydd Heddlu a Throseddu; gan y troseddwyr ei hun; neu maent eisoes ar gael ac yn cael eu hariannu yn y gymuned. Mae'n bosibl y gellid defnyddio darpariaeth sydd eisoes yn bodoli. Bydd y Grŵp Gweithredu, a fydd yn cynnwys cynrychiolwyr o sefydliadau allweddol, yn ystyried defnyddio datrysiau y tu allan i'r llys, gan gynnwys datrysiau cymunedol a rhybuddiadau amodol. Bydd gwaith cynllunio'r broses weithredu hefyd yn ystyried y modelau mwyaf priodol ar gyfer cyflawni'r gwaith a hefyd canllawiau, trefniadau cyllid ac adnoddau.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Ymgyrch codi ymwybyddiaeth a chostau (paragraffau 3.63-3.66 o'r Memorandwm Esboniadol).

“A wnewch roi eglurhad o ran y gynulleidfa darged ar gyfer yr ymgyrch codi ymwybyddiaeth?”

Bydd yr ymgyrch cyfathrebu'n targedu holl boblogaeth Cymru, gan fod y rhan fwyaf o bobl yn dod i gysylltiad â phlant.

Bydd y gynulleidfa'n cael ei rhannu hefyd, a chaiff negeseuon eu teilwra ar gyfer nifer o wahanol grwpiau. Byddwn yn cynnal gwaith cwmpasu dros y misoedd nesaf i ystyried pa negeseuon sy'n taro deuddeg a'r ffyrdd fwyaf effeithiol o gyfathrebu â gwahanol grwpiau.

Bydd y cynllun cyfathrebu'n cynnwys trafodaethau helaeth â rhanddeiliaid sy'n allweddol i'r broses o weithredu'r ddeddfwriaeth, er enghraifft yr heddlu, Gwasanaeth Eryl y Goron, y Gwasanaeth Datgelu a Gwahardd, a gweithwyr proffesiynol a sefydliadau rheng flaen sy'n gweithio gyda phlant a'u teuluoedd, gan gynnwys gwasanaethau cymdeithasol, a gweithwyr proffesiynol yn y meysydd iechyd ac addysg.

“A fydd ech cystal â rhoi manylion y dulliau a'r costau ar gyfer codi ymwybyddiaeth ymysg y rheini sy'n ymweld â Chymru, sut y caiff hyn ei gyflawni a'r costau sy'n gysylltiedig â hyn am dair blynedd (paragraff 9.2 o'r Memorandwm Esboniadol)?”

Caiff gwaith ei gynnal wrth i'r Bil fynd ar ei hynt drwy'r Cynulliad er mwyn pennu'r dulliau mwyaf effeithiol o godi ymwybyddiaeth ymhliith ymwelwyr â Chymru. Rydym yn cydnabod y dylai dinasyddion Cymru ac ymwelwyr â'n gwlad ddod o hyd i'r gyfraith, a'i deall hi, yn weddol rhwydd ymlaen llaw, fel y gallant elwa ar y manteision a pharchu'r goblygiadau y bydd y gyfraith newydd yn eu gosod arnynt.

“A fydd ech cystal â rhoi manylion yr asesiad a wnaed ynghylch a ddylid cynnwys yr ymgyrch codi ymwybyddiaeth hon ar wyneb y Bil?”

Rydym wedi rhoi ystyriaeth ofalus a manwl i'r angen i godi ymwybyddiaeth o'r newid yn y gyfraith cyn cyflwyno'r ddeddfwriaeth ac ar ôl iddi gael ei chyflwyno, os bydd y Bil yn cael Cydsyniad Brenhinol.

Fe wnaethom gomisiynu adroddiad gan y Sefydliad Polisi Cyhoeddus i Gymru (a elwir bellach yn Ganolfan Polisi Cyhoeddus Cymru) ar ddeddfu i wahardd cosbi plant yn gorfforol (<https://www.wcpp.org.uk/publication/legislating-to-prohibit-parental-physical-punishment-of-children/>), a oedd yn ystyried profiad gwledydd eraill sydd wedi deddfu yn y maes hwn.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Fel sydd wedi'i nodi ym mharagraffau 8.24 i 8.25 o'r Memorandwm Esboniadol, roedd yr adroddiad yn dangos y gallai newid yn y gyfraith, sydd hefyd yn cynnwys ymgyrch codi ymwybyddiaeth a chymorth i rieni, arwain at lai o achosion o gosbi corfforol a newid mewn agweddau. Canfu hefyd os nad yw ymgyrch cyhoeddusrwydd yn cael ei chynnal ar y cyd â newid yn y gyfraith, neu os nad yw ymgyrch yn parhau am gyfnod digonol, fod ymwybyddiaeth o'r gyfraith newydd yn llai eang.

