

# Pecyn Dogfennau Cyhoeddus

## Cyngor Sir

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Man Cyfarfod  
**Council Chamber - County Hall,  
Llandrindod Wells**

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Dyddiad y Cyfarfod  
**Dydd Mawrth, 7 Mawrth 2017**

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Amser y Cyfarfod  
**10.30 am**

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I gael rhagor o wybodaeth cysylltwch â  
**Stephen Boyd**  
01597 826374  
steve.boyd@powys.gov.uk



Neuadd Y Sir  
Llandrindod  
Powys  
LD1 5LG

02/03/2017

## AGENDA

<b>1.</b>	<b>YMDDIHEURIADAU</b>	<b>CC26- 2017</b>
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Derbyn ymddiheuriadau am absenoldeb.

<b>2.</b>	<b>DATGANIADAU O DDIDDRDEB</b>	<b>CC27- 2017</b>
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Derbyn unrhyw ddatganiadau o ddiddordeb gan Aelodau yn ymwneud ag eitemau i'w hystyried ar yr agenda.

<b>3.</b>	<b>CYHOEDDIADAU'R CADEIRYDD</b>	<b>CC28- 2017</b>
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Derbyn unrhyw gyhoeddiadau gan Gadeirydd y Cyngor.

<b>4.</b>	<b>CYHOEDDIADAU'R ARWEINYDD</b>	<b>CC29- 2017</b>
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Derbyn unrhyw gyhoeddiadau gan yr Arweinydd.

<b>5.</b>	<b>BRIFF Y PRIF WEITHREDWR</b>	<b>CC30- 2017</b>
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Derbyn briff y Prif Weithredwr.

<b>6.</b>	<b>TROSLWYDDIADAU CYFALAF SYDD ANGEN CYMERADWYAETH Y CYNGOR</b>	<b>CC31- 2017</b>
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Ystyried trosglwyddiadau cyfalaf sydd angen cymeradwyaeth y Cyngor.

6.1. **Trosglwyddiad Cyfalaf ar gyfer Canolfan Ddiwylliannol Aberhonddu**  
(Tudalennau 7 - 10)

6.2. **Trosglwyddiad Cyfalaf ar gyfer Cyfeiriad Cyfalafu**  
(Tudalennau 11 - 14)

6.3. **Trosglwyddiad Cyfalaf ar gyfer Goleuadau Stryd**  
(Tudalennau 15 - 18)

6.4. **Trosglwyddiad Cyfalaf ar gyfer Ysgolion Cynradd yn Nhalgylch Gwernyfed**  
(Tudalennau 19 - 22)

6.5. **Trosglwyddiad Cyfalaf ar gyfer Safon Ansawdd Tai Cymru**  
(Tudalennau 23 - 26)

<b>7.</b>	<b>PENDERFYNIAD TRETH Y CYNGOR AR GYFER 2017-2018</b>	<b>CC32- 2017</b>
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Cymeradwyo'r penderfyniad ar Dreth y Cyngor a gosod taliadau Treth y Cyngor ar gyfer 2017/2018.

(Tudalennau 27 - 48)

<b>8.</b>	<b>CYNLLUN GWELLA CORFFORAETHOL</b>	<b>CC33- 2017</b>
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Ystyried y diweddariad 2017 i'r Cynllun Gwella Corfforaethol.

(Tudalennau 49 - 100)

<b>9.</b>	<b>ADOLYGIAD O'R CYFANSODDIAD</b>	<b>CC34- 2017</b>
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Ystyried diwygiadau i'r Cyfansoddiad:

Adran 4      Cyngor  
Adran 5      Cabinet  
Adran 12     Cyllid, Contractau a Materion Cyfreithiol

(Tudalennau 101 - 138)

<b>10.</b>	<b>ARGYMHELLIAD Y PWYLLGOR GWASANAETHAU DEMOCRATAIDD</b>	<b>CC35- 2017</b>
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Ystyried argymhelliad y Pwyllgor Gwasanaethau Democrataidd ar Bwyllgorau (Rhanbarthol) Ardal.

(Tudalennau 139 - 146)

<b>11.</b>	<b>PENODI AELOD LLEYG I'R PWYLLGOR ARCHWILIO</b>	<b>CC36- 2017</b>
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Ystyried adroddiad y Pwyllgor Archwilio ar benodi aelod lleyg i'r Pwyllgor.

(Tudalennau 147 - 150)

<b>12.</b>	<b>ASESIAD POBLOGAETH AR GYFER POWYS</b>	<b>CC37- 2017</b>
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Ystyried yr asesiad poblogaeth ar gyfer Powys.

(Tudalennau 151 - 258)

<b>13.</b>	<b>DATGANIAD POLISI CYFLOGAU 2017-18</b>	<b>CC38- 2017</b>
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Derbyn ac ystyried y Datganiad Polisi Cyflogau ar gyfer 2017/18.

(Tudalennau 259 - 280)

<b>14.</b>	<b>PWL BUDDSODDI CYMRU - CYTUNDEB RHWNG AWDURDODAU A PHWYLLGOR CYD- LYWODRAETHU</b>	<b>CC39- 2017</b>
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Ystyried y trefniadau gweinyddol a llywodraethu i reoli'r trefniadau buddsoddi arfaethedig ar y cyd ar draws yr wyth Cronfa Bensiwn Awdurdodau Lleol Cymru.

(Tudalennau 281 - 368)

<b>15.</b>	<b>DATGANIAD STRATEGAETH RHEOLI'R TRYSORLYS A'R STRATEGAETH BUDDSODDI BLYNYDDOL</b>	<b>CC40- 2017</b>
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Ystyried y Datganiad Strategaeth Rheoli'r Trysorlys a'r Strategaeth Buddsoddi Blynyddol.

(Tudalennau 369 - 402)

<b>16.</b>	<b>CWESTIYNAU YN UNOL A'R CYFANSODDIAD</b>	<b>CC41- 2017</b>
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**16.1. Cwestiwn i'r Aelod Portffolio gyda chyfrifoldeb am Gyfathrebu gan y Cynghorydd Sir William Powell**

A all yr Aelod Cabinet gadarnhau pa mor aml mae Cyngor Sir Powys yn adolygu ei fethodoleg ymgynghori? Ac yn benodol, sut mae'r Awdurdod yn sicrhau ei fod yn defnyddio'r rhwydwaith o Gynghorau Tref a Chymuned yn llawn er mwyn annog y nifer fwyaf o drigolion i gymryd rhan mewn unrhyw ymgynghoriad?

(Tudalennau 403 - 404)

**16.2. Cwestiwn i'r Aelod Portffolio ar gyfer Cyllid gan y Cynghorydd William Powell**

A all yr Aelod Cabinet diweddarau'r Cyngor ar broffil gwariant arian yr Undeb Ewropeaidd/Rhaglen Datblygu Wledig yn y Sir, gan fod yr arian yma erbyn hyn yn gyfyngedig ac yn dod i ben? Pa strategaethau sydd yn eu lle i sicrhau arian arall yn lle'r arian hwn, lle bo hynny'n bosibl - ac i asesu effaith 'Brexit' ar hyfywedd economi ehangach Powys?

(Tudalennau 405 - 692)

**16.3. Cwestiwn i'r Aelod Portffolio gyda chyfrifoldeb am Adnoddau Dynol gan y Cynghorydd Sir Gary Price**

A allwch chi ddarparu nifer yr Uwch Reolwyr, Penaethiaid Gwasanaeth, Cyfarwyddwyr, Cyfarwyddwyr Strategol a Phrif Weithredwr a gyflogwyd fesul Gradd/SCP gan Gyngor Sir Powys ar gyfer pob blwyddyn o dymor y



Cyngor hwn?

(Tudalennau 693 - 694)

16.4. **Cwestiwn i'r Arweinydd gan y Cynghorydd Sir Gary Price**

Rydych wedi ymdrechu i fod yn hyrwyddwr didwylledd ac eglurder yn ystod eich cyfnod fel Arweinydd Cyngor Sir Powys. A allwch chi felly esbonio pam y mae'r enw cod (prosiect Alpha) wedi cael ei ddefnyddio'n ddiweddar?

(Tudalennau 695 - 696)

16.5. **Cwestiwn i'r Aelod Portffolio ar gyfer Eiddo, Adeiladau a Thai gan y Cyngor Sir Matthew Dorrance**

Mae'r Datblygiad o Ganolfan Ddiwylliannol yn newyddion da i Aberhonddu ac mae'n fuddsoddiad sy'n cael ei groesawu'n fawr ond mae fy nghymuned yn bryderus am gynlluniau'r Cyngor ar gyfer adeilad presennol y Llyfrgell.

A all Aelod y Cabinet rhoi gwybod i'r Cyngor beth yw'r cynlluniau ar gyfer y safle ar ôl i'r Llyfrgell symud i'r lleoliad newydd?

(Tudalennau 697 - 698)

16.6. **Cwestiwn i'r Aelod Portffolio ar gyfer Eiddo, Adeiladau a Thai gan y Cynghorydd Sir Matthew Dorrance**

A all yr Aelod Cabinet gwneud datganiad ar Ddigartrefedd ym Mhowys?

(Tudalennau 699 - 702)

**Ni fydd yr eitemau nesaf yn cael eu hystyried cyn 2.00 p.m.**

17.	<b>FFRWD GYMRAEG YSGOL UWCHRADD ABERHONDDU</b>	<b>CC42- 2017</b>
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Ystyried adroddiad yr Aelod Portffolio dros Addysg i'r Cabinet ar 14 Mawrth ynglyn a ffrwd Gymraeg Ysgol Uwchradd Aberhonddu.

(Tudalennau 703 - 1022)

18.	<b>CYFLWYNIAD GAN Y COMISIWN FFINIAU</b>	<b>CC43- 2017</b>
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Derbyn cyflwyniad gan y Comisiynydd Ffiniau.



## CYNGOR SIR POWYS COUNTY COUNCIL.

COUNCIL  
7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Wynne T Jones  
Portfolio Holder for Finance

**SUBJECT:** Capital Virement for Brecon Cultural Hub

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**REPORT FOR:** Decision

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### Summary

This report requests the following capital virement.

The spend profile for the Brecon Cultural Hub has changed because of delays to the project earlier in the year, due to planning conditions etc. This virement seeks to roll forward £2.3m to 2017/18 to continue with the project. The report does not seek to increase the overall budget. Instead the budget will align with the estimated spend. However this is based on work progressing as per the contractors

### Proposal

That £2.3m of the budget is rolled forward to 2017/18.

### Options Considered/Available

No alternative options are considered appropriate as a result of this report.

### Preferred Choice and Reasons

Approve the virement and continue with the project in 2017/18.

### Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc

N/A

### Children and Young People's Impact Statement - Safeguarding and Wellbeing

N/A

### **Local Member(s)**

This report relates to the whole of the County.

### **Other Front Line Services**

N/A

### **Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)**

The Capital and Financial Planning Accountant supports this recommendation to roll forward the budget of £2.3m to 2017/18. This project is within the Capital Programme of the authority.

Legal – The recommendation can be supported from a legal point of view

### **Local Service Board/Partnerships/Stakeholders etc**

N/A

### **Corporate Communications**

This report has no specific communication considerations.

### **Statutory Officers**

The Strategic Director, Resources (Section 151 Officer) notes the comments made by Finance.

The Solicitor to the Council (Monitoring Officer) has commented as follows: “ I note the legal comment and have nothing to add to the report

### **Members’ Interests**

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
<b>The capital virement to create a budget of £1.981m for the Capitalisation Direction for 2017/18 is approved.</b>	<b>To allow the costs of Service Reform and Transformation to be funded from capital receipts instead of revenue.</b>

<b>Relevant Policy (ies):</b>	Financial Regulations
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<b>Within Policy:</b>	Yes	<b>Within Budget:</b>	Yes
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<b>Relevant Local Member(s):</b>	
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<b>Person(s) To Implement Decision:</b>	Dawn Richards
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<b>Date By When Decision To Be Implemented:</b>	
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Contact Officer Name:	Tel:	Fax:	Email:
Jane Thomas	01597 826341	01597 826290	jane.thomas@powyscc.gov.uk

**Background Papers used to prepare Report:**

Cabinet Report

C41-2017 Financial Overview and Forecast as at 31st January 2017

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

## CYNGOR SIR POWYS COUNTY COUNCIL.

COUNCIL  
7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Wynne T Jones  
Portfolio Holder for Finance

**SUBJECT:** Capital Virement for Capitalisation Direction

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**REPORT FOR:** Decision

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### Summary

This report requests the following capital virement.

This virement recommends using the powers given to the authority under the Local Government Act 2003 sections 16(2)(b) and 20 Treatment of Certain Costs as Capital Expenditure to create a Capitalisation Directions to use capital receipts, from the sale of land and building assets, to fund the identified costs of Service Reform and Transformation. The full details of the costs capitalised will be included in a Disclosure Note in the Statement of Accounts and will need to be approved by the Audit Committee, when approving the Statement of Accounts

### Proposal

That a budget of £1.981m is created in 2016/17, financed from in year land and building capital receipts to fund costs of Service Reform and Transformation.

### Options Considered/Available

Do not do the capitalisation direction and continue to fund the expenditure from the revenue budget.

### Preferred Choice and Reasons

Approve the virement and use the capital receipts in 2017/18 to fund the costs of Service Reform and Transformation.

### Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc

N/A

### Children and Young People's Impact Statement - Safeguarding and Wellbeing

N/A

**Local Member(s)**

This report relates to the whole of the County.

**Other Front Line Services**

This report identifies costs from a number of Council Services.

**Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)**

The Capital and Financial Planning Accountant supports this recommendation to create the budget of £1.981m in 2017/18. Of the capital receipts £1m was anticipated to fund the 21<sup>st</sup> Century schools and will require additional prudential borrowing to finance the expenditure. The cost of this additional borrowing is £41.87k per annum for 50 years or £2.094m in total.

Legal – The recommendation can be supported from a legal point of view

**Local Service Board/Partnerships/Stakeholders etc**

N/A

**Corporate Communications**

This report has no specific communication considerations.

**Statutory Officers**

The Strategic Director, Resources (Section 151 Officer)

The Solicitor to the Council (Monitoring Officer) has commented as follows: “ I note the legal comment and have nothing to add to the report

**Members’ Interests**

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.



<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
The capital virement to create a budget of £1.981m for the Capitalisation Direction for 2016/17 is approved.	To allow the costs of Service Reform and Transformation to be funded from capital receipts instead of revenue.

<b>Relevant Policy (ies):</b>	Financial Regulations		
<b>Within Policy:</b>	Yes	<b>Within Budget:</b>	Yes

<b>Relevant Local Member(s):</b>	
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<b>Person(s) To Implement Decision:</b>	Dawn Richards
<b>Date By When Decision To Be Implemented:</b>	

Contact Officer Name:	Tel:	Fax:	Email:
Jane Thomas	01597 826341	01597 826290	jane.thomas@powys.gov.uk

**Background Papers used to prepare Report:**

Cabinet Report

C41-2017 Financial Overview and Forecast as at 31st January 2017

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

## CYNGOR SIR POWYS COUNTY COUNCIL.

COUNCIL  
7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Wynne T Jones  
Portfolio Holder for Finance

**SUBJECT:** Capital Virement for Street Lighting

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**REPORT FOR:** Decision

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### Summary

This report requests the following capital virement.

A works order for £1.072m has been given to the contractor for the supply and installation of the Street Lighting LED lanterns but there has been a delay in the supply and the majority of these lanterns will not now arrive until after March. Approval is requested to roll forward £1m of the budget to 2017/18.

### Proposal

That £1m of the budget is rolled forward to 2017/18.

### Options Considered/Available

No alternative options are considered appropriate as a result of this report.

### Preferred Choice and Reasons

Approve the virement and install the rest of the LED lanterns in the early part of 2017/18.

### Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc

N/A

### Children and Young People's Impact Statement - Safeguarding and Wellbeing

N/A

### **Local Member(s)**

This report relates to Street Lighting for the whole of the County.

### **Other Front Line Services**

This report relates to street lights that will serve all areas across the County.

### **Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)**

The Capital and Financial Planning Accountant supports this recommendation to roll forward the budget of £1m to 2017/18. This project is within the Capital Programme of the authority.

Legal – The recommendation can be supported from a legal point of view

### **Local Service Board/Partnerships/Stakeholders etc**

N/A

### **Corporate Communications**

This report has no specific communication considerations.

### **Statutory Officers**

The Strategic Director, Resources (Section 151 Officer) notes the comments made by Finance.

The Solicitor to the Council (Monitoring Officer) has commented as follows: "I note the legal comment and have nothing to add to the report

### **Members' Interests**

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
The Capital Virement to roll forward £1m of the Street Lighting Efficiency budget into 2017/18 is approved.	Delay in supply of LED lanterns.

<b>Relevant Policy (ies):</b>	Financial Regulations		
<b>Within Policy:</b>	Yes	<b>Within Budget:</b>	Yes

<b>Relevant Local Member(s):</b>	
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<b>Person(s) To Implement Decision:</b>	Dawn Richards
<b>Date By When Decision To Be Implemented:</b>	

Contact Officer Name:	Tel:	Fax:	Email:
Jane Thomas	01597 826341	01597 826290	jane.thomas@powys.gov.uk

**Background Papers used to prepare Report:**

Cabinet Report  
C41-2017 Financial Overview and Forecast as at 31st January 2017

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

## CYNGOR SIR POWYS COUNTY COUNCIL.

COUNCIL  
7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Wynne T Jones  
Portfolio Holder for Finance

**SUBJECT:** Capital Virement for Primary Schools in Gwernyfed  
Catchment

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**REPORT FOR:** Decision

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### Summary

This report requests the following capital virement.

The spend profile for the Primary Schools in the Gwernyfed has changed because of delays due to approval of the business cases during the year. Work has commenced on some of the site. This virement seeks to roll forward £1.564m into the 2017/18 budget. The report does not seek to increase the overall budget. Instead the budget will align with the estimated spend.

### Proposal

That £1.564m of the budget is rolled forward to 2017/18.

### Options Considered/Available

No alternative options are considered appropriate as a result of this report.

### Preferred Choice and Reasons

Approve the virement and continue with the project in 2017/18.

### Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc

N/A

### Children and Young People's Impact Statement - Safeguarding and Wellbeing

N/A

**Local Member(s)**

**Other Front Line Services**

N/A

**Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)**

The Capital and Financial Planning Accountant supports this recommendation to roll forward the budget of £1.564m to 2017/18. This project is within the Capital Programme of the authority. The Welsh Government grant funding is anticipated to be spent in the year.

Legal – The recommendation can be supported from a legal point of view

**Local Service Board/Partnerships/Stakeholders etc**

N/A

**Corporate Communications**

This report has no specific communication considerations.

**Statutory Officers**

The Strategic Director, Resources (Section 151 Officer) notes the comments made by Finance.

The Solicitor to the Council (Monitoring Officer) has commented as follows: “ I note the legal comment and have nothing to add to the report

**Members’ Interests**

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
<b>The Capital Virement to roll forward £1.564m of the Gwernyfed Catchment budget into 2017/18 is approved.</b>	<b>Delay in the project spend.</b>

<b>Relevant Policy (ies):</b>	Financial Regulations		
<b>Within Policy:</b>	Yes	<b>Within Budget:</b>	Yes

<b>Relevant Local Member(s):</b>	
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<b>Person(s) To Implement Decision:</b>	Dawn Richards
<b>Date By When Decision To Be Implemented:</b>	

Contact Officer Name:	Tel:	Fax:	Email:
Jane Thomas	01597 826341	01597 826290	jane.thomas@powys.gov.uk

**Background Papers used to prepare Report:**

Cabinet Report

C41-2017 Financial Overview and Forecast as at 31st January 2017

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

## CYNGOR SIR POWYS COUNTY COUNCIL.

COUNCIL  
7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Wynne T Jones  
Portfolio Holder for Finance

**SUBJECT:** Capital Virement for Welsh Housing Quality Standard

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**REPORT FOR:** Decision

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### Summary

This report requests the following capital virement.

The spend profile for the Welsh Housing Quality Standard has changed because of delays and changes to the numerous project that make up the overall budget. This virement seeks to remove £2.137m from the 2016/17 budget. The report does not seek to increase the overall budget. Instead the budget will align with the estimated spend.

### Proposal

That £2.137m of the budget for 2016/17 is removed.

### Options Considered/Available

No alternative options are considered appropriate as a result of this report.

### Preferred Choice and Reasons

Approve the virement and continue with the project in 2017/18.

### Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc

N/A

### Children and Young People's Impact Statement - Safeguarding and Wellbeing

N/A

### **Local Member(s)**

The project covers the whole County.

### **Other Front Line Services**

N/A

### **Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)**

The Capital and Financial Planning Accountant supports this recommendation to remove the budget of £2.137m from 2016/17. This project is within the Capital Programme of the authority and financed by the Housing Revenue Account.

Legal – The recommendation can be supported from a legal point of view

### **Local Service Board/Partnerships/Stakeholders etc**

N/A

### **Corporate Communications**

This report has no specific communication considerations.

### **Statutory Officers**

The Strategic Director, Resources (Section 151 Officer) notes the comments made by Finance.

The Solicitor to the Council (Monitoring Officer) has commented as follows: “ I note the legal comment and have nothing to add to the report

### **Members’ Interests**

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
<b>The Capital Virement to remove £2.137m from 2016/17 of the Welsh Housing Quality Standard budget is approved.</b>	<b>Delay in the project spend.</b>

<b>Relevant Policy (ies):</b>	Financial Regulations		
<b>Within Policy:</b>	Yes	<b>Within Budget:</b>	Yes

<b>Relevant Local Member(s):</b>	
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<b>Person(s) To Implement Decision:</b>	Dawn Richards
<b>Date By When Decision To Be Implemented:</b>	

Contact Officer Name:	Tel:	Fax:	Email:
Jane Thomas	01597 826341	01597 826290	jane.thomas@powys.gov.uk

**Background Papers used to prepare Report:**

Cabinet Report

C41-2017 Financial Overview and Forecast as at 31st January 2017

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# CC32- 2017

## CYNGOR SIR POWYS COUNTY COUNCIL.

Full Council  
7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Wynne Jones  
Portfolio Holder for Finance

**SUBJECT:** Council Tax Resolution for 2017-2018

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**REPORT FOR:** Decision

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### **1.0 INTRODUCTION**

- 1.1 The purpose of this report is to meet the Council's legal obligation to approve the Council Tax resolution and to set the Council Tax charges for 2017/2018.
- 1.2 The budget was agreed at Council on 23<sup>rd</sup> February 2017, this report contains a 3.9% increase in Council Tax for the financial year 2017-18.
- 1.3 That at a meeting of the Cabinet on the 22nd November 2016, the Council calculated the following amounts for the year 2017/2018 in accordance with Regulations made under Section 33 (5) of the Local Government Finance Act, 1992.
- (a) Being the amount calculated by the Council, in accordance with the Local Authorities (Calculation of Council Tax Base) (Wales) Regulations 1995, as amended, as its Council Tax Base for the year 2017/2018.
- (b) Part of the Council's area community of:

<b>Community</b>	<b>Tax Base 2017-18</b>
Abbeycwmhir	125.33
Aberedw	139.85
Aberhafesp	221.15
Abermule with Llandyssil	738.7
Banwy	319.92
Bausley with Criggion	360.98
Beguildy	372.4
Berriew	757.44
Betws Cedewain	234.63
Brecon	3458.3
Bronllys	427.4
Builth Wells	1065.55
Cadfarch	451.2

Caersws	703.39
Carno	351.74
Carreghofa	308.41
Castle Caereinion	295.42
Churchstoke	841.95
Cilmery	230.16
Clyro	421.05
Cray	133.21
Crickhowell	1082.82
Cwmdu and District	557.83
Disserth & Trecoed	553.95
Duhonw	156.27
Dwyrhiw	276.87
Erwood	257.35
Felinfach	384.36
Forden	775.69
Gladestry	231.68
Glantwymyn	652.22
Glasbury	562.07
Glascwm	266.45
Glyn Tarrell	306.14
Guilsfield	858.18
Gwernyfed	481.94
Hay-on-Wye	845.59
Honddu Isaf	226.42
Kerry	936.53
Knighton	1305.35
Llanafanfawr	240.09
Llanbadarn Fawr	336.69
Llanbadarn Fynydd	142.41
Llanbister	197.64
Llanbrynmair	491.19
Llanddew	121.49
Llanddewi Ystradenny	144.9
Llandinam	447.85
Llandrindod Wells	2341.14
Llandrinio & Arddleen	709.83
Llandysilio	542.04
Llanelwedd	194.59
Llanerfyl	218.68
LLanfair Caereinion	802.65
Llanfechain	277.36
Llanfihangel	274.61
Llanfihangel Rhydithon	119.88
Llanfrynach	334.28
Llanfyllin	705.11
Llangammarch	268.16
Llangattock	565.06
Llangedwyn	200.14



Llangorse	559.31
Llangunllo	207.28
Llangurig	392.32
Llangynidr	592.52
Llangyniew	306.83
Llangynog	198.63
Llanidloes	1177.9
Llanidloes Without	307.22
Llanigon	282.93
Llanrhaeadr Ym Mochnant	595.02
Llansanffraid	712.04
Llansilin	351.15
Llanwddyn	121.99
Llanwrthwl	107.29
Llanwrtyd Wells	396.55
Llanyre	573.57
Llywel	252.09
Machynlleth	881.5
Maescar	468.44
Manafon	179.88
Meifod	693.89
Merthyr Cynog	141.22
Mochdre with Penstrowed	252.09
Montgomery	725.72
Nantmel	343.13
New Radnor	227.89
Newtown & Llanllwchaiarn	4304.47
Old Radnor	397.78
Paincastle	288.68
Pen Y Bont Fawr	256.26
Penybont & Llandegley	206.88
Presteigne & Norton	1293.35
Rhayader	919.28
St Harmon	317.16
Talgarth	732.65
Talybont-on-Usk	391.04
Tawe Uchaf	600.28
Trallong	194.98
Trefeglwys	455.57
Treflys	226.91
Tregynon	381.11
Trewern	657.78
Vale of Grwyney	493.23
Welshpool	2650.78
Whitton	212.93
Yscir	258.92
Ystradfelte	252.28
Ystradgynlais	2871.89

**61,764.29**

being the amounts calculated by the Council in accordance with the Regulations, as the amounts of its Council Tax Base for the year 2017/2018 for dwellings in those parts of its area to which one or More special items relate. **Appendix One** confirms the 2017/18 precept and band D charge for each Town and Community Council.

## 2. THE CALCULATION

2.1. THAT the following amounts be now calculated by the Council for the year 2017/2018 in accordance with Sections 32 to 36 of the Local Government Finance Act, 1992:

- a) £452,868,920 being the aggregate of the amounts which the Council estimates for the items set out in Section 32 (2) (a) to (e) of the Act
- b) £209,919,539 being the aggregate of the amounts which the Council estimates for the items set out in Section 32 (3) (a) to (c) of the Act
- c) £242,949,381 being the amount by which the aggregate at 2.1(a) above exceeds the aggregate at 2.1(b) above, calculated by the Council, in accordance with Section 32 (4) of the Act, as its budget requirement for the year
- d) £169,900,109 being the aggregate of the sums which the Council estimates will be payable for the year into its General Fund in respect of re-distributed Non Domestic Rates, Revenue Support Grant, special grant or additional Grant.
- e) £1,182.71 being the amount at 2.1(c) above less the amount at 2.1(d) above, all divided by the amount at 1.3(a) above, calculated by the Council, in accordance with Section 33 (1) of the Act, as the basic amount of its Council Tax for the year
- f) £3,096,890 being the aggregate amount of all special items referred to in Section 34 (1) of the Act
- g) £1,132.57 being the amount at 2.1(e) above less the result given by dividing the amount at 2.1(f) above by the amount at 1.3(a) above, calculated by the Council, in accordance with Section 34 (2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no special item relates.

# BRECKNOCK

## COMMUNITY

## COUNTY & COMMUNITY COUNCIL TAX BAND D

Brecon	£1,215.52
Bronllys	£1,160.65
Builth Wells	£1,212.62
Cilmery	£1,149.45
Cray	£1,170.10
Crickhowell	£1,175.05
Duhonw	£1,141.21
Erwood	£1,144.23
Felinfach	£1,150.78
Glyn Tarrell	£1,161.97
Gwernyfed	£1,151.60
Hay-on-Wye	£1,180.10
Honddu Isaf	£1,136.77
Llanafan Fawr	£1,145.07
Llanddew	£1,153.15
Cwmdu and District	£1,152.29
Llanfrynach	£1,166.27
Llangammarch	£1,161.66
Llangattock	£1,163.21
Llangorse	£1,154.92
Llangynidr	£1,148.94
Llanigon	£1,150.24
Llanwrthwl	£1,160.53
Llanwrtyd Wells	£1,176.70
Llywel	£1,166.29
Maescar	£1,164.59
Merthyr Cynog	£1,166.21
Talgarth	£1,204.91
Talybont-on-Usk	£1,170.93
Tawe Uchaf	£1,170.89
Trallong	£1,147.96
Treflys	£1,147.99
Vale of Grwyney	£1,147.78
Yscir	£1,147.57
Ystradfellte	£1,170.23
Ystradgynlais	£1,217.71

# MONTGOMERYSHIRE

<u>COMMUNITY</u>	<u>COUNTY &amp; COMMUNITY COUNCIL TAX BAND D</u>
Aberhafesp	£1,149.98
Banwy	£1,154.14
Bausley with Criggion	£1,153.57
Berriew	£1,144.45
Betws Cedewain	£1,161.36
Cadfarch	£1,160.27
Caersws	£1,162.43
Carno	£1,170.22
Carreghofa	£1,177.35
Castle Caereinion	£1,164.65
Churchstoke	£1,156.07
Dwyrhiw	£1,147.74
Forden	£1,168.34
Glantwymyn	£1,151.74
Guilsfield	£1,147.93
Kerry	£1,160.76
Llanbrynmair	£1,159.44
Llandinam	£1,159.68
Llandrinio and Arddleen	£1,155.22
Llandysilio	£1,162.30
Abermule with Llandyssil	£1,171.83
Llanerfyl	£1,153.61
LLanfair Caereinion	£1,182.40
Llanfechain	£1,152.40
Llanfihangel	£1,161.70
Llanfyllin	£1,167.32
Llangedwyn	£1,147.56
Llangurig	£1,143.02
Llangyniew	£1,151.69
Llangynog	£1,164.29
Llanidloes	£1,244.57
Llanidloes Without	£1,160.24
Llanrhaeadr ym Mochnant	£1,147.70
Llansantffraid	£1,156.45
Llansilin	£1,139.69
Llanwddyn	£1,181.75
Machynlleth	£1,271.99
Manafon	£1,165.93
Meifod	£1,144.10
Mochdre with Penstrowed	£1,158.16
Montgomery	£1,169.68
Newtown & Llanllwchaïam	£1,259.25
Pen Y Bont Fawr	£1,171.61
Trefeglwys	£1,146.40
Tregynon	£1,161.43
Trewern	£1,159.71
Welshpool	£1,260.83

## RADNORSHIRE

<u>COMMUNITY</u>	<u>COUNTY &amp; COMMUNITY COUNCIL TAX BAND D</u>
Abbeycwmhir	£1,151.72
Aberedw	£1,139.01
Beguildy	£1,156.57
Clyro	£1,144.45
Disserth & Trecoed	£1,153.24
Gladestry	£1,145.52
Glasbury	£1,155.70
Glascwm	£1,147.89
Knighton	£1,175.82
Llanbadarn Fawr	£1,148.91
Llanbadarn Fynydd	£1,157.57
Llanbister	£1,147.75
Llanddewi Ystradenny	£1,142.23
Llandrindod Wells	£1,194.92
Llanelwedd	£1,145.42
Llanfihangel Rhydithon	£1,158.85
Llangunllo	£1,145.84
Llanyre	£1,152.45
Nantmel	£1,160.74
New Radnor	£1,163.43
Old Radnor	£1,154.92
Painscastle	£1,138.46
Penybont & Llandegley	£1,150.79
Presteigne & Norton	£1,183.57
Rhayader	£1,169.01
St Harmon	£1,152.75
Whitton	£1,142.57

being the amounts given by adding to the amount at 2.1(g) above the amounts of the special item or items relating to dwellings in those parts of the Council's area mentioned above divided in each case by the amount at 1.3(b) above, calculated by the Council, in accordance with Section 34 (3) of the Act, as the basic amounts of its Council Tax for the year for dwellings in those parts of its area to which one or more special items relate

- (i) Part of the Council's area

**BRECKNOCK****COMMUNITY****COUNTY & COMMUNITY  
COUNCIL TAX BANDS**

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>
Brecon	£810.35	£945.40	£1,080.46	£1,215.52	£1,485.64	£1,755.75	£2,025.87	£2,431.04	£2,836.21
Bronllys	£773.77	£902.73	£1,031.69	£1,160.65	£1,418.57	£1,676.49	£1,934.42	£2,321.30	£2,708.18
Builth Wells	£808.41	£943.15	£1,077.88	£1,212.62	£1,482.09	£1,751.56	£2,021.03	£2,425.24	£2,829.45
Cilmery	£766.30	£894.02	£1,021.73	£1,149.45	£1,404.88	£1,660.32	£1,915.75	£2,298.90	£2,682.05
Cray	£780.07	£910.08	£1,040.09	£1,170.10	£1,430.12	£1,690.14	£1,950.17	£2,340.20	£2,730.23
Crickhowell	£783.37	£913.93	£1,044.49	£1,175.05	£1,436.17	£1,697.29	£1,958.42	£2,350.10	£2,741.78
Duhonw	£760.81	£887.61	£1,014.41	£1,141.21	£1,394.81	£1,648.41	£1,902.02	£2,282.42	£2,662.82
Erwood	£762.82	£889.96	£1,017.09	£1,144.23	£1,398.50	£1,652.78	£1,907.05	£2,288.46	£2,669.87
Felinfach	£767.19	£895.05	£1,022.92	£1,150.78	£1,406.51	£1,662.24	£1,917.97	£2,301.56	£2,685.15
Glyn Tarrell	£774.65	£903.75	£1,032.86	£1,161.97	£1,420.19	£1,678.40	£1,936.62	£2,323.94	£2,711.26
Gwernyfed	£767.73	£895.69	£1,023.64	£1,151.60	£1,407.51	£1,663.42	£1,919.33	£2,303.20	£2,687.07
Hay-on-Wye	£786.73	£917.86	£1,048.98	£1,180.10	£1,442.34	£1,704.59	£1,966.83	£2,360.20	£2,753.57
Honddu Isaf	£757.85	£884.15	£1,010.46	£1,136.77	£1,389.39	£1,642.00	£1,894.62	£2,273.54	£2,652.46
Llanafan-fawr	£763.38	£890.61	£1,017.84	£1,145.07	£1,399.53	£1,653.99	£1,908.45	£2,290.14	£2,671.83
Llandaw	£768.77	£896.89	£1,025.02	£1,153.15	£1,409.41	£1,665.66	£1,921.92	£2,306.30	£2,690.68
Cwmdu and District	£768.19	£896.23	£1,024.26	£1,152.29	£1,408.35	£1,664.42	£1,920.48	£2,304.58	£2,688.68
Llanfrynach	£777.51	£907.10	£1,036.68	£1,166.27	£1,425.44	£1,684.61	£1,943.78	£2,332.54	£2,721.30
Llangammarch	£774.44	£903.51	£1,032.59	£1,161.66	£1,419.81	£1,677.95	£1,936.10	£2,323.32	£2,710.54
Llangatcock	£775.47	£904.72	£1,033.96	£1,163.21	£1,421.70	£1,680.19	£1,938.68	£2,326.42	£2,714.16
Llangorse	£769.95	£898.27	£1,026.60	£1,154.92	£1,411.57	£1,668.22	£1,924.87	£2,309.84	£2,694.81
Llangynidr	£765.96	£893.62	£1,021.28	£1,148.94	£1,404.26	£1,659.58	£1,914.90	£2,297.88	£2,680.86
Llanigon	£766.83	£894.63	£1,022.44	£1,150.24	£1,405.85	£1,661.46	£1,917.07	£2,300.48	£2,683.89
Llanwrthwl	£773.69	£902.63	£1,031.58	£1,160.53	£1,418.43	£1,676.32	£1,934.22	£2,321.06	£2,707.90
Llanwrtyd Wells	£784.47	£915.21	£1,045.96	£1,176.70	£1,438.19	£1,699.68	£1,961.17	£2,353.40	£2,745.63
Llywel	£777.53	£907.11	£1,036.70	£1,166.29	£1,425.47	£1,684.64	£1,943.82	£2,332.58	£2,721.34
Maescar	£776.39	£905.79	£1,035.19	£1,164.59	£1,423.39	£1,682.19	£1,940.98	£2,329.18	£2,717.38
Merthyr Cynog	£777.47	£907.05	£1,036.63	£1,166.21	£1,425.37	£1,684.53	£1,943.68	£2,332.42	£2,721.16
Talgarth	£803.27	£937.15	£1,071.03	£1,204.91	£1,472.67	£1,740.43	£2,008.18	£2,409.82	£2,811.46
Talybont-on-Usk	£780.62	£910.72	£1,040.83	£1,170.93	£1,431.14	£1,691.34	£1,951.55	£2,341.86	£2,732.17
Tawe Uchaf	£780.59	£910.69	£1,040.79	£1,170.89	£1,431.09	£1,691.29	£1,951.48	£2,341.78	£2,732.08
Trallong	£765.31	£892.86	£1,020.41	£1,147.96	£1,403.06	£1,658.16	£1,913.27	£2,295.92	£2,678.57
Treflys	£765.33	£892.88	£1,020.44	£1,147.99	£1,403.10	£1,658.21	£1,913.32	£2,295.98	£2,678.64
Vale of Grwyney	£765.19	£892.72	£1,020.25	£1,147.78	£1,402.84	£1,657.90	£1,912.97	£2,295.56	£2,678.15
Yscir	£765.05	£892.55	£1,020.06	£1,147.57	£1,402.59	£1,657.60	£1,912.62	£2,295.14	£2,677.66
Ystradfellte	£780.15	£910.18	£1,040.20	£1,170.23	£1,430.28	£1,690.33	£1,950.38	£2,340.46	£2,730.54
Ystradgynlais	£811.81	£947.11	£1,082.41	£1,217.71	£1,488.31	£1,758.91	£2,029.52	£2,435.42	£2,841.32