Felly, rydym wedi ymrwymo i gynnal ymgyrch codi ymwybuddiaeth am gyfnod digonol, ac wedi cadarnhau'r ymrwymiad hwnnw ym Mhennod 8 o'r Memorandwm Esboniadol.

Nid oes angen rhoi dyletswydd ar Weinidogion Cymru i gynnal ymgyrch codi ymwybyddiaeth o ystyried yr ymrwymiad cadarn hwn a'r ffaith fod pwerau digonol eisoes gan Weinidogion Cymru i allu codi ymwybyddiaeth o'r ddeddfwriaeth.

Grŵp Gweithredu (paragraff 8.9 o'r Memorandwm Esboniadol)

"A fydddech cystal â rhoi manylion am rôl, aelodaeth a chylch gorchwyl y Grŵp Gweithredu a pha mor aml y mae wedi cwrdd hyd yma, ac amlinelliad o'r rhesymau pam na chafodd y wybodaeth hon ei chynnwys yn y Memorandwm Esboniadol?"

Cylch gwaith y Grŵp Gweithredu fydd ystyried a gwneud argymhellion am sut i weithredu unrhyw newidiadau angenrheidiol yn y modd mwyaf ymarferol ac effeithiol. Rwyf wedi gwahodd amrywiaeth eang o randdeiliaid i gael eu cynrychioli, gan gynnwys yr heddlu, Comisiynwyr Heddlu a Throseddu, gwasanaethau cymdeithasol, y sector cyhoeddus yng Nghymru, gan gynnwys y sectorau iechyd ac addysg. Trefnwyd bod y cyfarfod cyntaf yn cael ei gynnal ar 14 Mai 2019.

Yn sgil trafodaethau blaenorol â rhanddeiliaid, rydym yn rhagweld y gallai'r ffrydianu gwaith gynnwys y canlynol: - cyngor, canllawiau, cymorth a gwybodaeth i rieni; casglu data, monitro a gwerthuso; prosesau gweithredol, gweithdrefnau, cyfarwyddyd a rhngweithio rhwng asiantaethau; a datrysiau y tu allan i'r llys, gan gynnwys cynlluniau eraill. Bydd yr ystod lawn o waith i'w gynnwys yn cael ei ystyried gan y Grŵp Gweithredu.

Arall

"O ran paragraff 3.42 o'r Memorandwm Esboniadol, a ydych yn sicr bod pob cyfeiriad academaidd arall wedi'i gynrychioli'n gywir?"

Nod cyffredinol y Bil yw helpu i ddiogelu hawliau plant.

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Y bwriad oedd ein bod yn darparu crynodeb cytbwys o'r dystiolaeth yn y ddogfen ymgynghori a'r Memorandwm Esboniadol, yn hytrach na darparu adolygiad academaidd cynhwysfawr. Mae casgliadau ein dogfen ymgynghori yn eithaf cyson â'r canfyddiadau sydd wedi'u nodi yn adroddiad Canolfan Polisi Cyhoeddus Cymru '*Parental Physical Punishment: Child Outcomes and Attitudes*'. Roedd adroddiad Canolfan Polisi Cyhoeddus Cymru yn adolygiad annibynnol o'r llenyddiaeth sydd ar gael yr oedd eu canfyddiadau wedi'u hadolygu gan gyfoedion yn y maes. Mae swyddogion wedi ceisio darllen a gwirio pob cyfeiriad academaidd y cyfeirir atynt yn y Memorandwm Esboniadol a'r ddogfen ymgynghori. Hyd y gwyddom, mae'r cyfeiriadau academaidd wedi'u cynrychioli'n gywir.

"A wnewch roi rhagor o eglurder ynghylch data a gyhoeddwyd, y cyfeirir ato ym mharagraff 8.20 o'r Memorandwm Esboniadol yn Seland Newydd o ran achosion a gofnodwyd gan y gwasanaeth heddlu cyn y daeth y newid i'r gyfraith i rym, ac ar ôl hynny?"

Daeth deddfwriaeth Seland Newydd, sef Deddf Diwygio Troseddau (Adran 59 a Amnewidiwyd) 2007 [*Crimes (Substituted Section 59) Amendment Act 2007*] i rym ar 22 Mehefin 2007. Diben y ddeddfwriaeth oedd atal rhieni rhag defnyddio grym i gosbi plant.