# MONTGOMERYSHIRE

## COMMUNITY

## COUNTY & COMMUNITY

### COUNCIL TAX BANDS

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>	<u>I</u>
Aberhafesp	£766.65	£894.43	£1,022.20	£1,149.98	£1,405.53	£1,661.08	£1,916.63	£2,299.96	£2,683.29
Banwy	£769.43	£897.66	£1,025.90	£1,154.14	£1,410.62	£1,667.09	£1,923.57	£2,308.28	£2,692.99
Bausley with Criggion	£769.05	£897.22	£1,025.40	£1,153.57	£1,409.92	£1,666.27	£1,922.62	£2,307.14	£2,691.66
Berriew	£762.97	£890.13	£1,017.29	£1,144.45	£1,398.77	£1,653.09	£1,907.42	£2,288.90	£2,670.38
Betws Cedewain	£774.24	£903.28	£1,032.32	£1,161.36	£1,419.44	£1,677.52	£1,935.60	£2,322.72	£2,709.84
Cadfarch	£773.51	£902.43	£1,031.35	£1,160.27	£1,418.11	£1,675.95	£1,933.78	£2,320.54	£2,707.30
Caersws	£774.95	£904.11	£1,033.27	£1,162.43	£1,420.75	£1,679.07	£1,937.38	£2,324.86	£2,712.34
Carno	£780.15	£910.17	£1,040.20	£1,170.22	£1,430.27	£1,690.32	£1,950.37	£2,340.44	£2,730.51
Carreghofa	£784.90	£915.72	£1,046.53	£1,177.35	£1,438.98	£1,700.62	£1,962.25	£2,354.70	£2,747.15
Castle Caereinion	£776.43	£905.84	£1,035.24	£1,164.65	£1,423.46	£1,682.27	£1,941.08	£2,329.30	£2,717.52
Churchstoke	£770.71	£899.17	£1,027.62	£1,156.07	£1,412.97	£1,669.88	£1,926.78	£2,312.14	£2,697.50
Dwyrhiw	£765.16	£892.69	£1,020.21	£1,147.74	£1,402.79	£1,657.85	£1,912.90	£2,295.48	£2,678.06
Fordeu	£778.89	£908.71	£1,038.52	£1,168.34	£1,427.97	£1,687.60	£1,947.23	£2,336.68	£2,726.13
Glantwymyn	£767.83	£895.80	£1,023.77	£1,151.74	£1,407.68	£1,663.62	£1,919.57	£2,303.48	£2,687.39
Guilfield	£765.29	£892.83	£1,020.38	£1,147.93	£1,403.03	£1,658.12	£1,913.22	£2,295.86	£2,678.50
Kern	£773.84	£902.81	£1,031.79	£1,160.76	£1,418.71	£1,676.65	£1,934.60	£2,321.52	£2,708.44
Llanbryn-mair	£772.96	£901.79	£1,030.61	£1,159.44	£1,417.09	£1,674.75	£1,932.40	£2,318.88	£2,705.36
Llandinam	£773.12	£901.97	£1,030.83	£1,159.68	£1,417.39	£1,675.09	£1,932.80	£2,319.36	£2,705.92
Llandrinio and Arddleen	£770.15	£898.50	£1,026.86	£1,155.22	£1,411.94	£1,668.65	£1,925.37	£2,310.44	£2,695.51
Llandysilio	£774.87	£904.01	£1,033.16	£1,162.30	£1,420.59	£1,678.88	£1,937.17	£2,324.60	£2,712.03
Abermule with Llandyssil	£781.22	£911.42	£1,041.63	£1,171.83	£1,432.24	£1,692.64	£1,953.05	£2,343.66	£2,734.27
Llanerfyl	£769.07	£897.25	£1,025.43	£1,153.61	£1,409.97	£1,666.33	£1,922.68	£2,307.22	£2,691.76
LLanfair Caereinion	£788.27	£919.64	£1,051.02	£1,182.40	£1,445.16	£1,707.91	£1,970.67	£2,364.80	£2,758.93
Llanfechain	£768.27	£896.31	£1,024.36	£1,152.40	£1,408.49	£1,664.58	£1,920.67	£2,304.80	£2,688.93
Llanfihangel	£774.47	£903.54	£1,032.62	£1,161.70	£1,419.86	£1,678.01	£1,936.17	£2,323.40	£2,710.63
Llanfyllin	£778.21	£907.92	£1,037.62	£1,167.32	£1,426.72	£1,686.13	£1,945.53	£2,334.64	£2,723.75
Llangedwyn	£765.04	£892.55	£1,020.05	£1,147.56	£1,402.57	£1,657.59	£1,912.60	£2,295.12	£2,677.64
Llangurig	£762.01	£889.02	£1,016.02	£1,143.02	£1,397.02	£1,651.03	£1,905.03	£2,286.04	£2,667.05
Llangyniew	£767.79	£895.76	£1,023.72	£1,151.69	£1,407.62	£1,663.55	£1,919.48	£2,303.38	£2,687.28
Llangynog	£776.19	£905.56	£1,034.92	£1,164.29	£1,423.02	£1,681.75	£1,940.48	£2,328.58	£2,716.68
Llanidloes	£829.71	£968.00	£1,106.28	£1,244.57	£1,521.14	£1,797.71	£2,074.28	£2,489.14	£2,904.00
Llanidloes Without	£773.49	£902.41	£1,031.32	£1,160.24	£1,418.07	£1,675.90	£1,933.73	£2,320.48	£2,707.23
Llanrhaeadr ym Mochnant	£765.13	£892.66	£1,020.18	£1,147.70	£1,402.74	£1,657.79	£1,912.83	£2,295.40	£2,677.97
Llansantffraid	£770.97	£899.46	£1,027.96	£1,156.45	£1,413.44	£1,670.43	£1,927.42	£2,312.90	£2,698.38

COMMUNITYCOUNTY & COMMUNITYCOUNCIL TAX BANDS

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>
Llansilin	£759.79	£886.43	£1,013.06	£1,139.69	£1,392.95	£1,646.22	£1,899.48	£2,279.38	£2,659.28
Llanwddyn	£787.83	£919.14	£1,050.44	£1,181.75	£1,444.36	£1,706.97	£1,969.58	£2,363.50	£2,757.42
Machynlleth	£847.99	£989.33	£1,130.66	£1,271.99	£1,554.65	£1,837.32	£2,119.98	£2,543.98	£2,967.98
Manafon	£777.29	£906.83	£1,036.38	£1,165.93	£1,425.03	£1,684.12	£1,943.22	£2,331.86	£2,720.50
Meifod	£762.73	£889.86	£1,016.98	£1,144.10	£1,398.34	£1,652.59	£1,906.83	£2,288.20	£2,669.57
Mochdre with Penstrowed	£772.11	£900.79	£1,029.48	£1,158.16	£1,415.53	£1,672.90	£1,930.27	£2,316.32	£2,702.37
Montgomery	£779.79	£909.75	£1,039.72	£1,169.68	£1,429.61	£1,689.54	£1,949.47	£2,339.36	£2,729.25
Newtown & Llanllwchaïam	£839.50	£979.42	£1,119.33	£1,259.25	£1,539.08	£1,818.92	£2,098.75	£2,518.50	£2,938.25
Pen Y Bont Fawr	£781.07	£911.25	£1,041.43	£1,171.61	£1,431.97	£1,692.33	£1,952.68	£2,343.22	£2,733.76
Trefglwys	£764.27	£891.64	£1,019.02	£1,146.40	£1,401.16	£1,655.91	£1,910.67	£2,292.80	£2,674.93
Tregynon	£774.29	£903.33	£1,032.38	£1,161.43	£1,419.53	£1,677.62	£1,935.72	£2,322.86	£2,710.00
Trewern	£773.14	£902.00	£1,030.85	£1,159.71	£1,417.42	£1,675.14	£1,932.85	£2,319.42	£2,705.99
Welshpool	£840.55	£980.65	£1,120.74	£1,260.83	£1,541.01	£1,821.20	£2,101.38	£2,521.66	£2,941.94



# RADNORSHIRE

## COMMUNITY

## COUNTY & COMMUNITY

### COUNCIL TAX BANDS

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>
Abbeycwmhir	£767.81	£895.78	£1,023.75	£1,151.72	£1,407.66	£1,663.60	£1,919.53	£2,303.44	£2,687.35
Aberedw	£759.34	£885.90	£1,012.45	£1,139.01	£1,392.12	£1,645.24	£1,898.35	£2,278.02	£2,657.69
Beguildy	£771.05	£899.55	£1,028.06	£1,156.57	£1,413.59	£1,670.60	£1,927.62	£2,313.14	£2,698.66
Clyro	£762.97	£890.13	£1,017.29	£1,144.45	£1,398.77	£1,653.09	£1,907.42	£2,288.90	£2,670.38
Disserth & Trecoed	£768.83	£896.96	£1,025.10	£1,153.24	£1,409.52	£1,665.79	£1,922.07	£2,306.48	£2,690.89
Gladestry	£763.68	£890.96	£1,018.24	£1,145.52	£1,400.08	£1,654.64	£1,909.20	£2,291.04	£2,672.88
Glasbury	£770.47	£898.88	£1,027.29	£1,155.70	£1,412.52	£1,669.34	£1,926.17	£2,311.40	£2,696.63
Glascwm	£765.26	£892.80	£1,020.35	£1,147.89	£1,402.98	£1,658.06	£1,913.15	£2,295.78	£2,678.41
Knighton	£783.88	£914.53	£1,045.17	£1,175.82	£1,437.11	£1,698.41	£1,959.70	£2,351.64	£2,743.58
Llanbadarn Fawr	£765.94	£893.60	£1,021.25	£1,148.91	£1,404.22	£1,659.54	£1,914.85	£2,297.82	£2,680.79
Llanbadarn Fynydd	£771.71	£900.33	£1,028.95	£1,157.57	£1,414.81	£1,672.05	£1,929.28	£2,315.14	£2,701.00
Llanbister	£765.17	£892.69	£1,020.22	£1,147.75	£1,402.81	£1,657.86	£1,912.92	£2,295.50	£2,678.08
Llanddewi Ystradenny	£761.49	£888.40	£1,015.32	£1,142.23	£1,396.06	£1,649.89	£1,903.72	£2,284.46	£2,665.20
Llanddod Wells	£796.61	£929.38	£1,062.15	£1,194.92	£1,460.46	£1,726.00	£1,991.53	£2,389.84	£2,788.15
Llandudw	£763.61	£890.88	£1,018.15	£1,145.42	£1,399.96	£1,654.50	£1,909.03	£2,290.84	£2,672.65
Llanidloes	£772.57	£901.33	£1,030.09	£1,158.85	£1,416.37	£1,673.89	£1,931.42	£2,317.70	£2,703.98
Llanidloes Rhydithon	£772.57	£901.33	£1,030.09	£1,158.85	£1,416.37	£1,673.89	£1,931.42	£2,317.70	£2,703.98
Llangunllo	£763.89	£891.21	£1,018.52	£1,145.84	£1,400.47	£1,655.10	£1,909.73	£2,291.68	£2,673.63
Llanyre	£768.30	£896.35	£1,024.40	£1,152.45	£1,408.55	£1,664.65	£1,920.75	£2,304.90	£2,689.05
Nantmel	£773.83	£902.80	£1,031.77	£1,160.74	£1,418.68	£1,676.62	£1,934.57	£2,321.48	£2,708.39
New Radnor	£775.62	£904.89	£1,034.16	£1,163.43	£1,421.97	£1,680.51	£1,939.05	£2,326.86	£2,714.67
Old Radnor	£769.95	£898.27	£1,026.60	£1,154.92	£1,411.57	£1,668.22	£1,924.87	£2,309.84	£2,694.81
Painscastle	£758.97	£885.47	£1,011.96	£1,138.46	£1,391.45	£1,644.44	£1,897.43	£2,276.92	£2,656.41
Penybont & Llandegley	£767.19	£895.06	£1,022.92	£1,150.79	£1,406.52	£1,662.25	£1,917.98	£2,301.58	£2,685.18
Presteigne & Norton	£789.05	£920.55	£1,052.06	£1,183.57	£1,446.59	£1,709.60	£1,972.62	£2,367.14	£2,761.66
Rhayader	£779.34	£909.23	£1,039.12	£1,169.01	£1,428.79	£1,688.57	£1,948.35	£2,338.02	£2,727.69
St Harmon	£768.50	£896.58	£1,024.67	£1,152.75	£1,408.92	£1,665.08	£1,921.25	£2,305.50	£2,689.75
Whitton	£761.71	£888.67	£1,015.62	£1,142.57	£1,396.47	£1,650.38	£1,904.28	£2,285.14	£2,666.00

being the amounts given by multiplying the amounts at 3(h) above by the number which, in the proportion set out in Section 5 (1) of the Act, is applicable to dwellings listed in a particular Valuation Band divided by the number which in that proportion is applicable to dwellings listed in Valuation Band D, calculated by the Council, in accordance with Section 36 (1) of the Act, as the amounts to be taken into account for the year in respect of categories of dwellings listed in different Valuation Bands.

- 2.2. THAT it be noted for the year 2017/2018 the Police and Crime Commissioner for Dyfed-Powys Police has stated the following amounts in precepts issued to the Council, in accordance with Section 40 of the Local Government Finance Act, 1992, for each of the categories of dwellings shown below:

***Valuation Bands***

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>
£ 142.58	£ 166.34	£ 190.11	£ 213.87	£ 261.40	£ 308.92	£ 356.45	£ 427.74	£ 499.03

- 2.3. THAT, having calculated the aggregate in each case of the amounts at 2.1(i) and 2.2 above, the Council in accordance with Section 30 (2) of the Local Government Finance Act, 1992, hereby sets the following amounts as the amounts of Council Tax for the year 2017/2018 for each of the categories of dwellings shown below.

## BRECKNOCKSHIRE/SIR FRYCHEINIOG

<u>COMMUNITY/CYMUNED</u>	<u>COUNCIL</u>	<u>TAX</u>	<u>BANDS</u>						
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>	<u>I</u>
Brecon	£952.93	£1,111.75	£1,270.57	£1,429.39	£1,747.03	£2,064.67	£2,382.32	£2,858.78	£3,335.24
Bronllys	£916.35	£1,069.07	£1,221.80	£1,374.52	£1,679.97	£1,985.42	£2,290.87	£2,749.04	£3,207.21
Builth Wells	£950.99	£1,109.49	£1,267.99	£1,426.49	£1,743.49	£2,060.49	£2,377.48	£2,852.98	£3,328.48
Cilmery	£908.88	£1,060.36	£1,211.84	£1,363.32	£1,666.28	£1,969.24	£2,272.20	£2,726.64	£3,181.08
Cray	£922.65	£1,076.42	£1,230.20	£1,383.97	£1,691.52	£1,999.07	£2,306.62	£2,767.94	£3,229.26
Crickhowell	£925.95	£1,080.27	£1,234.60	£1,388.92	£1,697.57	£2,006.22	£2,314.87	£2,777.84	£3,240.81
Duhonw	£903.39	£1,053.95	£1,204.52	£1,355.08	£1,656.21	£1,957.34	£2,258.47	£2,710.16	£3,161.85
Erwood	£905.40	£1,056.30	£1,207.20	£1,358.10	£1,659.90	£1,961.70	£2,263.50	£2,716.20	£3,168.90
Felinfach	£909.77	£1,061.39	£1,213.02	£1,364.65	£1,667.91	£1,971.16	£2,274.42	£2,729.30	£3,184.18
Glyn Tarrell	£917.23	£1,070.10	£1,222.97	£1,375.84	£1,681.58	£1,987.32	£2,293.07	£2,751.68	£3,210.29
Gwernyfed	£910.31	£1,062.03	£1,213.75	£1,365.47	£1,668.91	£1,972.35	£2,275.78	£2,730.94	£3,186.10
Hay-on-Wye	£929.31	£1,084.20	£1,239.08	£1,393.97	£1,703.74	£2,013.51	£2,323.28	£2,787.94	£3,252.60
Hondol Isaf	£900.43	£1,050.50	£1,200.57	£1,350.64	£1,650.78	£1,950.92	£2,251.07	£2,701.28	£3,151.49
Llanfawr	£905.96	£1,056.95	£1,207.95	£1,358.94	£1,660.93	£1,962.91	£2,264.90	£2,717.88	£3,170.86
Llanfawr	£911.35	£1,063.24	£1,215.13	£1,367.02	£1,670.80	£1,974.58	£2,278.37	£2,734.04	£3,189.71
Cwmdu and District	£910.77	£1,062.57	£1,214.36	£1,366.16	£1,669.75	£1,973.34	£2,276.93	£2,732.32	£3,187.71
Llanfrynach	£920.09	£1,073.44	£1,226.79	£1,380.14	£1,686.84	£1,993.54	£2,300.23	£2,760.28	£3,220.33
Llanfrynach	£917.02	£1,069.86	£1,222.69	£1,375.53	£1,681.20	£1,986.88	£2,292.55	£2,751.06	£3,209.57
Llanfrynach	£918.05	£1,071.06	£1,224.07	£1,377.08	£1,683.10	£1,989.12	£2,295.13	£2,754.16	£3,213.19
Llangorse	£912.53	£1,064.61	£1,216.70	£1,368.79	£1,672.97	£1,977.14	£2,281.32	£2,737.58	£3,193.84
Llangynidr	£908.54	£1,059.96	£1,211.39	£1,362.81	£1,665.66	£1,968.50	£2,271.35	£2,725.62	£3,179.89
Llanigon	£909.41	£1,060.97	£1,212.54	£1,364.11	£1,667.25	£1,970.38	£2,273.52	£2,728.22	£3,182.92
Llanwrthwl	£916.27	£1,068.98	£1,221.69	£1,374.40	£1,679.82	£1,985.24	£2,290.67	£2,748.80	£3,206.93
Llanwrtyd Wells	£927.05	£1,081.55	£1,236.06	£1,390.57	£1,699.59	£2,008.60	£2,317.62	£2,781.14	£3,244.66
Llywel	£920.11	£1,073.46	£1,226.81	£1,380.16	£1,686.86	£1,993.56	£2,300.27	£2,760.32	£3,220.37
Maescar	£918.97	£1,072.14	£1,225.30	£1,378.46	£1,684.78	£1,991.11	£2,297.43	£2,756.92	£3,216.41
Merthyr Cynog	£920.05	£1,073.40	£1,226.74	£1,380.08	£1,686.76	£1,993.45	£2,300.13	£2,760.16	£3,220.19
Talgarth	£945.85	£1,103.50	£1,261.14	£1,418.78	£1,734.06	£2,049.35	£2,364.63	£2,837.56	£3,310.49
Talybont-on-Usk	£923.20	£1,077.07	£1,230.93	£1,384.80	£1,692.53	£2,000.27	£2,308.00	£2,769.60	£3,231.20
Tawe Uchaf	£923.17	£1,077.04	£1,230.90	£1,384.76	£1,692.48	£2,000.21	£2,307.93	£2,769.52	£3,231.11
Trallong	£907.89	£1,059.20	£1,210.52	£1,361.83	£1,664.46	£1,967.09	£2,269.72	£2,723.66	£3,177.60
Treflys	£907.91	£1,059.22	£1,210.54	£1,361.86	£1,664.50	£1,967.13	£2,269.77	£2,723.72	£3,177.67
Vale of Grwyney	£907.77	£1,059.06	£1,210.36	£1,361.65	£1,664.24	£1,966.83	£2,269.42	£2,723.30	£3,177.18
Yscir	£907.63	£1,058.90	£1,210.17	£1,361.44	£1,663.98	£1,966.52	£2,269.07	£2,722.88	£3,176.69
Ystradfellte	£922.73	£1,076.52	£1,230.31	£1,384.10	£1,691.68	£1,999.26	£2,306.83	£2,768.20	£3,229.57
Ystradgynlais	£954.39	£1,113.45	£1,272.52	£1,431.58	£1,749.71	£2,067.84	£2,385.97	£2,863.16	£3,340.35