Mae'r heddlu yn Seland Newydd wedi cyhoeddi nifer o adolygiadau ar effaith y ddeddfwriaeth yn Seland Newydd. Mae'r adolygiadau ar gael yn:

<https://www.police.govt.nz/about-us/publication/crimes-substituted-section-59-amendment-act-2007>

Mae'r adolygiadau wedi'u seilio ar ddata a gasglwyd gan heddlu Seland Newydd, gyda'r bwriad o ddarparu gwybodaeth am nifer y galwadau i'r heddlu am ymosodiadau ar blant a oedd yn cynnwys 'smacio' a 'mân achosion o ddisgyblu corfforol', yn hytrach nag ymosodiadau eraill ar blant.

Yn ystod cyfnod o dri mis cyn cyflwyno'r ddeddfwriaeth, a phum mlynedd ar ôl ei chyflwyno, roedd heddlu Seland Newydd wedi ymchwilio i droseddau a gofnodwyd o dan y saith cod canlynol:

- Ymosod ar Blentyn (â Llaw)
- Ymosod ar Blentyn (Arf Arall)
- Ymosod Cyffredin (Domestig) (â Llaw)
- Ymosod Cyffredin (â Llaw)
- Ymosodiad Arall ar Blentyn (o dan 14 oed)
- Ymosod Cyffredin (Domestig) (Arf Arall)
- Ymosod Cyffredin Arall #1649

Cafodd y troseddau o dan y saith cod hyn eu hymchwilio at ddibenion yr adolygiadau, oherwydd ystyriwyd mai'r troseddau hyn oedd y mathau hynny a fyddai'n fwy tebygol o gynnwys achosion o 'smacio'. Mae adroddiadau'r adolygiadau'n dangos nad cyfanswm yr achosion o ymosod ar blant yr oedd heddlu Seland Newydd wedi ymdrin â nhw yn ystod unrhyw rai o gyfnodau'r adolygiadau oedd yr achosion o ymosodiadau ar blant a nodwyd o dan y codau hyn - gan nad

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

oedd achosion o ymosod nad ystyriwyd eu bod yn debygol o gynnwys achosion o 'smacio' wedi'u harchwilio.

Ar sail yr ymchwiliad hwnnw, cafodd yr achosion a gofnodwyd o dan bob un o'r troseddua hynny eu rhoi o dan un o'r categorïau canlynol: 'smacio', 'mân achosion o ddisgyblu corfforol' ac 'ymosodiad arall ar blentyn'.

Roedd y sail resymegol a ddefnyddiwyd i ddyrannu pob achos i un o'r categorïau hyn yn cynnwys ystyriaeth o'r canlynol:

- y weithred gorfforol wirioneddol a ddefnyddiwyd yn yr ymosodiad ar y plentyn;
- y cyd-destun a'r amgylchiadau.

Rydym wedi crynhoi'r data a gasglwyd ar gyfer pob un o'r 12 cyfnod adolygu yn y tabl isod. Y cyfnod adolygu cyntaf, sef 17/03/2007 – 22/06/2007, yw'r cyfnod o dri mis cyn i Ddeddf Seland Newydd gael ei chyflwyno:

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

New Zealand review of cases since enactment of Section 59

	Law passed											Numbers of cases	
	Baseline	Review	Review										
	Period	Period 1	Period 2	Period 3	Period 4	Period 5	Period 6	Period 7	Period 8	Period 9	Period 10	Period 11	
17/03/2007	23/06/2007	29/09/2007	05/04/2008	04/10/2008	05/04/2009	24/06/2009	23/12/2009	23/06/2010	22/12/2010	22/06/2011	22/12/2011	-	-
22/06/2007	28/09/2007	04/04/2008	03/10/2008	04/04/2009	23/06/2009	22/12/2009	22/06/2010	21/12/2010	21/06/2011	21/12/2011	21/06/2012	-	-
Smacking	3	3	13	9	8	3	11	25	18	18	23	12	-
Minor Acts of Physical Discipline	10	12	69	49	39	10	39	38	45	58	45	31	-
Other Child Assaults/No offence disclosed	82	96	206	200	232	114	318	353	381	380	432	312	-
Total	95	111	288	258	279	127	368	416	444	456	500	355	-

Note: Review periods vary in length and so are not directly comparable

Source: New Zealand Police

Bil Plant (Diddymu Amddiffyniad Cosb Resymol) (Cymru)

Fel y nodwyd ym mharagraff 8.20 o'r Memorandwm Esboniadol, mae yna wahaniaethau rhwng y sefyllfaoedd yn Seland Newydd a Chymru y mae'n rhaid inni eu cofio wrth gymharu'r ddwy wlad. Yn amodol ar y cafeatau sydd wedi'u rhestru ym mharagraff 8.34 ac atodiad 6 o'r Memorandwm Esboniadol, rydym wedi defnyddio data Seland Newydd fel procsi i amcangyfrif y cynnydd posibl yn nifer yr achosion o adrodd i'r heddlu ac erlyniadau yn y llysoedd.