# MONTGOMERYSHIRE/SIR DREFALDWYN

## COMMUNITY/CYMUNED

## COUNCIL TAX BANDS/TRETH CYNGOR BAND

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>	<u>I</u>
Aberhafesp	£909.23	£1,060.77	£1,212.31	£1,363.85	£1,666.93	£1,970.01	£2,273.08	£2,727.70	£3,182.32
Banwy	£912.01	£1,064.01	£1,216.01	£1,368.01	£1,672.01	£1,976.01	£2,280.02	£2,736.02	£3,192.02
Bausley with Criggion	£911.63	£1,063.56	£1,215.50	£1,367.44	£1,671.32	£1,975.19	£2,279.07	£2,734.88	£3,190.69
Berriew	£905.55	£1,056.47	£1,207.40	£1,358.32	£1,660.17	£1,962.02	£2,263.87	£2,716.64	£3,169.41
Betws Cedewain	£916.82	£1,069.62	£1,222.43	£1,375.23	£1,680.84	£1,986.44	£2,292.05	£2,750.46	£3,208.87
Cadfarch	£916.09	£1,068.78	£1,221.46	£1,374.14	£1,679.50	£1,984.87	£2,290.23	£2,748.28	£3,206.33
Caerswys	£917.53	£1,070.46	£1,223.38	£1,376.30	£1,682.14	£1,987.99	£2,293.83	£2,752.60	£3,211.37
Carne	£922.73	£1,076.51	£1,230.30	£1,384.09	£1,691.67	£1,999.24	£2,306.82	£2,768.18	£3,229.54
Carregofa	£927.48	£1,082.06	£1,236.64	£1,391.22	£1,700.38	£2,009.54	£2,318.70	£2,782.44	£3,246.18
Castell Caereinion	£919.01	£1,072.18	£1,225.35	£1,378.52	£1,684.86	£1,991.20	£2,297.53	£2,757.04	£3,216.55
Churchstoke	£913.29	£1,065.51	£1,217.72	£1,369.94	£1,674.37	£1,978.80	£2,283.23	£2,739.88	£3,196.53
Dwyrhiw	£907.74	£1,059.03	£1,210.32	£1,361.61	£1,664.19	£1,966.77	£2,269.35	£2,723.22	£3,177.09
Forden	£921.47	£1,075.05	£1,228.63	£1,382.21	£1,689.37	£1,996.53	£2,303.68	£2,764.42	£3,225.16
Glantwymyn	£910.41	£1,062.14	£1,213.88	£1,365.61	£1,669.08	£1,972.55	£2,276.02	£2,731.22	£3,186.42
Guilsfield	£907.87	£1,059.18	£1,210.49	£1,361.80	£1,664.42	£1,967.04	£2,269.67	£2,723.60	£3,177.53
Kerry	£916.42	£1,069.16	£1,221.89	£1,374.63	£1,680.10	£1,985.58	£2,291.05	£2,749.26	£3,207.47
Llanbrynmair	£915.54	£1,068.13	£1,220.72	£1,373.31	£1,678.49	£1,983.67	£2,288.85	£2,746.62	£3,204.39
Llandinam	£915.70	£1,068.32	£1,220.93	£1,373.55	£1,678.78	£1,984.02	£2,289.25	£2,747.10	£3,204.95
Llandrinio and Arddleen	£912.73	£1,064.85	£1,216.97	£1,369.09	£1,673.33	£1,977.57	£2,281.82	£2,738.18	£3,194.54
Llandysilio	£917.45	£1,070.35	£1,223.26	£1,376.17	£1,681.99	£1,987.80	£2,293.62	£2,752.34	£3,211.06
Abermule with Llandyssil	£923.80	£1,077.77	£1,231.73	£1,385.70	£1,693.63	£2,001.57	£2,309.50	£2,771.40	£3,233.30
Llanerfyl	£911.65	£1,063.60	£1,215.54	£1,367.48	£1,671.36	£1,975.25	£2,279.13	£2,734.96	£3,190.79
LLanfair Caereinion	£930.85	£1,085.99	£1,241.13	£1,396.27	£1,706.55	£2,016.83	£2,327.12	£2,792.54	£3,257.96
Llanfechain	£910.85	£1,062.65	£1,214.46	£1,366.27	£1,669.89	£1,973.50	£2,277.12	£2,732.54	£3,187.96
Llanfihangel	£917.05	£1,069.89	£1,222.73	£1,375.57	£1,681.25	£1,986.93	£2,292.62	£2,751.14	£3,209.66
Llanfyllin	£920.79	£1,074.26	£1,227.72	£1,381.19	£1,688.12	£1,995.05	£2,301.98	£2,762.38	£3,222.78
Llangedwyn	£907.62	£1,058.89	£1,210.16	£1,361.43	£1,663.97	£1,966.51	£2,269.05	£2,722.86	£3,176.67
Llangurig	£904.59	£1,055.36	£1,206.12	£1,356.89	£1,658.42	£1,959.95	£2,261.48	£2,713.78	£3,166.08
Llangyniew	£910.37	£1,062.10	£1,213.83	£1,365.56	£1,669.02	£1,972.48	£2,275.93	£2,731.12	£3,186.31
Llangynog	£918.77	£1,071.90	£1,225.03	£1,378.16	£1,684.42	£1,990.68	£2,296.93	£2,756.32	£3,215.71
Llanidloes	£972.29	£1,134.34	£1,296.39	£1,458.44	£1,782.54	£2,106.64	£2,430.73	£2,916.88	£3,403.03
Llanidloes Without	£916.07	£1,068.75	£1,221.43	£1,374.11	£1,679.47	£1,984.83	£2,290.18	£2,748.22	£3,206.26

**COMMUNITY/CYMUNED****COUNCIL TAX BANDS/TRETH CYNGOR BAND**

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>
Llanrhaeadr ym Mochnant	£907.71	£1,059.00	£1,210.28	£1,361.57	£1,664.14	£1,966.71	£2,269.28	£2,723.14	£3,177.00
Llansantffraid	£913.55	£1,065.80	£1,218.06	£1,370.32	£1,674.84	£1,979.35	£2,283.87	£2,740.64	£3,197.41
Llansilin	£902.37	£1,052.77	£1,203.16	£1,353.56	£1,654.35	£1,955.14	£2,255.93	£2,707.12	£3,158.31
Llanwddyn	£930.41	£1,085.48	£1,240.55	£1,395.62	£1,705.76	£2,015.90	£2,326.03	£2,791.24	£3,256.45
Machynlleth	£990.57	£1,155.67	£1,320.76	£1,485.86	£1,816.05	£2,146.24	£2,476.43	£2,971.72	£3,467.01
Manafon	£919.87	£1,073.18	£1,226.49	£1,379.80	£1,686.42	£1,993.04	£2,299.67	£2,759.60	£3,219.53
Meifod	£905.31	£1,056.20	£1,207.08	£1,357.97	£1,659.74	£1,961.51	£2,263.28	£2,715.94	£3,168.60
Mochdre with Penstrowed	£914.69	£1,067.13	£1,219.58	£1,372.03	£1,676.93	£1,981.82	£2,286.72	£2,744.06	£3,201.40
Montgomery	£922.37	£1,076.09	£1,229.82	£1,383.55	£1,691.01	£1,998.46	£2,305.92	£2,767.10	£3,228.28
Newtown & Llanllwchaiarn	£982.08	£1,145.76	£1,309.44	£1,473.12	£1,800.48	£2,127.84	£2,455.20	£2,946.24	£3,437.28
Pen Y Bont Fawr	£923.65	£1,077.60	£1,231.54	£1,385.48	£1,693.36	£2,001.25	£2,309.13	£2,770.96	£3,232.79
Trefeglwys	£906.85	£1,057.99	£1,209.13	£1,360.27	£1,662.55	£1,964.83	£2,267.12	£2,720.54	£3,173.96
Tregynon	£916.87	£1,069.68	£1,222.49	£1,375.30	£1,680.92	£1,986.54	£2,292.17	£2,750.60	£3,209.03
Trewern	£915.72	£1,068.34	£1,220.96	£1,373.58	£1,678.82	£1,984.06	£2,289.30	£2,747.16	£3,205.02
Welshpool	£983.13	£1,146.99	£1,310.84	£1,474.70	£1,802.41	£2,130.12	£2,457.83	£2,949.40	£3,440.97

# RADNORSHIRE/SIR FAESYFED

## COMMUNITY/CYMUNED

## COUNCIL TAX BANDS/TRETH CYNGOR BAND

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I</b>
Abbeycwmhir	£910.39	£1,062.13	£1,213.86	£1,365.59	£1,669.05	£1,972.52	£2,275.98	£2,731.18	£3,186.38
Aberedw	£901.92	£1,052.24	£1,202.56	£1,352.88	£1,653.52	£1,954.16	£2,254.80	£2,705.76	£3,156.72
Beguildy	£913.63	£1,065.90	£1,218.17	£1,370.44	£1,674.98	£1,979.52	£2,284.07	£2,740.88	£3,197.69
Clyro	£905.55	£1,056.47	£1,207.40	£1,358.32	£1,660.17	£1,962.02	£2,263.87	£2,716.64	£3,169.41
Disserseth & Trecoed	£911.41	£1,063.31	£1,215.21	£1,367.11	£1,670.91	£1,974.71	£2,278.52	£2,734.22	£3,189.92
Gladestry	£906.26	£1,057.30	£1,208.35	£1,359.39	£1,661.48	£1,963.56	£2,265.65	£2,718.78	£3,171.91
Glasbury	£913.05	£1,065.22	£1,217.40	£1,369.57	£1,673.92	£1,978.27	£2,282.62	£2,739.14	£3,195.66
Glascwm	£907.84	£1,059.15	£1,210.45	£1,361.76	£1,664.37	£1,966.99	£2,269.60	£2,723.52	£3,177.44
Knighton	£926.46	£1,080.87	£1,235.28	£1,389.69	£1,698.51	£2,007.33	£2,316.15	£2,779.38	£3,242.61
Llanbadarn Fawr	£908.52	£1,059.94	£1,211.36	£1,362.78	£1,665.62	£1,968.46	£2,271.30	£2,725.56	£3,179.82
Llanbadarn Fynydd	£914.29	£1,066.68	£1,219.06	£1,371.44	£1,676.20	£1,980.97	£2,285.73	£2,742.88	£3,200.03
Llanbister	£907.75	£1,059.04	£1,210.33	£1,361.62	£1,664.20	£1,966.78	£2,269.37	£2,723.24	£3,177.11
Llandewi Ystradenny	£904.07	£1,054.74	£1,205.42	£1,356.10	£1,657.46	£1,958.81	£2,260.17	£2,712.20	£3,164.23
Llandindod Wells	£939.19	£1,095.73	£1,252.26	£1,408.79	£1,721.85	£2,034.92	£2,347.98	£2,817.58	£3,287.18
Llanerwydd	£906.19	£1,057.23	£1,208.26	£1,359.29	£1,661.35	£1,963.42	£2,265.48	£2,718.58	£3,171.68
Llanfihangel Rhydithon	£915.15	£1,067.67	£1,220.20	£1,372.72	£1,677.77	£1,982.82	£2,287.87	£2,745.44	£3,203.01
Llangunllo	£906.47	£1,057.55	£1,208.63	£1,359.71	£1,661.87	£1,964.03	£2,266.18	£2,719.42	£3,172.66
Llanyre	£910.88	£1,062.69	£1,214.51	£1,366.32	£1,669.95	£1,973.57	£2,277.20	£2,732.64	£3,188.08
Nantmel	£916.41	£1,069.14	£1,221.88	£1,374.61	£1,680.08	£1,985.55	£2,291.02	£2,749.22	£3,207.42
New Radnor	£918.20	£1,071.23	£1,224.27	£1,377.30	£1,683.37	£1,989.43	£2,295.50	£2,754.60	£3,213.70
Old Radnor	£912.53	£1,064.61	£1,216.70	£1,368.79	£1,672.97	£1,977.14	£2,281.32	£2,737.58	£3,193.84
Painscastle	£901.55	£1,051.81	£1,202.07	£1,352.33	£1,652.85	£1,953.37	£2,253.88	£2,704.66	£3,155.44
Penybont & Llandegley	£909.77	£1,061.40	£1,213.03	£1,364.66	£1,667.92	£1,971.18	£2,274.43	£2,729.32	£3,184.21
Presteigne & Norton	£931.63	£1,086.90	£1,242.17	£1,397.44	£1,707.98	£2,018.52	£2,329.07	£2,794.88	£3,260.69
Rhayader	£921.92	£1,075.57	£1,229.23	£1,382.88	£1,690.19	£1,997.49	£2,304.80	£2,765.76	£3,226.72
St Harmon	£911.08	£1,062.93	£1,214.77	£1,366.62	£1,670.31	£1,974.01	£2,277.70	£2,733.24	£3,188.78
Whitton	£904.29	£1,055.01	£1,205.72	£1,356.44	£1,657.87	£1,959.30	£2,260.73	£2,712.88	£3,165.03

### **3.0 One Powys Plan**

3.1 There are no known implications to the One Powys Plan.

### **4.0 Options Considered/Available**

4.1 Option One- The calculations contained within 2.1 and 2.3 above be Approved.

### **5.0 Preferred Choice and Reasons**

5.1 Option One – to meet legal requirements of the Council to approve the Council Tax resolution and to set the Council Tax charges.

### **6.0 Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc**

6.1 There is no impact on the above.

### **7.0 Children and Young People's Impact Statement - Safeguarding and Wellbeing**

7.1 There is no impact on children and young people.

### **8.0 Local Member(s)**

8.1 All properties will be subject to the Council Tax charge, the amount of charge is be determined by the location of the property and the relevant property band.

### **9.0 Other Front Line Services**

9.1 There is no impact on front line services

### **10.0 Support Services (Legal, Finance, HR, ICT, BPU)**

10.1 Legal – The recommendations can be supported from a legal point of view”.

10.2 The Capital and Financial Planning Accountant confirms that the report has been calculated in accordance with the Final Settlement from Welsh Government and the Council Tax rate set by the Cabinet on 7<sup>th</sup> February 2017.

### **11.0 Local Service Board/Partnerships/Stakeholders etc**

11.1 There is no impact on the LSB, a partner body/organisation or stakeholders.

## **12.0 Corporate Communications**

12.1 Communications commented: the report is of public and service user interest and requires news release and social media activity to publicise the decision.

## **13.0 Statutory Officers**

13.1 The Strategic Director Resources (S151 Officer) notes the comments made by Finance and confirms the purpose of this report is to meet the Council's legal obligation to set the Council Tax before 11<sup>th</sup> March (i.e. no later than 10<sup>th</sup> March). The Council has a clear legal duty to set a Council Tax and a resolution, not to set a Council Tax would be unlawful, being in breach of Section 30, Local Government Finance Act 1992. So would be a resolution to set a Council Tax which deliberately did not balance the various calculations.