Yn achos yr heddlu, nodwyd data sylfaenol sy'n benodol i Gymru drwy archwiliad ôl-weithredol a gynhaliwyd gan y pedwar heddlu yng Nghymru (gweler y tabl ar dudalen 50 o'r Memorandwm Esboniadol). Cafodd maint posibl y cynnydd ei gyfrifo drwy gyfeirio at ddata Seland Newydd, ar sail y ffaith y byddai'r achosion a oedd wedi'u categoreiddio yn Seland Newydd fel rhai a oedd yn cynnwys 'smacio' neu 'fân achosion o ddisgyblu corfforol' yn cyfateb yn fras i droseddau ar lefel 'cosb resymol' yng Nghymru. Mae'r tabl ar dudalen 51 o'r Memorandwm Esboniadol yn egluro bod achosion o'r fath, ar gyfartaledd, wedi digwydd ddwywaith mor aml yn ystod y pum mlynedd yn dilyn cyflwyno'r ddeddfwriaeth yn Seland Newydd. Defnyddiwyd cynnydd cyfartalog gan nad oedd y cyfnodau adrodd yn Seland Newydd yn gyson, ac felly byddai ceisio rhagweld y cynnydd fesul blwyddyn yn gymhleth.

Yn achos y llysoedd, defnyddiwyd data Seland Newydd fel procsi i gael amcangyfrif o'r niferoedd posibl o achosion a erlynir yng Nghymru yn ystod y pum mlynedd yn dilyn cyflwyno'r ddeddfwriaeth – ac eto, rhaid cadw mewn cof y cafeatau sy'n ymwneud â'r gwahaniaethau rhwng y sefyllfaoedd yng Nghymru ac yn Seland Newydd. Fel yr eglurwyd ym mharagraffau 8.40 ac 8.41 o'r Memorandwm Esboniadol, mae'r niferoedd a amcangyfrifwyd wedi'u cyfrifo ar sail y ffaith bod nifer y plant 0-14 oed yng Nghymru yn cyfateb i oddeutu 60% o nifer y plant 0-14 oed yn Seland Newydd (mae'r ddeddfwriaeth yn Seland Newydd yn ymwneud â phlant 0-14 oed).

Yn ystod y cyfnod adolygu o bum blynedd, cafwyd 8 erlyniad am 'smacio' a 55 erlyniad am 'fân achosion o ddisgyblu corfforol', ac felly cyfanswm o 63 erlyniad. Felly, rydym wedi amcangyfrif 37 neu 38 o erlyniadau dros gyfnod o bum mlynedd yng Nghymru. Caiff hynny ei egluro ar dudalennau 8-9 o'r Asesiad o'r Effaith ar Gyfiawnder, lle nodir hefyd y byddai nifer yr achosion o erlyniadau yn debygol o ddechrau gostwng ar ôl pum mlynedd o ganlyniad i'r ymgyrch codi ymwybyddiaeth y bwriedir ei gynnal gan Lywodraeth Cymru.

Mark Drakeford AC
Prif Weinidog Cymru

20 Mai 2019

Annwyl Mark,

Presenoldeb Gweinidogion mewn pwyllgorau ar ddydd Llun

Diolch am eich llythyr dyddiedig 12 Ebrill 2019, a drafodwyd gan y Pwyllgor ar 29 Ebrill 2019.

Yn gyntaf, hoffwn ddiolch yn bersonol i chi am yr hyblygrwydd rydych wedi'i ddangos tuag at fynychu cyfarfodydd y Pwyllgor hyd yma, a hynny o ran eich ymddangosiad fel Prif Weinidog ac yn ystod eich cyfnod fel Ysgrifennydd y Cabinet dros Gyllid. Mae'ch presenoldeb wedi galluogi'r Pwyllgor i gyflawni ei ddyletswyddau a chynhyrchu dogfennau gwybodus ac amserol i'r Cynulliad cyfan eu trafod.

Rydym yn fodlon cynnig yr un hyblygrwydd o fewn cyfyngiadau'r slot a ddyrannwyd inni ar gyfer ein cyfarfodydd ac yn arbennig ar yr adegau hynny pan fyddwn yn gofyn i chi neu Weinidogion Cymru, fod yn bresennol ar fyr rybudd. Rydym wedi bod yn hyblyg yn y gorffennol ac ni welwn unrhyw reswm pam na allai hynny'n parhau. Dylai fod yn bosibl, fel arfer, inni newid amser dechrau'n cyfarfodydd i 1.30pm ar yr adegau hynny pan fyddwn yn gofyn i chi, neu Weinidogion eraill Cymru, fod yn bresennol, er y byddwch yn sylweddoli, rwy'n siŵr, y bydd rhai amgylchiadau prin, pan na fydd yn bosibl gwneud hynny. Rwyf wedi gofyn i glercod y Pwyllgor barhau i gysylltu â'ch swyddogion fesul cyfarfod.

Wrth ymateb, mae'n bwysig nodi bod y broblem o ran gallu Gweinidogion i fod yn bresennol yn ein cyfarfodydd ar ddydd Llun wedi codi oherwydd y penderfyniad a wnaed yn ddiweddar i symud cyfarfodydd y Cabinet o fore dydd Mawrth i brynhawn dydd Llun. Rwy'n siŵr i'r penderfyniad gael ei wneud gan wybod mai dyna'r amser a ddyrannwyd gan y Pwyllgor Busnes ar gyfer busnes y Cynulliad, ac yn benodol ar gyfer cyfarfodydd y



Pwyllgor Cyfrifon Cyhoeddus, y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol a'r Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol. Nid yw'r gwrthdar o hwn o ran amseru wedi codi o ganlyniad i unrhyw newid yn ffordd y mae'r pwyllgor hwn yn gweithredu, nac o ganlyniad i unrhyw newid ym mhatriwm busnes y Cynulliad.

Yn eich llythyr, rydych yn cyfeirio at baragraff 6.8 o'r Cod Gweinidogol. Fe wyddoch mai un enghraifft a gynigir o dan y paragraff hwnnw i ddangos yr amgylchiadau eithriadol a allai atal Gweinidog rhag bod yn bresennol mewn cyfarfod Cabinet, yw "busnes y Cynulliad". At hyn, er y gallai fod yn briodol i'r Cod Gweinidogol reoli amser Gweinidogion o ran busnes y llywodraeth, rydym o'r farn y byddai'n destun pryder pe bai'r Cod yn cael ei ddefnyddio fel rheswm dros gyfyngu ar allu Gweinidogion i ymddangos ger ein bron fel un o bwyllgorau'r Cynulliad.

Diolch i chi eto am yr hyblygrwydd rydych chi a'ch Gweinidogion wedi'i ddangos yn y gorffennol ac mae'r Pwyllgor yn edrych ymlaen at barhau i ymgysylltu â chi ar y sail hyblyg iawn honno.

Rwyf wedi anfon copi o'r llythyr hwn at y Llywydd, fel Cadeirydd y Pwyllgor Busnes, o ystyried y cysylltiad â'r gwaith o drefnu busnes y Cynulliad. Rwyf hefyd wedi anfon copi o'r llythyr hwn at Gadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol a Chadeirydd y Pwyllgor Cyfrifon Cyhoeddus gan ein bod ein cyfarfodydd yn cael eu cynnal yn ystod yr un slotiau.

Yn gywir,



David Rees AC

Cadeirydd y Pwyllgor Materion Allanol a Deddfwriaeth Ychwanegol

Croesewir gohebiaeth yn Gymraeg neu Saesneg.

We welcome correspondence in Welsh or English



Eich cyf/Your ref:
Ein cyf/Our ref

Llywodraeth Cymru
Welsh Government

Mick Antoniw AC,
Cadeirydd y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol,
Cynulliad Cenedlaethol Cymru,
Bae Caerdydd,
CAERDYDD,
CF99 1NA

21 Mai 2019

Annwyl Mick,

Diolch i chi am eich llythyr ynghylch Gorchymyn Deddf Rheoleiddio ac Arolygu Gofal Cymdeithasol (Cymru) 2016 (Cychwyn Rhif 6, Arbedion a Darpariaethau Trosiannol) 2019, a Gorchymyn Deddf lechyd y Cyhoedd (Cymru) 2017 (Cychwyn Rhif 4) 2019.