13.2 The Solicitor to the Council ( Monitoring Officer) has commented as follows: " I note the legal comment and have nothing to add to the report"

## **14.0 Members' Interests**

14.1 The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
<p>1. <b>THAT the amounts contained in paragraph 2.1 above be accepted by the Council for the year 2017/2018 in accordance with Sections 32 to 36 of the Local Government Finance Act, 1992</b></p> <p>2. <b>THAT, the Council in accordance with Section 30 (2) of the Local Government Finance Act, 1992, hereby sets the amounts contained in paragraph 2.3 as the amounts of Council Tax for the year 2017/2018 for each of the categories of dwellings shown.</b></p>	<p><b>To meet the legal requirements of the Council to set an amount of Council Tax.</b></p>



<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	<b>Y</b>	<b>Within Budget:</b>	<b>Y</b>
<b>Relevant Local Member(s):</b>			
<b>Person(s) To Implement Decision:</b>	<b>David Powell</b>		
<b>Date By When Decision To Be Implemented:</b>	<b>1<sup>st</sup> April 2017</b>		

<b>Contact Officer Name:</b>	<b>Tel:</b>	<b>Fax:</b>	<b>Email:</b>
A M Griffiths	01874 623309		andrew.griffiths@powys.gov.uk

## **APPENDIX ONE**

<b>Town/Community Council</b>	<b>Precept 2017-18</b>	<b>Band D Charge</b>
Abbeycwmhir	2,400.00	19.15
Aberedw	900.00	6.44
Aberhafesp	3,850.00	17.41
Abermule with Llandyssil	29,000.00	39.26
Banwy	6,900.00	21.57
Bausley with Criggion	7,580.00	21.00
Beguildy	8,939.00	24.00
Berriew	9,000.00	11.88
Betws Cedewain	6,755.00	28.79
Brecon Town	286,850.00	82.95
Bronllys	12,000.00	28.08
Builth Wells Town	85,300.00	80.05
Cadfarch	12,500.00	27.70
Caersws	21,000.00	29.86
Carno	13,242.00	37.65
Carreghofa	13,811.00	44.78
Castle Caereinion	9,477.75	32.08
Churchstoke	19,788.52	23.50
Cilmery	3,885.00	16.88
Clyro	5,000.00	11.88
Cray	5,000.00	37.53
Crickhowell Town	46,000.00	42.48
Cwmdu and District	11,000.00	19.72
Disserth & Trecoed	11,450.00	20.67
Duhonw	1,350.00	8.64
Dwyrhiw	4,200.00	15.17
Erwood	3,000.00	11.66
Felinfach	7,000.00	18.21
Forde	27,747.00	35.77
Gladestry	3,000.00	12.95
Glantwymyn	12,500.00	19.17
Glasbury	13,000.00	23.13
Glascwm	4,082.75	15.32
Glyn Tarrell	9,000.00	29.40
Guilsfield	13,185.00	15.36
Gwernyfed	9,171.32	19.03
Hay-on-Wye Town	40,195.00	47.53
Honddu Isaf	950.00	4.20
Kerry	26,400.00	28.19
Knighton Town	56,450.00	43.25
Llanafan Fawr	3,000.00	12.50

Llanbadarn Fawr	5,500.00	16.34
Llanbadarn Fynyddd	3,560.25	25.00
Llanbister	3,000.00	15.18
Llanbrynmair	13,200.00	26.87
Llanddew	2,500.00	20.58
Llanddewi Ystradenny	1,400.00	9.66
Llandinam	12,140.00	27.11
Llandrindod Wells Town	145,973.00	62.35
Llandrinio	16,080.00	22.65
Llandysilio	16,115.00	29.73
Llanelwedd	2,500.00	12.85
Llanerfyl	4,600.00	21.04
Llanfair Caereinion	40,000.00	49.83
Llanfechain	5,500.00	19.83
Llanfihangel	8,000.00	29.13
Llanfihangel Rhydithon	3,150.00	26.28
Llanfrynach	11,265.00	33.70
Llanfyllin Town	24,500.00	34.75
Llangammarch	7,800.00	29.09
Llangattock	17,316.00	30.64
Llangedwyn	3,000.00	14.99
Llangorse	12,500.00	22.35
Llangunllo	2,750.00	13.27
Llangurig	4,100.00	10.45
Llangynidr	9,702.00	16.37
Llangyniew	5,866.00	19.12
Llangynog	6,300.00	31.72
Llanidloes Town	131,924.00	112.00
Llanidloes Without	8,500.00	27.67
Llanigon	5,000.00	17.67
Llanrhaeadr-ym-Mochnant	9,000.00	15.13
Llansantffraid	17,000.00	23.88
Llansilin	2,500.00	7.12
Llanwddyn	6,000.00	49.18
Llanwrthwl	3,000.00	27.96
Llanwrtyd Wells Town	17,500.00	44.13
Llanyre	11,400.00	19.88
Llywel	8,500.00	33.72
Machynlleth Town	122,900.00	139.42
Maescar	15,000.00	32.02
Manafon	6,000.00	33.36
Meifod	8,000.00	11.53
Merthyr Cynog	4,750.00	33.64
Mochdre with Penstrowed	6,450.00	25.59
Montgomery Town	26,929.20	37.11
Nantmel	9,665.00	28.17

New Radnor	7,033.00	30.86
Newtown & Llanllwchaiarn Town	545,273.00	126.68
Old Radnor	8,891.00	22.35
Painscastle	1,700.00	5.89
Penybont & Llandegly	3,770.00	18.22
Penybont Fawr	10,005.00	39.04
Presteigne & Norton Town	65,960.85	51.00
Rhayader Town	33,500.00	36.44
St Harmon	6,400.00	20.18
Talgarth Town	53,000.00	72.34
Talybont-on-Usk	15,000.00	38.36
Tawe Uchaf	23,000.00	38.32
Trallong	3,000.00	15.39
Trefeglwys	6,300.00	13.83
Treflys	3,500.00	15.42
Tregynon	11,000.00	28.86
Trewern	17,849.00	27.14
Vale of Grwyney	7,500.00	15.21
Welshpool Town	340,000.00	128.26
Whitton	2,129.30	10.00
Yscir	3,884.00	15.00
Ystradfellte	9,500.00	37.66
Ystradgynlais Town	244,500.00	85.14

## CYNGOR SIR POWYS COUNTY COUNCIL.

Council  
7 March 2017

**REPORT AUTHOR:** County Councillor Barry Thomas  
Leader of Council

**SUBJECT:** Corporate Improvement Plan 2016/20 - 2017 Update

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**REPORT FOR:** Decision -

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### 1. Summary

- 1.1 The council introduced its Corporate Improvement Plan (CIP) 2016/19, approved by full council on the 13<sup>th</sup> July 2017. The CIP coherently presented key commitments made through the One Powys Plan, Service Improvement Plans and the Budget and Medium Term Financial Strategy. The approach was welcomed by key stakeholders including the Wales Audit Office.
- 1.2 The council has a statutory duty under the Local Government (Wales) Measure 2009 (the Measure 2009) to publish an annual improvement plan.
- 1.3 This duty has previously been met through an integrated approach to the former Local Service Board's One Powys Plan. Whilst having some advantage it has been previously recognised that this approach did present some difficulties, restricting our ability to communicate and engage with key stakeholders regarding the work of the council.
- 1.4 Following the introduction of the Well-being of Future Generation (Wales) Act 2015 (the Well-being Act), the council also has a duty to publish well-being objectives and a well-being statement.
- 1.5 To achieve its vision for Powys 2020, the council identified 4 key priorities – these provide the framework for the CIP:
  - Services delivered for less
  - Supporting people in the community
  - Developing the economy
  - Learning
- 1.6 The Welsh Government and the Future Generations Commissioner have made it clear that duties to set and report on wellbeing objectives (under the Well-being Act) should not be treated as separate from any objectives that guide and steer the actions and decisions of organisations. In addition, they have also set out that planning and

reporting processes should be aligned and integrated. As the Measure 2009 states, Improvement Objectives need to reflect the key strategic priorities of authorities and to all intents and purposes, well-being objectives and improvement objectives can be treated as one and the same. Therefore, by integrating processes for setting and reporting on these key objectives, authorities can discharge their duties under both areas of legislation. For these reasons, it makes sense for the council to adopt its existing priorities as its well-being objectives as they clearly support and contribute to the goals.

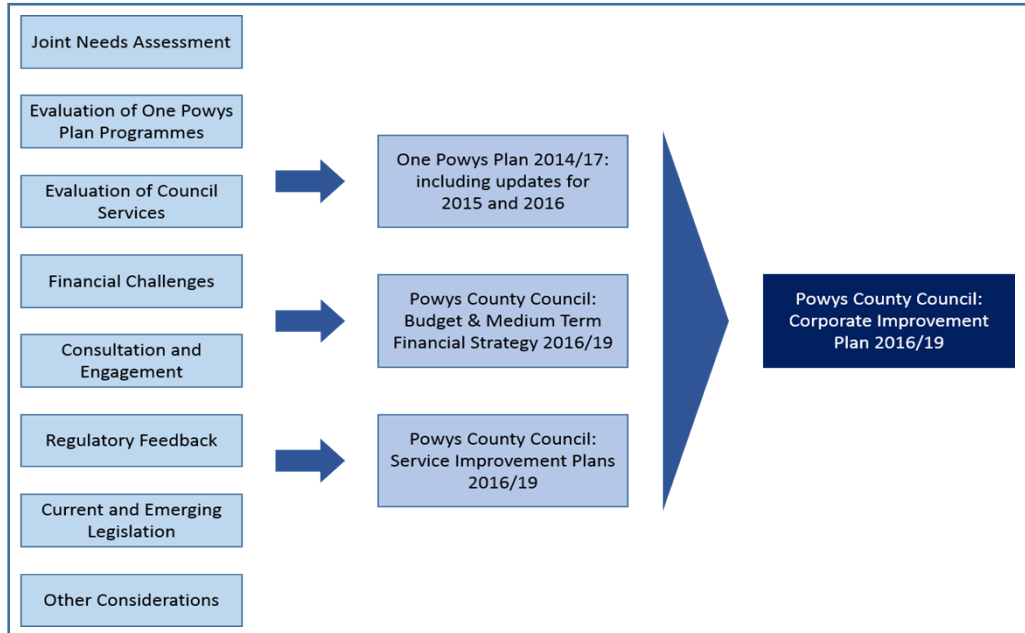
- 1.7 The CIP 2016-20 has been updated for 2017-18 to take account of changes in the MTFs and Service Improvement Plans. The CIP has also been strengthened to meet our duties under the Well-being Act. This requires the council to set and publish well-being objectives by 31<sup>st</sup> March 2017, to show how it will contribute to the seven national well-being goals.
- 1.8 How each priority supports the national well-being goals is illustrated in fig 1.

Fig 1: Priorities contribute to the seven national well-being goals

	Services delivered for less	Supporting people in the community	Developing the economy	Learning
A prosperous Wales	✓	✓	✓	✓
A resilient Wales	✓	✓	✓	
A healthier Wales		✓	✓	✓
A more equal Wales		✓	✓	✓
A Wales of cohesive communities	✓	✓	✓	✓
A Wales of vibrant culture and thriving Welsh Language		✓	✓	✓
A globally responsible Wales	✓	✓	✓	✓

1.9 The process for developing the plan is summarised in fig 2.

Fig 2: Simplified process for developing the CIP



1.10 Following final approval, the CIP will progress to a design phase and will also be translated in line with policy and Welsh language standards

## **2. Proposal**

2.1 It is proposed that the 2017 Update of the Corporate Improvement Plan 2016/20 is approved and recommended to full council for approval on 7<sup>th</sup> March 2017.

## **3. One Powys Plan**

3.1 The Corporate Improvement Plan identifies the council's responsibilities in delivering the One Powys Plan.

## **4. Options Considered/Available**

4.1 Due to reasons articulated in section 1, no other options were considered.

## **5. Preferred Choice and Reasons**

5.1 The Corporate Improvement Plan clearly defines the council's vision, priorities and intended outcomes, clearly making links to the One Powys Plan, the MTFS and emerging workforce strategy and sets out

how it will use resources as efficiently and effectively as possible for the benefit of the citizens of Powys.

**6. Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc**

6.1 The Corporate Improvement Plan shows due regard to guiding principles and key policies.

**7. Children and Young People's Impact Statement - Safeguarding and Wellbeing**

7.1 The Corporate Improvement Plan shows due regard.

**8. Local Member(s)**

8.1 The Corporate Improvement Plan will operate across all wards.

**9. Other Front Line Services**

9.1 The Corporate Improvement Plan effectively communicates its improvement plans for service provision.

**10. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)**

10.1 The Corporate Improvement Plan effectively communicates its improvement plans for service provision.

12.2 Finance comment: The recommendation can be supported from a financial point of view.

12.2 Legal comment:  
The recommendation can be supported from a legal point of view

**11. Public Service Board/Partnerships/Stakeholders etc**

11.1 The plan identifies the council's responsibilities in delivering the One Powys Plan. Partners are aware of the council's corporate improvement plan and are involved in delivery of objectives where appropriate.

**12. Corporate Communications**

12.1 The Corporate Improvement Plan (CIP) is an effective means of communicating and engaging with staff, elected members, the public and stakeholders such as regulators. Since the CIP 2016/19 was approved in July 2016, members of the Chief Executive and Member Service have been implementing an effective communications plan, to



raise awareness amongst staff and the public of the council's improvement priorities. This communication will continue following approval of the CIP 2017 Update.

### **13. Statutory Officers**

- 13.1 Section 151 Officer comment: The Strategic Director Resources (S151 Officer) notes the comments made by finance.
- 13.2 The Solicitor to the Council (Monitoring Officer) has commented as follows: "I note the legal comment and have nothing to add to the report"

### **14. Members' Interests**

- 14.1 The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
<b>That the Corporate Improvement Plan 2016/20 - 2017 Update is approved.</b>	<b>This CIP clearly defines the council's vision, priorities and intended outcomes, clearly making links to the One Powys Plan, the MTFS and emerging workforce strategy. To facilitate effective engagement with staff, elected members, the public and stakeholders such as regulators.</b>

<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	<b>Y / N</b>	<b>Within Budget:</b>	<b>Y / N</b>

<b>Relevant Local Member(s):</b>	
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<b>Person(s) To Implement Decision:</b>	
<b>Date By When Decision To Be Implemented:</b>	

<b>Contact Officer Name:</b>	<b>Tel:</b>	<b>Fax:</b>	<b>Email:</b>
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### **Background Papers used to prepare Report:**

The key documents are:

- One Powys Plan 2014-17 plus annual updates
- Budget, Medium Term Financial Strategy and Capital Strategy 2017/20
- Service Improvement Plans 2017/20

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



Powys County Council

Corporate  
Improvement Plan  
2016-2020

2017 Update

**Draft Version 13 (27<sup>th</sup> Feb 2017)**

# Strong communities in the green heart of Wales

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## Leader's introduction

I am delighted to present an updated Powys County Council Corporate Improvement Plan which sets out our aims and priorities for 2016-2020. This plan is reviewed annually and this is the 2017 update.

Public services and local government continue to face financial uncertainty with reductions in public spending likely to continue for the foreseeable future. This update sets out our plans for the year as we meet those challenges head-on to achieve our vision of 'strong communities in the green heart of Wales'.

Financial pressures have been an integral part of our planning for a number of years with the county council's revenue budget reduced by more than a third in the past decade.

As a response to the financial environment, and to accommodate ever increasing service pressures, the council has been forced to reduce overall spending by nearly £68m since 2012/13 to 2016/17 and will need to cut a further £26m from spending by 2020.

Reductions of that scale cannot be achieved by simple budget changes, they demand a fundamental shift in the way we work. Services have to be delivered in a totally different way, and in many cases by a different organisation.

The Corporate Improvement Plan does not cover everything that we do. It focuses on a combination of the issues that matter most to people, the priorities set as part of the One Powys Plan with our partners, and the unique challenges facing our county.

Our plans reflect the aspirations of the Well-being of Future Generations (Wales) Act 2015 that came into force last year. We are committed to embedding the principles of the Act into our plans and have already started reshaping our organisation to tackle challenges in a more joined-up way, working with partners whenever possible to achieve better services and efficiencies. In this way we are taking a longer term view.

By 2018, the county will need to produce a Well-being Plan. This will replace the current One Powys Plan. We are already working with our public sector partners in the Public Services Board to produce a Well-being Assessment. This will consider a range of social, economic, health, environmental and cultural indicators to map out the issues facing the county. The assessment will help us produce a blueprint to deliver services for future generations which will eventually replace the One Powys Plan.

We will continue to develop partnership work with colleagues in the Powys Teaching Health Board and have incorporated work into our plans for integrated health and social care.

The council is also committed to working with community organisations the length and breadth of the county to deliver many local services, including libraries, recreation facilities and buildings to their control.

I hope you enjoy reading about our plans. At the end of this document, you will find more details about how you can stay in touch with us and keep up-to-date with council activities.

Councillor Barry Thomas  
Leader Powys County Council

## Chief Executive's overview

Welcome to Powys County Council's Corporate Improvement Plan for 2016-2020. Here you can find out more about our plans and what we are doing to meet the needs of residents and businesses in the county.

The plan is one of the council's most important documents providing a summary of our plans and work for the coming year. It highlights some of our main activities and sets out the way in which the council intends to develop and improve its services.

Like all councils, we continue to face serious financial challenges and recognise that many of our residents are also facing hardships. The financial climate has meant thinking differently, it also provides an opportunity for innovation and radically changing the way we deliver our services.

Engaging with our citizens and service users to better understand their needs in the future is critical. In recent years we have used the process of commissioning to help us identify the service need and then ensure that it is met in the most effective and efficient way. Commissioning means redesigning services around the current and future needs of communities and individuals, and then deciding how that service is best delivered, and who should provide it.

It puts the focus on providing the right service for the citizen, from the right provider at the right price for the taxpayer. Sometimes this will mean we provide a service differently. It could also mean that a service is provided by another public sector body such as the health board, town and community councils, the third sector, or even by communities themselves.

Working effectively with suppliers and helping develop the local market is vital to maintaining a vibrant local economy. The council's forthcoming Commissioning and Commercial Strategy will have a key role in developing our relationships with suppliers in the best interests of our citizens, while getting the most value from the money we spend.

As a commissioning council, we are already using the approach with leisure and could see the work extend to property management and maintenance, highways, transport and recycling in the near future.

We are transforming the council to become a more modern, digital and agile organisation. Investment in our ability to analyse data and develop good business insight is providing the information needed to make better decisions. We will also create a central register of policies to guide our work and provide consistency.

Our workforce is key to bringing our vision to life and delivering our objectives, how we are responding to the current financial circumstances and how we intend to deliver on our priorities for the benefit of the county's citizens. Our values and expected behaviours will guide the way that we deliver our services, how we treat our staff and one another. Our workforce and organisational strategies will play a central role in equipping our staff with the skills they need and ensuring our resources are matched to our priorities.

The Corporate Improvement Plan sets out how we will use our resources as efficiently and effectively as possible for the benefit of the citizens of Powys.

Jeremy Patterson  
Chief Executive

## Vision, values and principles

### Vision

We have entered a new era for local government where there is greater demand on our services and increased expectation to show improvement but we also have less money. We have responded with a clear vision and purpose to take us forward.

“Strong communities in the green heart of Wales” is our vision and will guide us in our response to the challenges and opportunities ahead.

Traditional ways of annual budget setting or “salami slicing” are not enough to cope with the demands of the changing climate of local government. We must take a long-term view about the type of communities people want, the services that can help them thrive, and an affordable way of securing those services.

In our role as community leader, we must identify the needs of our communities and help shape future service delivery together. To do this we must plan and ensure that the correct decisions are taken today to secure what we need for tomorrow.

Powys is made up of many communities, they are all different but have in common a desire to remain strong and to flourish into the future. A strong community is vibrant, where services are delivered locally and the economy supports opportunities for young people to keep them in our beautiful county, while also caring for our older population and protecting the vulnerable.

We need clear priorities to deliver our vision. Our priorities are:

- Services delivered for less: Remodelling council services to respond to reduced funding
- Supporting people in the community to live fulfilled lives
- Developing the economy
- Learning: Improving learner outcomes for all, minimising disadvantage

Our role will be different, we will be assisting and supporting but not necessarily delivering services. One of our challenges will be to help communities make the transition to this new world of public service where personal responsibility plays a big part. Our role will be to support people to take an active part in their communities.

### Values

We are determined to create public services of the future that are driven by the right culture and behaviours. We will make sure our values are integral to the way we manage and recruit our staff, as our values and behaviours will guide all aspects of the way we work.

We will be:

**Professional:** Whatever role we play in the council, we act with professionalism and integrity

**Positive:** We take a positive attitude in all we do

**Progressive:** We take a proactive and responsible approach to planning for the future

**Open:** We keep each other informed, share knowledge and act with honesty and integrity

**Collaborative:** We work constructively and willingly on joint initiatives

### Guiding principles

The council’s guiding principles are based on the well-being of future generations.