Mae'n wir bod y Gorchymyn cyntaf yn adlewyrchu graddfa'r ddarpariaeth y gallai fod ei hangen wrth newid o un fframwaith deddfwriaethol i un arall. Rydym bob amser yn ofalus wrth ddrafftio i sicrhau nad yw Gorchmynion o'r math hwn yn croesi ffiniau o ran yr hyn a ganiateir neu'r hyn sy'n briodol.

O ran yr ail Orchymyn uchod, a Gorchmynion Cychwyn enghreifftiol eraill a nodir yn yr atodiad, dylid nodi nad oes rhaid gosod y Gorchmynion hyn gerbron Cynulliad Cenedlaethol Cymru fel yr awgrymir yn eich gohebiaeth. Yn hytrach, bydd swyddogion Llywodraeth Cymru yn hysbysu Ysgrifenyddiaeth y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol yn uniongyrchol ynglŷn â Gorchmynion o'r fath, a hynny fel mater o gwrtieisi ar ôl iddynt gael eu gwneud, gan gydnabod yn benodol swyddogaethau disgrifiwn y Pwyllgor o dan Reol Sefydlog 21.7(iv). Bydd swyddogion yn ymdrechu i roi'r hysbysiad hwn yn brydlon yn dilyn cofrestru Gorchymyn a'i gyhoeddi ar wefan deddfwriaeth.gov.uk. Serch hynny, pan fo llawer iawn o orchmynion, gall yr angen i brosesu'r busnes y mae angen ei osod effeithio ar hynny. Yn yr achos hwn, oherwydd camgymeriad gweinyddol mewnol, bu oedi cyn inni hysbysu'r Pwyllgor am y Gorchymyn.

O ran eich cwestiwn ynghylch dilyniant Gorchmynion o'r fath, mae'r amser rhwng y tri cham yn dibynnu ar sut y byddwn yn eu gweithredu, ac yn cadarnhau wrth y rhanddeiliaid ba ddyddiad neu ddyddiadau y bydd darpariaethau Deddf yn dod i rym, er mwyn iddynt allu paratoi. Mewn rhai achosion, bydd hyn yn cael ei gadarnhau mewn deddfwriaeth rai misoedd ymlaen llaw, ond mewn achosion eraill, bydd y Llywodraeth yn gweithio'n agos gyda

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Correspondence.Rebecca.Evans@gov.wales
Gohebiaeth.Rebecca.Evans@llyw.cymru

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynir 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 responding in Welsh will not lead to a delay in responding.

Tudalen y pecyn 95

rhanddeiliaid i sicrhau eu bod yn cael gwybod beth fydd y dyddiad cychwyn arfaethedig, er na fydd y Gorchymyn ei hun yn cael ei wneud tan yn nes at y dyddiad a bennwyd.

Byddwn yn hapus i'm swyddogion ac Ysgrifenyddiaeth eich Pwyllgor drafod y trefniadau hysbysu presennol ymhellach, pe bai hynny o unrhyw gymorth.

Rwy'n anfon copi o'r llythyr hwn at y Cwnsler Cyffredinol a'r Gweinidog Brexit.

Yn gywir,



Rebecca Evans AC/AM
Y Gweinidog Cyllid a'r Trefnydd
Minister for Finance and Trefnydd



Ein cyf/Our ref: MA-L/FM/0288/19

Llywodraeth Cymru
Welsh Government

Mick Antoniw AC
Cadeirydd
Y Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol
Cynulliad Cenedlaethol Cymru
Bae Caerdydd
Caerdydd
CF99 1NA

Anwyl Mick

22 Mai 2019

Hoffwn dynnu sylw eich pwyllgor at fersiwn ddiweddaraf y *Llawlyfr Deddfwriaeth ar Filiau'r Cynulliad* sydd wedi cael ei gyhoeddi ar wefan Llywodraeth Cymru. Mae'r fersiwn ddiweddaraf hon yn adlewyrchu'r newidiadau i'r setliad datganoli ers i Ddeddf Cymru 2017 ddod i rym, a datblygiadau perthnasol eraill fel ymrwymiadau'r Llywodraeth wrth ymateb i adroddiad y Pwyllgor Cyllid ar amcangyfrifon cyllidol sy'n cyd-fynd â deddfwriaeth.