The Well-being of Future Generations (Wales) Act 2015 is about improving the social, economic, environmental and cultural well-being of the nation. It will ensure the council thinks more about the

long-term, works better with people and communities and each other, looks to prevent problems and take a more joined-up approach. This will help create a Powys and a Wales that everyone wants to live in, now and in the future.

To make sure we are all working towards the same vision, the Act puts in place seven well-being goals:

- **A prosperous Wales**  
Efficient use of resources, skilled, educated people, generates wealth, provides jobs
- **A resilient Wales**  
Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)
- **A healthier Wales**  
People's physical and mental well-being is maximised and health impacts are understood
- **A more equal Wales**  
People can fulfil their potential no matter what their background or circumstances. Equality is about making sure people are treated fairly. It is not about "treating everyone the same" but recognising everyone's needs are met in different ways.

We will ensure we act with due regard for the Equalities Act.

Through the work of the council, we will be looking to see further impacts on equality by pursuing the following Strategic Equality Plan objectives:

- Close attainment gaps in education
  - Encourage fair recruitment, development and reward in employment
  - Improve living conditions in cohesive communities
  - Increase access to justice and encourage democratic participation
  - Improve access to mental health services to people experiencing poor mental health
  - Prevent abuse, neglect and ill-treatment in care
  - Eliminate violence, abuse and harassment in the community
- **A Wales of cohesive communities**  
Communities are attractive, viable, safe and well connected
  - **A Wales of vibrant culture and thriving Welsh Language**  
The Welsh language and culture are an integral part of our communities, and contribute to the rich heritage of the county. We will have due regard for the requirements of the Welsh Language Measure.

The two main principles of the Welsh Language Measure are:

- The Welsh Language should be treated no less favourably than the English language
- That persons should be able to live their lives through the medium of Welsh if they choose to do so

We will develop and support the implementation of a Welsh Language Plan in response to new Welsh Language Measures

- **A globally responsible Wales**  
Taking account of impact on global well-being when considering local social, economic, environmental and cultural well-being.



We need to act in a way that meets our current needs without compromising the ability of future generations to meet their own needs. The Act identifies the following five sustainable development principles to help ensure we do this:

- **Long-term**  
Balancing short term need with long term and planning for the future
- **Prevention**  
Putting resources into preventing problems occurring or getting worse. We will address issues through prevention and early intervention rather than reaction
- **Integration**  
Positively impacting on people, economy, environment and culture, and trying to benefit all four
- **Collaboration**  
Working together with other partners to deliver
- **Involvement** (Communications and engagement)  
Involving those with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area

The objectives described in this plan demonstrate our commitment to a sustainable future.

**Other key principles**

- **Preventing Poverty:**  
Reducing poverty, especially persistent poverty amongst some of our poorest people and communities, and reducing the likelihood that people will become poor.
- **Safeguarding:**  
Preventing and responding to abuse and neglect of children, young people and adults with health and social care needs who can't protect themselves.

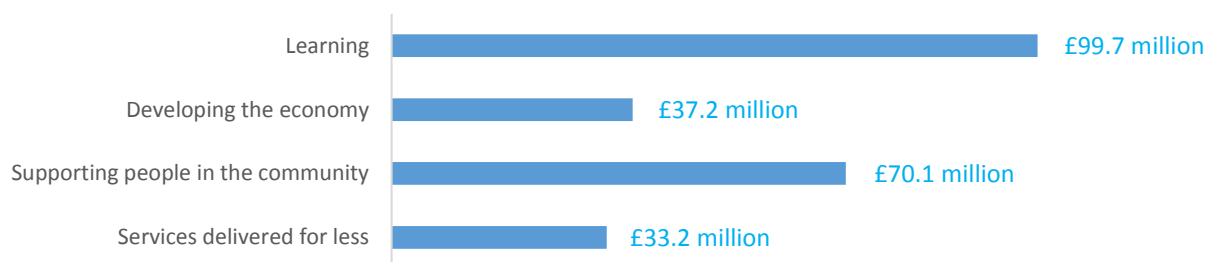
## Financial Strategy

We have adopted an integrated approach in developing our three year Medium Term Financial Strategy (MTFS) 2016/20 to ensure that the way our resources are allocated is closely linked to our priorities set out in this corporate improvement plan. These are set against the backdrop of our budget principles.

The council is operating in a very challenging financial environment. Approximately 74% of our net funding comes from Welsh Government grants (known as the settlement), with the balance being met from Council Tax, Revenue Support Grant and Non Domestic Rates. We continue to face increasing demand for services. The unprecedented financial constraints, which all Local Authorities and other public sector partners are experiencing means that we have to be ever more efficient in the use of our resources. This involves developing a culture of innovation and co-operation.

The cut in funding from Welsh Government, together with the budget pressures, mean we will have to make savings of around £26 million over next 3 years to ensure that we achieve a balanced revenue budget.

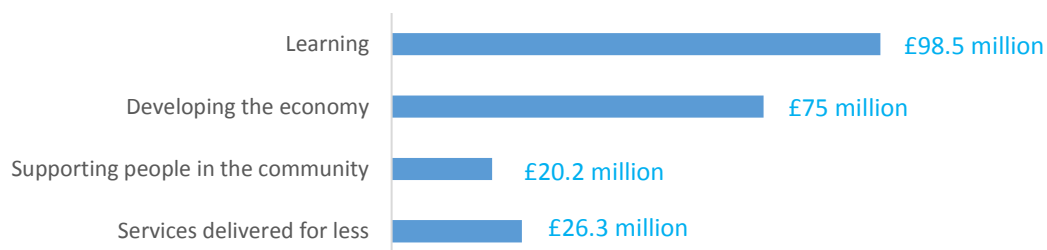
**Fig 1: How the annual revenue budget of £240 million is broadly allocated to support our vision in 2017-18**



The council's capital programme is fundamental to the effective delivery of our priorities and has a significant regeneration impact on the economy of Powys, alongside the direct effect of better infrastructure to deliver services. Capital investment also has a significant input into the delivery of revenue savings and it is essential that both budget strategies are developed in tandem.

The council receives a core capital allocation from Welsh Government. In 2017/18 this allocation is £7.470m. In addition to this the capital programme is funded through capital grants and receipts and borrowing money and repaying this over a number of years together with the interest on the loan. The repayment costs form part of the annual revenue budget.

**Fig 2: How the 3 year capital programme of £220 million is supporting our vision in 2017-20**



Forecasting for future years is difficult to predict with any great certainty and is subject to multiple internal and external influences. Even so, it is highly likely the reducing funding for Powys will continue because the national deficit recovery programme will continue to at least the end of the decade and beyond.

DRAFT

## Workforce planning

We rely on our workforce for everything we do and they are vital to the delivery of the Corporate Improvement Plan.

Through our Organisational Development Strategy, our workforce plan allows us to make the best use of staff to meet current needs but also build future capacity and skills to anticipate and responding to future changing demands.

This provides an opportunity to harness talent within our workforce and support individuals to reach their potential and enable us to have people ready and able to undertake key roles across the organisation.

The demographics of Powys are changing, the expectation within communities to deliver quality services continues to grow whilst budgets are diminishing. We are required to communicate these challenges to service users and make difficult decisions about the way forward.

In recent years the workforce has been required to focus on our priorities and the way services are provided. Innovative approaches to service delivery have led us to reshape some services, changing the way they are delivered and managed. The level of staffing will differ according to each service team as will specific skills required.

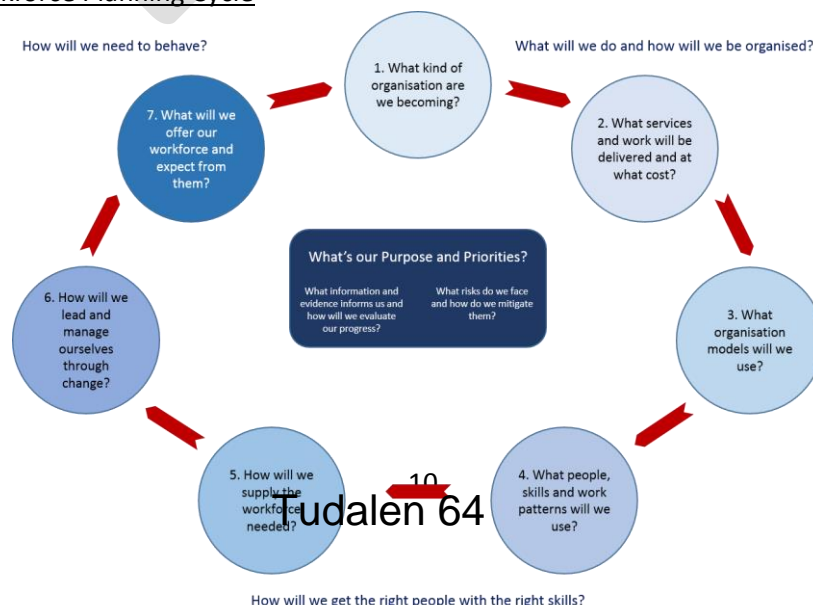
Some staff undertake day-to-day routine work which is fundamental to our service delivery, while others are required to research and develop new initiatives or ways of working.

### Our approach

We are developing our workforce planning approach and supporting each service in the production of their own workforce plan. These will then be collated into a corporate workforce plan. By developing this strategic approach to development, support and the way we work, we can engage, recruit and retain the skills knowledge and commitment of our workforce.

When we have developed and begun the implementation of our workforce strategy, Recruiting and Retaining Our Own Talent and Skills (RRoots), this will be the core approach to both recruiting and managing the talent of our workforce. Through this approach we will actively support the increase in graduate placements and apprenticeships within Powys County Council. We will develop roles based on organisational need and work with our staff to encourage and support on going learning and development, throughout individual cases.

Fig 3: The Workforce Planning Cycle



Our priorities

## **Services delivered for less – remodelling council services to respond to reduced funding**

Lead Director: David Powell

### **What difference do we plan to make?**

- Better value for money for our citizens
- Effective, efficient and sustainable services
- Local communities are better able to provide services for themselves
- More local suppliers are being used in our contracts, either directly or through the supply chain
- Powys benefits from the council trading its professional expertise
- Customer requirements are more easily met using digital technology

### **Why did we choose this priority?**

We need to find a way of dealing with increased demand and expectations on some of our services while spending less than we do now. This means taking a fresh look at how we deliver services rather than simply carrying on doing what we did in the past so that we meet people's needs in the most appropriate and cost effective way. This process is part of our commissioning approach.

This may mean re-designing a current service or working with a partner so that they provide the service on our behalf. In the future the council will be smaller with people employed by other organisations, such as the voluntary sector, town and community councils, not-for-profit organisations or commercial enterprises.

### **How will we achieve our priority?**

Improvement objectives from the One Powys Plan 2014-17

Enabling joined-up services for Powys citizens through public and third sector partnerships

We will:

- Improve our strategic planning and performance improvement processes by:
  - Further integrating our planning approach and resources
  - Working closer with the Welsh Government
  - Developing shared governance and scrutiny arrangements

### **Objectives from service plans**

Adult Social Care

- Remodel the service so that it can deliver effectively within available resources

Children's Services

- Establish a model where services are delivered locally with an emphasis on early intervention and prevention
- Undertake a review of residential/respite care for children with a disability at Bannau / Camlas to provide the service more efficiently

#### Regeneration, Property and Commissioning

- Establish a local asset backed vehicle (LABV) focusing on Brecon and Welshpool to generate capital receipts from our property holdings
- Transfer assets to communities to ensure local services are retained
- Set up and work with a joint venture company (JVC) to deliver the council's property services and realise efficiencies of £150k

#### Leisure and Recreation

- Work with local communities to recommission the Library Service so that it can deliver effectively within available resources and release efficiencies of £125k
- Meet statutory provision of rights of way and countryside access
- Transfer outdoor recreation and play provision to communities who wish to take on these local services. If not, seek full cost recovery or sell assets
- Work with the third sector to remodel the Youth Service so that it can deliver effectively within available resources and release efficiencies of £550k

#### Highways, Transport and Recycling (HTR)

- Achieve the Welsh Government's recycling targets to reduce the impact on the environment and avoid fines
- Review the way we deliver HTR services to provide £1.7m of savings through an alternative service delivery model

#### Business Services

- Transforming the way we provide services to customers through digital technology including a new Web Platform and Customer Record Management system
- Remodel our Income and Awards functions so that processes are simplified, and delivered with innovation, efficiency and value
- Review our current purchase and payment systems to make them more efficient and provide better value for money
- Develop Business Services as a commercial / trading offer

#### ICT

- Reduce the number of IT systems in use and achieve improved functionality and value from our investment in digital technology through a corporate hub and joined-up systems to realise an efficiency of £232k

#### Professional Services

- Implement effective business intelligence, providing data insight to support our decision making
- Oversee income generation and cost improvement opportunities through the establishment of the Income and Cost Improvement Board and supporting challenge events
- Support 3<sup>rd</sup> Party Spend reduction activity, ensuring that capacity is aligned to the Council's commissioning priorities
- Implement the new Powys Commercial and Commissioning Strategy

#### Commitments in the Medium Term Financial Strategy

##### Leisure Services

- Cleaning - Transfer of school based staff to schools, and expansion of external contracts. Consideration of Joint Venture Company (JVC) transfer or Trading Company to provide an efficiency of £80k

- Decommission direct management of some museums and pursue joint arrangements in the management of the Brecon Cultural Hub to release an efficiency of £30k by 2018/19
- Year on year reductions in contract fees for managing the council's leisure facilities will release efficiencies of £550k

#### Highways, Transport and Recycling

- Review the provision of HWRCs to release efficiencies of £500k by 2018/19
- A logistics review to ensure operational activities are effective and release efficiencies of £676k by 2017/18
- Review of car parking to release an efficiency of £175k by 2018/19
- Implement the LED conversion programme for street lights and review the service to release efficiencies of £300k by 2018/19

#### Business Services

Improving our processes for purchasing and paying suppliers through the use of purchase cards will release an efficiency of £175k

#### General

- Recover cost of services through generating income of £950k for 2017/19
- Undertake a number of process and service reviews in 2017/19 to identify efficiencies of £3.3 million (Over £5 million achieved in 2016/17)

○ Implementing the trade waste strategy	£50k
○ Review of fleet and transport	£200k
○ Review of highways maintenance standards	£500k
○ Review provision in Countryside and Outdoor Recreation	£160k
○ Phasing out of concurrent function grants	£95k
○ Focus on digital communication and engagement	£100k
○ Review of graphic design	£50k
○ New models of delivery for business support	£175k
○ New models of delivery for corporate support	£1.7 million

- Restructure services to save £435k in 2017/19 (over £240k achieved in 2016/17)

#### Capital Investment

The council's capital investment in transforming services to 'deliver for less' is £26 million for 2017 - 20

• County Hall External Fabric	£150k
• Depot Consolidation	£250k
• Fleet Facility	£2.470 million
• IT Strategy	£1.5 million
• Llandrindod Wells HWRC	£400k
• Office Accommodation Review	£4.8 million
• Other Regeneration and Property	£235k
• Relocation to Cwrt y Plyffin	£300k
• Replacement IT Hardware	£660k
• Replacement IT Infrastructure	£842k
• Self Service Terminals in Libraries	£196k
• Vehicle Replacement Programme	£12.339 million
• Waste Management	£1.930 million

## How will we know we've succeeded?

By achieving our goals, a range of services will be delivered for less. This means that potential service cuts can be avoided or more resources can be invested in certain services.

- Integrated working with the PTHB has increased and is reflected in an increased value of pooled budget arrangements

Other possible measures of success

- Savings are achieved through remodelling services
- Key milestones for achieving savings through remodelling services are met
- Customer satisfaction with council services is sustained or improved

## National Strategic and Performance Accountability Measures relevant to this priority

- (LCL/001) The number of visits to public libraries during the year, per 1,000 population (NS)
- (THS/012) The percentage of principal (A) roads, non-principal (B) roads and non-principal (C) roads that are in overall poor condition (PAM)
- (STS/005b) The percentage of highways inspected of a high or acceptable standard of cleanliness (PAM)
- (WMT/009) The percentage of municipal waste collected by local authorities and prepared for reuse and/or recycled, including source segregated bio-wastes that are composted or treated biologically in another way (PAM)
- (WMT/004b) The percentage of municipal waste collected by local authorities sent to landfill (PAM)
- (STS/006) *The percentage of reported fly tipping incidents cleared within 5 working days (NS)*
- (PPN/009) *The percentage of food establishments which are 'broadly compliant' with food hygiene standards (PAM)*



## **Supporting people in the community to live fulfilled lives**

Lead Director: Carol Shillabeer

### **What difference do we plan to make?**

- Communities will take a greater role in supporting carers and the cared for.
- Older people will feel:
  - Supported, independent, safe, dignified and connected
  - A valued member of their communities
  - Informed and empowered to make choices about their support and care
- Carers:
  - Are able to maintain employment, education and training where they choose
  - Have good physical, emotional and mental health
- People with a learning disability:
  - Have improved health and well-being
  - Receive services that meet their needs and enable them to maximise their independence and live in the community of their choice
  - Have improved opportunities for valued occupation including paid employment
  - Experience smooth and effective transitions from childhood to adulthood
- Children and families:
  - Feel safe and supported in their lives
  - Are empowered to make the best decisions
- People's emotional and mental health:
  - Is promoted and improved
  - Challenges are responded to effectively, aiding recovery
- Suitable housing for everyone in Powys is ensured.

### **Why did we choose this priority?**

The good news is that people are living longer. But this does put more pressure on our services for older people. As people live longer, their care needs are likely to cost more money. However we know that together we can design and put in place different types of help and support that will be more effective.

We also know that helping children and families through the early years will help to ensure children grow up safe, secure and healthy into young adulthood.

We need to move away from traditional based services which are expensive and not built around the personal requirements of those in need. We need to ensure that the homes we provide for older people meet the needs of this generation of vulnerable older people. Our aim is to design new services with our partners that promote prevention and personal control which are community based. We need to build on our current commissioning relationship with the health board and the voluntary sector to design and deliver services that promote independence and alternatives to institutional care. We will need to develop the local care economy to make this possible. This will contribute to the long-term sustainability of our communities by providing employment and training opportunities.

### **How will we achieve our priority?**

Improvement objectives from the One Powys Plan 2014-17

We will ensure older people will be supported to lead fulfilled lives within their communities

We will:

- Take further joint working between the health board and the council to provide better joined up services for older people
- Implement improved access to health and social care services advice and support
- Implement the new community care information system to help provide more streamlined care
- Enhance the availability of community-led and community based services that help people stay connected and promote wellbeing
- Use technology to help people stay independent, for example home monitoring devices
- Engage our communities, service users and carers about the way we develop our services under the health and care strategy
- Plan and implement more and different housing options for older people

We will ensure carers have a good sense of well-being and are able to fulfil the caring responsibilities they choose to do

We will:

Understand what services are needed and design them accordingly, creating a plan that ensures:

- More carers are identified and their needs assessed
- Access to short breaks for carers
- Carers can access the services they need in a timely manner
- Access to social and leisure opportunities for carers
- Training, information and advice for carers is accessible to support them in their role
- Young carers are helped to fulfil their life choices and educational aspirations

We will ensure people with Learning Disabilities lead meaningful and valued lives within their own communities

We will:

- Improve the way that staff, service users and their families work together
- Simplifying and improving the way in which service users are assessed and their needs are met, including for health and other services
- Enable people to live in their choice of local community, particularly those currently living far away
- Ensure young people who are becoming adults feel positive and supported when there are changes to the way they receive services
- Ensure that people with a learning disability are not disadvantaged by living in a particular area of the county and that they have access to solutions that meet their needs

We will ensure that the needs of vulnerable children, babies and their families are identified as early as possible so that they can enjoy safe and fulfilled lives

We will:

- Review current provision and design and provide a joined up service to respond to domestic violence in a holistic way, with a focus on prevention and early intervention, including support for victims
- Develop a single point of access to ensure children are safeguarded and families have the right information, advice and support at the right time
- Continue to build capacity across all services whether in education, social services, health, the police or with voluntary sector organisations to identify, assess and meet the needs of vulnerable children and their families

- Continue to support young people (future parents/partners) to develop skills around social and emotional literacy in order to prevent future violence
- Continue to work with schools to inform parents, children and young people that services like counselling, advice and information exists for young carers and children and young people with health or emotional needs
- Continue to work with partners to improve the educational attainment of children who are looked after by the council to ensure they achieve their full potential. Each child will have their own individual package of support to reach their potential

### Objectives from directorate and service plans

#### Adult Social Care and Children's Services

We have a number of strategies that will help achieve our common goal, including Older People's Strategy, Assisted Technology Strategy, Mental Health Strategy, Carers Strategy and Learning Disabilities Strategy. These have been developed through working with stakeholders including people in receipt of services.

There are five key areas of delivery:

- Developing enabling support and care:
  - Implement the agreed key milestones for year one of the Health and Care Strategy, across the spectrum of support and care (including information services, day time support, extra care housing/accommodation solutions, residential care)
  - Develop community-led support and services
  - Implement the key milestones in the Assistive Technology Strategy
  - Develop a whole system health and care model that is 'asset based' (Health and Care Strategy)
- Striving for excellence in practice
  - Implement continuous improvement in safeguarding practice including embedding the Domestic Violence Plan
  - Develop enhanced quality assurance and audit, promoting improvement
  - Enhance systems and processes for learning from complaints and feedback
  - Implement timely improvement as a result of regulation and inspection processes
  - Improve governance and accountability, including implementing the Operating Model
  - Invest in development of excellent leadership and management
  - Develop and implement a Performance Improvement Framework
- Investing in our workforce
  - Develop a comprehensive workforce plan, implementing year one milestones
  - Implement robust supervision and appraisal processes
  - Implement dynamic recruitment campaign, including temporary staffing solutions
  - Develop a training needs analysis, including statutory and mandatory training, and implement a programme of professional development
  - Implement Welsh Community Care Information System as an enabler to health and social care integration, supporting a more consistent approach across both organisations and enabling staff to work more efficiently
- Improving efficiency and effectiveness of services
  - Review and improve the effectiveness of Powys People Direct
  - Review and improve the effectiveness of Reablement

- Implement practice and process changes enabling reduction in residential care use
  - Deliver benefits of older people's integrated care teams; rolling out to next planned areas
  - Deliver benefits of integrating children's disability service
  - Implement the key actions in the joint Learning Disabilities Strategy and the Efficiency Plan
  - Implement savings plans and improve day to day budgetary management
- Promoting productive partnerships
    - Engage service providers in the next stage of the Health and Care Strategy
    - Embed Regional Partnership Board arrangements, utilising ICF funds to deliver integration priorities
    - Implement the Carers Strategy and improvement in carers support
    - Engage people who use services in their evaluation and development
    - Develop and implement joint commissioning arrangements with the health board, streamlining the number of strategies where appropriate
    - Consider integrating mental health and learning disabilities services with health to improve outcomes and sustainability

#### Housing Services

- Ensure that older person's accommodation is fit for purpose
- Deliver additional sites for Gypsies and Travelers in accordance with the findings of the Gypsy and Traveler Accommodation Assessment

#### Business Services

- Ensure compliance with central government's Welfare Reform Agenda within the government's timescales. Ensure appropriate consultation and engagement with key groups including social housing sector and affected groups

### Commitments in the Medium Term Financial Strategy

There are specific actions that will help to ensure that public money is efficiently and effectively spent, reducing costs wherever it is right to do so. The areas of focus moving forward are:

#### Adult Services

- Remodel and develop day time opportunities for older people, realising efficiencies of £151k
- Remodel and develop day time opportunities for adults with learning disabilities, moving towards a social enterprise model where the service generates an income, realising efficiencies of £480k
- Improve the use of alternative care (rather than residential care) thus reducing residential care admissions for the elderly and frail by 10%, realising efficiencies of £598k; and help people to stay in those alternatives to residential care thus reducing the length of stay in residential care from 847 to 730 days, releasing an efficiency of £303k by 2019/20
- Help bring some people back into community living, promoting greater independence and supporting them with the right size support, thus reducing high cost placements/packages, releasing an efficiency of £750k by 2018/19
- Relook at how we support people with a learning disability in Supported Living – Re-profile supported living packages that promote more independence, thus projecting 10% efficiency savings and releasing an efficiency of £500k by 2019/20
- Community Care Packages - Using a practice based approach support individuals through the use of personal budgets and direct payments to secure an outcome focused care plan in the most appropriate setting, releasing an efficiency of £442k by 2018/19

- Make best use of reablement to help people become more independent and therefore not need more intensive and ongoing care services, and to use local community based and community led daytime activity. Right sizing of Packages - Accelerate Reablement referrals and based on current performance achieved 42% reduction in hours - to release an efficiency of £1.1 million by 2018/19

#### Children's Services

- Help to reduce the need and cost of care for Looked After Children, releasing an efficiency of £104k by 2018/19

#### General

- Recover cost of services through generating income of £535k for 2017/18
- Undertake a number of process and service reviews in 2017/19 to identify efficiencies of £1.6 million (over £460k achieved in 2016/17)

○ Review options for alternative model at Bannau / Camlas	£100k
○ New model of delivery for Children's Services	£1.5 million

- Restructure services to save £209k in 2017/19 (over £140k achieved in 2016/17)

#### Investing in services

As well as transforming services and making efficiencies we will also be making capital investment in this priority area.

- The council's capital investment in 'supporting people in the community to live fulfilled lives' for 2017-20 is £7 million

○ CO2i Assistance	£144k
○ Disabled Facilities Grant	£3.9 million
○ Flood alleviation scheme – Talgarth Phase 2	£450k
○ Flood alleviation schemes – Talgarth Phase 3	£160k
○ Flood alleviation schemes – Welshpool Phase 3	£120k
○ Gypsy and Traveller Site - Machynlleth	£790k
○ Gypsy and Traveller Site – Welshpool	£405k
○ Landlord loans	£600k
○ Safe, Warm and Secure	£600k

- The Housing Revenue Account is funding a capital investment of £13 million for 2017-20

○ Adaptations	£770k
○ Level access bungalows	£3.120 million
○ Old persons dwellings	£2.250 million
○ Zero carbon initiative	£6.929 million

#### How will we know we've succeeded?

By achieving these goals, we believe that we would have helped more people to live fulfilled lives within the community.

- The number of persons aged 75 and over who are able to return to their own home or social care setting without delay following hospital treatment increases

- The number of persons aged 65 and older requiring help to live at home is reduced
- Following a period of reablement support, the number of clients achieving the desired outcomes and requiring no ongoing support will increase
- Carers will be supported in their communities to live fulfilled lives
- The percentage of clients aged 18 and over who are supported in the community to live fulfilled lives increases
- The number of service users receiving residential care or supported tenancies outside of Powys will reduce
- The number of clients supported in their own home through the use of assistive technology will increase
- The attainment of our looked after children will improve, helping them achieve their potential and live fulfilled lives
- The impact of domestic violence on children and families will reduce

#### **National Strategic and Performance Accountability Measures relevant to this priority**

- (SCA/001) The rate of delayed transfers of care for social care reasons per 1,000 population aged 75 or over (NS)
- (SCA/002a) The rate of older people (aged 65 or over) supported in the community per 1,000 population aged 65 or over (NS)
- (SCA/002b) The rate of older people (aged 65 or over) whom the authority supports in care homes per 1,000 population aged 65 or over (NS)
- (SCC/004) The percentage of children looked after on 31 March who have had three or more placements during the year (PAM)
- (PSR/002) *The average number of calendar days taken to deliver a Disabled Facilities Grant (PAM)*
- (PSR/004) The percentage of public sector dwellings that had been vacant for more than 6 months at 1 April that were returned to occupation during the year through direct action by the local authority (NS)

## **Developing the economy**

Lead Director: Paul Griffiths

### **What difference do we plan to make?**

- A thriving tourism economy with increased day and stay visitors taking advantage of outdoor activity opportunities and festivals, and increasing spend.
- A dynamic, driven and confident council that finds and exploits opportunities for increasing the Powys economy.
- A county that is recognised as a great place to live, work and play which is known for its amazing scenery, as a place for outdoor life and interesting and cultural events and festivals.
- An increased population of high earners and professional who live in Powys and either work in the county or from home for organisations elsewhere in the world.
- A larger percentage of small to medium sized growth businesses in industry sectors that contribute to the prosperity of the county.
- Opportunities, including appropriate training and apprenticeships are available and accessible, ensuring workforce skills are aligned to the skills needs of businesses.
- A safe, efficient and reliable transport service and network that enables people and businesses to travel safely to their destination

### **Why did we choose this priority?**

A healthy and enterprising economy is essential for sustaining communities which is why economic development is one of our top priorities. In addition, a healthy economy contributes to reduced deprivation and in turn helps create a healthier community. Low levels of economic activity have contributed to the number of young people who leave in search of opportunities elsewhere and don't return. This has had a direct impact on services such as schools, as the number of young people in our county declines. It also affects the supply of people in the local workforce and on the ability of successful local businesses to grow within the county.

Traditional approaches to regeneration have not secured sufficient economic growth. Our new Economic Development Strategy will focus on how we can support the local economy, particularly in respect of jobs and growth. For example, through using our land ownership and influence to promote economic activity in all sectors, and through the decisions we make in respect of the improvement and maintenance of our existing housing stock and the development of new homes.

We will work with partners including Ceredigion County Council, in order to maximise the benefits of being identified as one of four economic regeneration regions in Wales by the Welsh Government now known as Growing Mid Wales. Given the importance of activity across the border with England we will also work closely with the Marches Local Enterprise Partnership (LEP) to maximise cross border regeneration and economic development opportunities.

Improved transport links and access to superfast broadband will make Powys an attractive proposition to invest in, or to relocate to. That's why we are already lobbying for, and securing, investment in infrastructure that will encourage growth, including an hourly service on the Cambrian railway line, the Newtown Bypass and working with BT to introduce high speed broadband to rural communities.

### **How will we achieve our priority?**

Improvement objectives from the One Powys Plan 2014-17

More young people in Powys will be in full-time education, gainful employment or employment related training within the county

We will:

- develop a graduate programme that attracts high quality graduates in to public services and enables them to contribute their skills to building efficient and effective public services whilst gaining useful work experience
- extend our use of social media as a means of promoting opportunities for young people, for example 'career' events, placements, guidance and information on how to gain meaningful employment, through the Positive Pathways Powys multi-agency group
- monitor the percentage of Year 11 leavers known to be not in education, employment or training (NEET) and develop an early identification process for those who are at risk of becoming unemployed or not in education or training. We will work with them to identify opportunities that will re-engage them

Bring people together in Powys so they feel that they matter, belong and can contribute to their community

We will:

- Improve the supply of affordable and suitable housing in our communities
- Through enablement and facilitation, work with our public, private and third sector to help develop a thriving economy by:
  - growing Powys' strategic business sectors
  - attracting new business to Powys
  - increasing visitors and visitor spend
  - increasing Powys' economically active population
- Encourage and facilitate the skilling of our young people and young adults for those sectors that will make a difference to Powys particularly for innovation, technology and enterprise.

Improving passenger transport services to enable them to be affordable, accessible and efficient

We will:

- Provide a transport system that helps to keep people mobile and connected and responds to changing needs. Re-developed bus interchanges to improve transport links at Newtown
- Ensure citizens can access travel information more easily and plan their transport requirements more effectively through the use of available technologies

### Objectives from service plans

Regeneration, Property and Commissioning

- The Local Delivery Plan (LDP) meets the need of Powys and is compliant with Welsh Government requirements
- Implement the council's Economic Development Strategy, using our influence to develop a healthy and enterprising economy
- Lobby for the economic interests of Powys through national and regional networks, in particular the 'Growing Mid-Wales' initiative with Ceredigion
- Support community based public transport development, such as the 'Heart of Wales' railway line, by developing regeneration links to the Local Transport Plan

Highways, Transport and Recycling



- Implement the council’s Key Infrastructure Capital Programme resulting in improved transport links, reduced flooding and creating operational efficiencies.

#### Housing

- Implement the Housing Revenue Account (HRA) Business Plan, including a capital investment of £32 million to achieve the Welsh Housing Quality Standard (WHQS) by 2018. The standard will ensure that dwellings are of good quality and suitable for the needs of existing and future residents.

○ New builds / purchases	£10.899 million
○ Welsh Housing Quality Standard	£32.103 million

#### Commitments in the Medium Term Financial Strategy 2016/19

##### Regeneration, Property and Commissioning

- Adapt our approach to economic development and release an efficiency of £68k
- Review our workshop portfolio so that they provide an income from 2017/18 onwards

##### Investing in services

As well as transforming services and making efficiencies we will also be making capital investment in this priority area.

- We have allocated a further £32 million of capital investment in ‘developing the economy’ during 2017-20

○ Brecon cultural hub	£4.459 million
○ Bronyrefail Bridge	£200k
○ Byway Programme	£480k
○ Community regeneration and development fund	£690k
○ County Farms	£1.8 million
○ Footbridges – Replacement Programme	£45k
○ Highways (HAMP)	£11.850 million
○ Highways core allocation	£4.500 million
○ Local Capital Schemes	£1.5 million
○ Regeneration fund	£1.675 million
○ Strategic Salt Reserve	£1.413 million
○ Structural maintenance	£3.360 million

#### How will we know we’ve succeeded?

Attaining our objectives will make a positive contribution to the Powys economy.

- Provide more apprenticeships, work experience placements and graduate placements to improve opportunities for developing the local workforce
- A2 Level subjects taken up by Powys students better reflect the skills required in the developing Powys economy
- The percentage of Year 11 leavers not in education, employment or training (NEET) will be less than 3%

- There is growth in the number of businesses in those sectors identified in the strategy where there is dedicated lobbying
- Due to a healthy and thriving economy:
  - The survival rate of business in Powys improves
  - The number of businesses relocating to Powys increases
  - The percentage of population that are economically active increases
- Tourism spend increases as awareness of Powys as a destination improves
- Citizens and businesses in Powys are supported by an efficient planning process
- Significant economic benefit as the investment in council housing to meet the Welsh Housing Quality Standard is achieved

#### **National Strategic and Performance Accountability Measures relevant to this priority**

- (PLA/006) The number of additional affordable housing units provided during the year as a percentage of all additional housing units provided during the year (NS)

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## **Learning – Improving learner outcomes for all, minimising disadvantage**

Lead Director: David Powell / Ian Roberts

### **What difference do we plan to make?**

- Our learners will be supported to achieve their potential in a modern, inclusive learning environment
- Access to Welsh medium education will have improved

### **Why did we choose this priority?**

We want Powys to be an attractive place for young people to learn and progress into work with ambition to succeed. The county is rightly proud of the academic achievement of its young learners. However, there are too many secondary schools in Estyn follow up category and too much variation in performance between schools.

Transforming skills and learning is a key aim of the council to make sure all children and young people are supported to achieve their full potential.

To succeed in our ambition we need first class teaching, high quality leadership, appropriate class sizes with a fair distribution of resources.

Although many of our schools are highly regarded it's clear that the quality of most of our school buildings are no longer suitable for education in the 21<sup>st</sup> century. Our young people demand the investment to compete with other parts of the country. We need to provide modern learning environments to take advantage of the latest technology.

It is in everyone's interest that the council's focus is on driving up the attainment and ambition of the majority of its pupils with a special emphasis on those from more disadvantaged backgrounds. We must also provide stimulating learning environments for our able and gifted students and provide improved access to Welsh medium education.

To be successful we must ensure that our schools can offer the range of courses that are both attractive to our pupils but also meet the needs of the local economy. This way we can attract investment and economic growth from within.

### **How will we achieve our priority?**

Improvement objectives from the One Powys Plan 2014-17

All children and young people are supported to achieve their full potential

We will:

- Ensure that a high quality of education is accessible to all, affordable and sustainable with a focus on high quality leadership, teaching and learning. This includes the development and implementation of a school transformation policy which provides a vision and infrastructure for 21st century schooling for a bilingual future
- Work with our partners to review and re-configure services for children and young people with additional learning needs to:
  - Provide improved support for children and young people and all schools
  - Reduce exclusion rates

- Improve attendance
- Review and re-commission our early years education provision across the authority to ensure a sustainable network of high quality provision for all 3 plus ages in Powys
- Fully implement the Education through Regional Working (ERW) school improvement strategy. This will ensure school leaders are supported and held to account for their performance and that of their school to ensure that all children achieve their potential

### Objectives from service plans

#### School Service

- To ensure all children and young people in Powys schools achieve high outcomes and that the schools and the local authority are judged to be amongst the highest performing in Wales and contribute to the performance of ERW, we will:
  - Improve outcomes for all pupils, including vulnerable pupils with a specific focus on free school meal pupils
  - Improve the performance of secondary schools and their rate of progress in statutory follow up categories
  - Improve the recruitment of school leaders and quality of leadership (at all levels), including governors across our schools, with a specific focus on secondary schools
- To ensure that schools and learners with additional learning needs are supported with an inclusive approach where all learners are valued and achieve, we will:
  - Review Educated Otherwise Than At School (EOTAS) provision including Pupil Referral units
  - Prepare for implementation of the Additional Learning Needs (ALN) Bill
  - Implement efficiencies of £415k
- To provide a more sustainable and affordable educational infrastructure, we will:
  - Progress the re-organisation of small schools and release efficiencies of £400k
  - Progress the implementation for the 21<sup>st</sup> Century Capital programme in Band A
  - Progress re-organisation of secondary provision in Mid Powys
  - Implement the Welsh in Education Strategic Plan
- To contribute to a more cost effective delivery of educational provision within available resources, we will:
  - Award, contract, implement and monitor the delivery of the increased early years pre-school education infrastructure
  - Implement a revised Home to School Transport Policy
  - Reduce the number of schools with deficit budgets

#### Regeneration, Property and Commissioning

- Manage major scheme development of 21<sup>st</sup> Century schools in Gwernyfed primary schools, Brecon learning campus, Welshpool and Bro Hyddgen

#### Business Services

- Business Services will deliver a cashless payment system into schools to include school meals, parental payments and other cash transactions, exploring other opportunities to link with other systems such as registration, transport and pupil management and enabling efficiencies of £150k

### Commitments in the Medium Term Financial Strategy 2016/19

## General

- Undertake a number of process and service reviews to identify efficiencies of £1.4 million by 2019/20 (almost £700k achieved in 2016/17)
  - Review of the 'fair Funding Formula' £150k
  - Reduction in School Roll £1.2 million
- Restructure services to save £185k in 2017/19 (over £150k achieved in 2016/17)

## Schools Service

- Raise the age of admission to one point of entry in September annually following a child's fourth birthday realising an efficiency of £1.496 million

## Investing in services

As well as transforming services and making efficiencies we will also be making capital investment in this priority area.