Mae'n disodli'r fersiwn flaenorol o'r llawlyfr a gyhoeddwyd gan fy rhagflaenydd ym mis Awst 2017. Ymrwymodd Llywodraeth Cymru i gyhoeddi'r llawlyfr, wedi iddo gael ei ddiweddarau ar gyfer y Pumed Cynulliad, mewn ymateb i argymhellion yn adroddiad pwyllgor eich rhagflaenydd, *Deadfu yng Nghymru*. Canllaw mewnol i Wasanaeth Sifil Llywodraeth Cymru yw'r llawlyfr. Mae'n ymdrin â'r prosesau a'r gweithdrefnau ar gyfer paratoi deddfwriaeth sylfaenol a chefnogi Gweinidogion i fynd â'r ddeddfwriaeth drwy Gynulliad Cenedlaethol Cymru.

Rwy'n anfon copi o'r llythyr hwn at y Llywydd a bydd copi o'r llawlyfr diweddaraf yn cael ei roi yn y llyfrgell.

*In yw'r,
Mark.*

MARK DRAKEFORD

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
YP.PrifWeinidog@llyw.cymru • ps.firstminister@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynir 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 responding in Welsh will not lead to a delay in responding.

Tudalen y pecyn 97

Eitem 5.6

Lesley Griffiths AC/AM

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig

Minister for Environment, Energy and Rural Affairs



Ein Cyf: MA/P/LG/1981/19

Llywodraeth Cymru
Welsh Government

Mick Antoniw AC

Cadeirydd

Pwyllgor Materion Cyfansoddiadol a Deddfwriaethol

Cynulliad Cenedlaethol Cymru

24 Mai 2019

Annwyl Mick,

Rwy'n ysgrifennu atoch i'ch hysbysu o ddyddiadau cyfarfodydd Grŵp Rhyngweinidogol yr Amgylchedd, Bwyd a Materion Gwledig (IMG EFRA) yn unol â'r cytundeb cysylltiadau Rhyng-sefydliadol rhwng Cynulliad Cenedlaethol Cymru a Llywodraeth Cymru.

Mae pedwar o gyfarfodydd yr IMG EFRA wedi'u trefnu rhwng nawr a diwedd y flwyddyn. Dyma'r dyddiadau:

- 24 Mehefin
- 16 Medi
- 28 Hydref
- 25 Tachwedd.

Mae'r cyfarfodydd hyn yn canolbwytio ar y prif faterion sy'n bennaf gysylltiedig ag Ymadael â'r UE, gan gynnwys llywodraethu rhwng y gweinyddiaethau, deddfwriaeth, a bod yn barod i Ymadael â'r UE.

Yn Gywir,

A handwritten signature in black ink that reads "Lesley Griffiths".

Lesley Griffiths AC/AM

Gweinidog yr Amgylchedd, Ynni a Materion Gwledig

Minister for Environment, Energy and Rural Affairs

Mae cyfyngiadau ar y ddogfen hon

Cytundeb Dwyochorog rhwng Llywodraeth y DU a Llywodraeth Cymru ar ddarpariaethau'r WTO yn y Bil Amaethyddiaeth

Gwneud rheoliadau Rhan 7 y tro cyntaf

- Bydd Defra yn ei gwneud yn glir ar lawr Tŷ'r Cyffredin yn yr arraith adrodd yn Nhŷ'r Cyffredin y bydd Llywodraeth y DU yn ymgynghori â'r gweinyddiaethau datganoledig cyn gwneud rheoliadau o dan y pŵer hwn.
- Bydd swyddogion Defra yn rhannu â'u cydswyddogion yn y gweinyddiaethau datganoledig eu cynigion ar gyfer rheoliadau o dan bwerau'r WTO yn y Bil Amaethyddiaeth, gan gynnwys:
 - y fethodoleg a'r rhesymeg dros benderfynu ar neu newid terfynau'r Blwch Ambr a'r terfynau eu hunain;
 - y math o wybodaeth y dylid ei darparu, a pha mor aml, at bwrrpas categoreiddio cynlluniau ac ar gyfer hysbysu'r defnydd a wneir o flwch erthyglau cymdeithasu'r WTO; a
 - y broses ar gyfer categoreiddio cynlluniau a rôl y memorandwm cyd-ddealltwriaeth (gweler isod).
- Caiff rheoliadau drafft eu cyflwyno i bedwar gweinidog amaeth y DU at ddiben cael eu cytundeb. Yna cyfnewidir llythyrau. Byddai hynny'n rhoi'r cyfile i weinyddiaeth ddatganoledig esbonio'i safbwyt ac i Ysgrifennydd Gwladol Defra esbonio'r rhesymau dros ffurf derfynol y rheoliadau a sut y mae Llywodraeth y DU wedi ceisio dod i gytundeb.
- Dylai'r broses ar gyfer rhannu rheoliadau ac ymgynghori â'r gweinyddiaethau datganoledig ddilyn yr egwyddorion a ddisgrifir yn y Cytundeb Rhynglywodraethol. Yn unol â'r rheini, mae'r gweinyddiaethau wedi ymrwymo i geisio mynd yn eu blaenau trwy gytundeb. Ond os nad yw hynny'n bosibl, delir â'r mater yn unol â'r Memorandwm Cyd-ddealltwriaeth presennol sy'n ymdrin â'r berthynas rhwng Llywodraethau ac ag unrhyw gytundebau sy'n bod rhwng Defra a'r gweinyddiaethau datganoledig i ddatrys anghydfodau. Os ceir anghydfod, ar ôl dilyn pob un o'r trywyddau hyn i unioni'r mater, dylai'r llythyrau a gyfnewidiwyd gael eu rhoi i'r ddau Dŷ cyn cynnal y bleidlais gadarnhaol ar y rheoliadau a wneir o dan ran 7.

Gweithrediad rheoliadau Rhan 7

Mae'r broses a ganlyn wedi'i dylunio i ddelio â phenderfyniadau sy'n ymwneud â chategorïau'r WTO. Mae'n fodel y gall gweinyddiaethau eraill ystyried ei ddefnyddio os oes angen, i ddelio â phenderfyniadau a wnaed o dan reoliadau Rhan 7.

- Mae'r weinyddiaeth sy'n bwriadu cyflwyno neu newid y ffordd y mae'r cyllid yn cefnogi cynhyrchwyr amaethyddol yn cynnig categori WTO sy'n gyson â'r rheoliad a'r broses fanwl a ddisgrifir mewn Memorandwm Cyd-ddealltwriaeth ar ei gwaith. Dylai swyddogion drafod y categorïau a gynigir, a'u cyflwyno i bedwar gweinidog amaeth y DU, i ddechrau trwy lythyr ac os oes angen trwy drafod, gyda'r nod o sicrhau cytundeb. Caiff y categorïau a gynigir eu hadolygu, os oes angen, cyn rhoi'r cynlluniau ar waith. Gan gymryd y ceir cytundeb, bydd yr Ysgrifennydd Gwladol yn hysbysu'r WTO o'r categorïau.

- Os na fydd modd dod i gonsensws trwy'r drefn datrys anghydfodau bresennol, caiff y mater ei roi ger bron "panel o arbenigwyr" i gael eu cyngor annibynnol. Pwrpas y panel yw paratoi barn annibynnol arbenigol ar y mater sy'n cael ei ystyried. Nid oes gofyn i hwn fod yn bwyllogor sefydlog - gellir ei sefydlu os a phan fydd anghydfod yn codi. Y Grŵp Rhyngweinidogol (EFRA) ddylai gytuno ar aelodau'r panel. Os na fydd yn bosib cytuno ar aelodau'r panel, dylai pob parti sy'n rhan o'r anghydfod (yr Ysgrifennydd Gwladol a'r weinyddiaeth ddatganoledig dan sylw) benodi arbenigwr yr un a dylai'r ddu a enwebir gytuno rhygddyd ar drydydd aelod cyn ystyried y pwnc. Ar ôl i'r panel roi ei gyngor annibynnol, dylai'r Ysgrifennydd Gwladol wneud penderfyniad.
- Dylai'r Ysgrifennydd Gwladol roi ystyriaeth i'r cyngor hwn a dylai rannu'r cyngor, y penderfyniad a'r rheswm dros y penderfyniad â'r gweinyddiaethau datganoledig. Bydd y cytundeb ar y trefniadau hyn yn adlewyrchu natur dechnegol benodol rheolau'r WTO ac ni ddylai ragfarnu'r gwaith ehangach ar ddatrys anghydfodau sy'n cael ei wneud fel rhan o'r Adolygiad o'r Berthynas rhwng Llywodraethau a gomisiynwyd gan y Cyd-bwyllogor y Gweinidogion.
- Rhaid rhoi ystyriaeth i osgoi sbarduno aelodau eraill y WTO i herio penderfyniad hysbysu'r DU, felly bydd Llywodraeth y DU a'r gweinyddiaethau datganoledig yn ceisio cytuno ar y cydbwysedd cywir rhwng tryloywder penderfyniad terfynol yr Ysgrifennydd Gwladol a'i atebolrwydd amdano.