- The council's capital investment in 'Improving learner outcomes for all' for 2017/20 is £98 million
  - Band B Projects £22.500 million
  - Brecon school campus £21.806 million
  - Cashless system for schools £446k
  - Crickhowell School - Extension £1 million
  - Crickhowell School – Sport £440k
  - Gwernyfed catchment modernisation £20.996 million
  - Llanidloes / Machynlleth catchment modernisation £1.866 million
  - Major Improvements £6 million
  - Welshpool Primary School £13.861 million
  - Ysgol Bro Hyddgen £9.804 million

## How will we know we've succeeded?

- Pupils will be supported to realise their full potential by:
  - Improving the attainment of pupils at all key stages, including pupils eligible for free schools meals and pupils with additional learning needs
  - The percentage of 15 year olds leaving full-time education without a recognised qualification will be sustained or reduced
- Through reducing permanent and fixed-term exclusions, pupils in both primary and secondary schools are given every opportunity to learn
- Our schools are recognised by Estyn as effective places of learning
- The Welsh in Education Strategic Plan 2017-20 is implemented

## National Strategic and Performance Accountability Measures relevant to this priority

- (EDU/002i) The percentage of all pupils (including those in LA care) in any local authority maintained school, aged 15 as at the preceding 31 August that leave compulsory education, training or work based learning without an approved external qualification (PAM)

- (EDU/002ii) The percentage of pupils in local authority care in any local authority maintained school, aged 15 as at the preceding 31 August who leave compulsory education, training or work based learning without an approved external qualification (NS)
- (EDU/003) The percentage of pupils assessed at the end of Key Stage 2, in schools maintained by the local authority, achieving the Core Subject Indicator, as determined by Teacher Assessment (PAM)
- (EDU/004) The percentage of pupils assessed at the end of Key Stage 3, in schools maintained by the local authority, achieving the Core Subject Indicator, as determined by Teacher Assessment (PAM)
- (EDU/006ii) The percentage of pupils assessed, in schools maintained by the local authority, receiving a Teacher Assessment in Welsh (first language) at the end of Key Stage 3 (NS)
- (EDU/011) The average point score for pupils aged 15 at the preceding 31 August, in schools maintained by the local authority (PAM)
- (EDU/015a) The percentage of final statements of special education need issued within 26 weeks (including exceptions) (NS)
- (EDU/015b) The percentage of final statements of special education need issued within 26 weeks (excluding exceptions) (NS)
- (EDU/017) The percentage of pupils aged 15 at the preceding 31 August, in schools maintained by the local authority who achieved the Level 2 threshold including a GCSE grade A\*-C in English or Welsh first language and mathematics (PAM)
- (EDU/16a) Percentage of pupil attendance in primary schools (PAM)
- (EDU/16b) Percentage of pupil attendance in secondary schools (PAM)
- (SCC/002) The percentage of children looked after at 31 March who have experienced one or more changes of school, during a period or periods of being looked after, which were not due to transitional arrangements, in the 12 months to 31 March (NS)

## Why and how do we produce the Corporate Improvement Plan?

Informing you of our plans makes good sense. We have three main plans that set out how we will deliver services. These plans tell you how we will improve our services, spend our budget, as well as how we will save money. The key documents are:

- One Powys Plan
- Budget, Medium Term Financial Strategy and Capital Strategy
- Service Improvement Plans

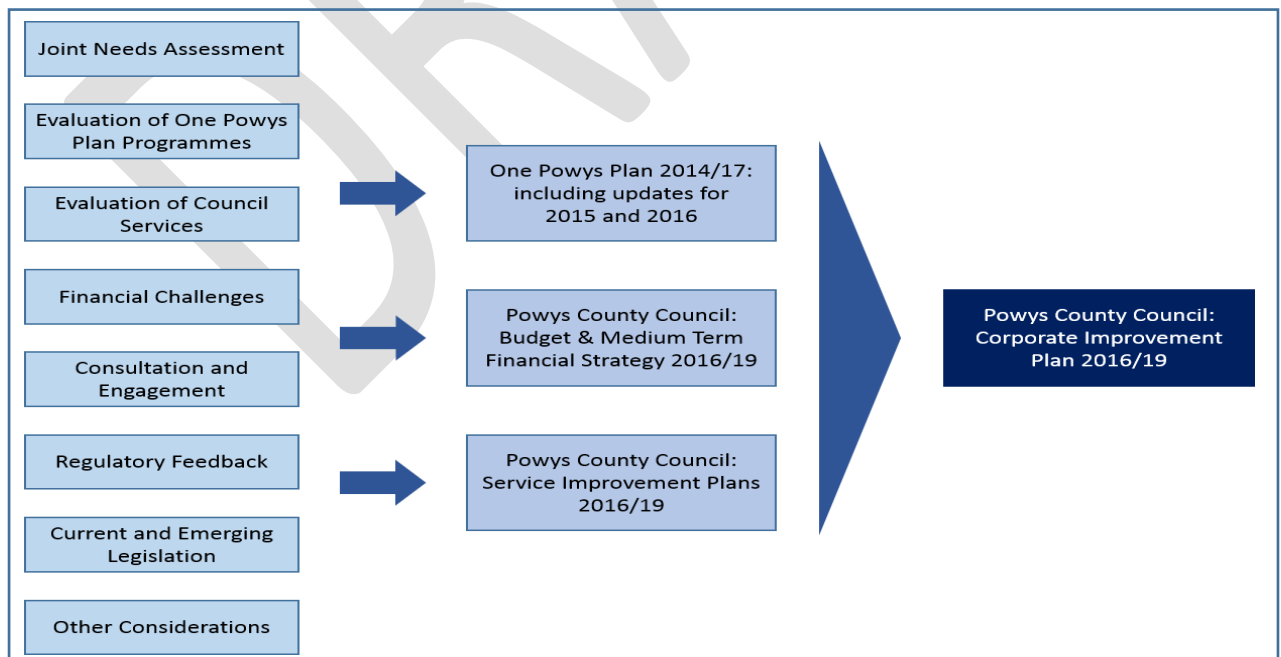
**Local Government (Wales) Measure 2009 Part 1** – This regulation requires the council to set and publish key priorities for improvement on an annual basis.

**Well-being of future generations (Wales) Act 2015** – This requires the council to publish well-being objectives and a supporting statement by the beginning of the financial year, to show how it will contribute to the seven national well-being goals set out in the Act. The council's four priorities are also our well-being objectives. Our new duties under the Act have been integrated into this update of the plan.

This also requires the Powys Public Services Board to identify long-term objectives for improving the social, economic, environmental and cultural well-being of Powys.

The Corporate Improvement Plan enables us to engage with staff, elected members, the public and stakeholders such as regulators. In addition, it makes the links to the council's Medium Term Financial Strategy (MTFS), Workforce Strategy and service improvement plans (SIPs). The council also recognises that other partners retain their own corporate planning frameworks.

The process for developing the Corporate Improvement Plan 2016/20 is summarised in the following process chart:



## Contributing to the seven national well-being goals

The council must demonstrate how it will contribute to the seven national well-being goals and take account of the five sustainable development principles.

Each of our priorities contributes to one or more of the well-being goals that will help us improve Powys now and over the long term, as detailed in the table below.

	Services delivered for less	Supporting people in the community	Developing the economy	Learning
<b>A prosperous Wales</b>	✓	✓	✓	✓
<b>A resilient Wales</b>	✓	✓	✓	
<b>A healthier Wales</b>		✓	✓	✓
<b>A more equal Wales</b>		✓	✓	✓
<b>A Wales of cohesive communities</b>	✓	✓	✓	✓
<b>A Wales of vibrant culture and thriving Welsh Language</b>		✓	✓	✓
<b>A globally responsible Wales</b>	✓	✓	✓	✓

The next table, explains in more detail how the aims and objectives of each of our priorities will help contribute to the goals. We are committed to improving our approach to sustainable development and will promote this through our impact assessments.

Each year we will produce an evaluation showing what we have achieved and what impact we have made in our Annual Performance Evaluation.



**A Prosperous Wales (Powys)**

Efficient use of resources, skilled, educated people, generates wealth, provides jobs

**Services delivered for less**

- We will make more efficient use of resources and look to retain jobs where possible, recognising that the council is a major employer in Powys
- We will share expertise and resources with our partners, such as Powys Teaching Health Board, to provide more effective services and avoid duplication of effort
- We will market our services to others, to help secure local council jobs
- We will work for a better funding deal for Powys

**Supporting People in the Community**

- When developing 'suitable accommodation for older people' (e.g. Llys Glan yr Afon extra care housing, in Newtown), we support local job creation
- As part of our housing strategy and target to build 600 affordable homes over the next 5 years we will aim to provide good quality local jobs and benefit local businesses and suppliers
- We will support local skilled jobs and training opportunities by growing and processing wood products and developing timber framed homes as part of our 'Home Grown Homes' project
- Our 'early intervention and prevention' approach to social care will provide local job opportunities
- Young carers will be supported to reach their full potential and remain or gain employment whilst caring
- Through our learning disabilities plan we will develop a programme to provide daytime activities and help people get into work

**Developing the Economy**

- We will encourage business growth to develop an innovative and productive economy
- We will promote Powys as a tourism destination to support existing businesses, generate new business opportunities and create jobs
- We will support diversification into tourism to create stronger businesses and reduce economic risk particularly in agricultural
- We will manage and promote our two National Trails and other long-distance trails to support tourism and a healthier population
- We will continue to support the development of better infrastructure to enhance growth opportunities for existing businesses and encourage inward investment and migration into the county
- We will support vocational training to provide opportunities for people to develop their skills to remain in the county either as an alternative to academic routes to employment or by enabling changes in work through skills diversity and growth
- We will lobby to improve road and rail transport links, along with public access while working with the Mid Wales and Marches Economic Region to improve transport infrastructure. Better connected public transport will encourage sustainable transport and reduce the county's carbon footprint
- We will improve cultural services with the new Brecon Cultural Hub, generating inward investment, increased visitor numbers and greater community cohesion

**Learning**

- We will ensure that education is a key driver in removing the negative impact of poverty on young people's life chances
- We will continue to support all schools to improve and provide effective interventions to produce well-qualified individuals more able to contribute to the prosperity of the nation

**A Resilient Wales (Powys)**

Maintain and enhance biodiversity and ecosystems that support resilience and can adapt to change (e.g. climate change)

**Services delivered for less**

- We will reduce staff travel by providing flexible and agile working conditions
- We will develop new IT systems and use energy efficient equipment to reduce energy consumption
- We will encourage energy efficiency/generation in our buildings

**Supporting People in the Community**

- Our new 'Home Grown Homes' project, will use locally grown timber building products reducing the environmental impact of our house building. Increased forestry will also help alleviate flooding by absorbing water and CO2 reducing the causes of climate change
- Our Local Housing Strategy will ensure that our new affordable homes are energy efficient and affordable to run
- Through the use of new technologies (telecare and telemedicine) we aim to reduce the need for carers travel

**Developing the Economy**

- We will support activity based tourism to help manage and conserve our landscapes
- We will ensure the Local Development Plan meets the needs of Powys and is compliant with Welsh Government requirements

**Learning**

- We are committed to modernising our schools to provide low carbon buildings with high quality educational environments fit for the 21<sup>st</sup> Century

**A Healthier Wales (Powys)**

People's physical and mental well-being is maximised and health impacts are understood

**Supporting People in the Community**

- We will work with our partners in PTHB for an integrated approach to meeting adult service user's health needs
- We will continue to implement our early intervention and prevention strategy to identify those who are vulnerable to poor outcomes
- We will support the new Information, Advice and Support Service to Carers which will improve the health and well-being of carers, through the provision of person centred, co-ordinated and outcome focused services
- We will ensure that young carers are able to maintain their own health & well-being whilst supporting the health and well-being of those they caring for

**Developing the Economy**

- We will use our influence to develop a healthy and enterprising economy with good quality job opportunities, recognising that employment and good quality housing are major contributors to social and mental well-being
- We will ensure that our tourism provides opportunities for healthy outdoor activities for everyone
- We will support development of better infrastructure to enhance access to services and reduce rural isolation
- Our planning policy seeks to reduce the threat of pollution and negative health impacts
- Our cultural, leisure and recreational services will promote positive mental well-being by providing opportunities for social, educational, active, and healthy lifestyles

**Learning:**

- We will support improvement of good quality, targeted education which will allow individuals to make more informed healthy life choices
- Mental health support righte can prevent later more complex difficulties

**A More Equal Wales (Powys)**

People can fulfil their potential no matter what their background or circumstances. Equality is about making sure people are treated fairly. It is not about “treating everyone the same” but recognising everyone’s needs are met in different ways.

#### **Supporting People in the Community**

- We are committed to ensuring equality is a guiding principle of social care and we will work to people’s strengths
- We are committed to fully promote economic participation through the Learning Disability programme and help people with a Learning Disability to have improved opportunities for valued occupation including paid employment

#### **Developing the Economy**

- We will encourage the growth of business and jobs in the county by increasing inward investment which in turn will provide better job opportunities and increased wage rates, with the aim of reducing deprivation and in-work poverty
- We will engage with partners to help unemployed people back to work through the *Work Ways* initiative which focuses on older age groups
- We will support community based public transport development, by developing regeneration links to the Local Transport Plan, with the aim of enabling more equal access to services

#### **Learning**

- We will continue to roll out schools’ cashless payments ensuring that children are not disadvantaged and maximise the take up of free school meals
- We will respond to pupil needs rather than their behaviour to ensure that aspects of disability and other protected characteristics are recognised and supported

#### **A Wales of Cohesive Communities (Powys)**

Communities are attractive, viable, safe and well connected.

- **Services delivered for less**
- We will continue to work with communities to further develop the County’s Community Delivery programme which encourages local management and development of services which the Council can no longer provide to the extent residents desire. This will increase community engagement, capacity building and cohesion. As part of this work we will support our communities to develop the skills, capabilities and confidence necessary to be able to ‘do things for themselves’
- **Supporting People in the Community**
- Through providing suitable accommodation for older people we will aim to ensure that older people can remain where possible within their communities and stay connected to family and friends
- We will work with partners through the Regional Partnership Board to support carers. Carers make an important contribution to families, communities and the sustainability of the economy. The Information, Advice and Support Service for Carers in Powys will proactively lead and support the development of a Carers Champion network across a range of agencies / services and communities. This network will raise awareness and understanding of the challenges and issues facing Carers among professionals and partner agencies. As detailed within the Joint Carers Commissioning Strategy, support plans for carers will draw on services and opportunities available within local communities to meet needs. Our current service provider will assist Carers to access opportunities which already exist within their local communities
- We recognise the need to support individuals to engage fully with their community and to live independent lives. The work on early intervention and prevention will support individuals to do what matters to them, being active members of community groups, societies and participating in events and to ensure that all members of the community, regardless of ability or age live fulfilled lives. The work will provide befriending and support to access the community, but will also work with communities to support making communities, societies and events more accessible. Full societal inclusion is essential in order to ensure community cohesiveness

<ul style="list-style-type: none"> <li>• We will work with our communities to welcome and integrate new arrivals into the community</li> <li>• <b>Developing the Economy</b></li> <li>• We will continue to support local events and festivals which help to strengthen communities and bring cultures together</li> <li>• We will support community based public transport - better road infrastructure and public transport will help to connect communities. Better infrastructure will improve access to local services and local employment opportunities which will encourage people to remain in the area</li> </ul> <p><b>Learning</b></p> <ul style="list-style-type: none"> <li>• We will ensure our schools continue to be highly valued and supported by local communities as venues for providing additional services to the community outside of normal school hours</li> </ul>
<p><b>A Wales of Vibrant Culture and Thriving Welsh Language (Powys)</b> A society that promotes and protects culture, heritage and the Welsh Language, and which encourages people to participate in the arts and sports and recreation.</p>
<p><b>Supporting People in the Community</b></p> <ul style="list-style-type: none"> <li>• We will ensure Welsh language childcare settings support and maintain the Welsh language within our communities. Wherever possible we will actively promote provision to ensure the children are able to access the service through the medium of Welsh</li> <li>• We will continue to support the Welsh Government '<i>More than just words</i>' framework, ensuring Welsh speakers receive social care services in their first language</li> <li>• We are committed through our Early Intervention and Prevention approach to encourage participation in arts, sports and recreation</li> <li>• We will support a social prescribing model, where activities are used instead of drugs to treat some conditions, such as depression and obesity</li> </ul> <p><b>Developing the Economy</b></p> <ul style="list-style-type: none"> <li>• We will support creative industries and social enterprise which contribute to a thriving arts and culture sector. Powys has a wide and diverse portfolio of Arts, Sports and Cultural venues and activities that drive many tourism and visitor activities. Festivals and heritage feature highly in the cultural calendar serving as both an attraction for visitors as well as providing a rich and diverse economic benefit for the Powys population</li> <li>• We will develop the Brecon Cultural Hub and new Archives Facility which will produce additional opportunities for cultural and heritage development and increase awareness of cultural heritage and visitor numbers to Powys</li> </ul> <p><b>Learning</b></p> <ul style="list-style-type: none"> <li>• We will implement the Welsh in Education Strategic Plan to ensure equality of access to Welsh medium education, which is an essential part of the school transformation process</li> <li>• We will ensure local schools provide opportunities for local cultural events and activities</li> </ul>
<p><b>A globally Responsible Wales (Powys)</b> Taking account of impact on global well-being when considering local social, economic, environmental and cultural well-being.</p>
<p><b>Services delivered for less</b></p> <ul style="list-style-type: none"> <li>• We will ensure that our procurement process supports ethical procurement and Fairtrade</li> <li>• We will continue to achieve the Welsh Governments recycling targets to reduce the impact on the environment and avoid fines</li> </ul> <p><b>Supporting People in the Community</b></p> <ul style="list-style-type: none"> <li>• Through the implementation of our new 'Home Grown Homes' project, which will use locally grown, timber building products, to reduce the environmental impacts of our house building and play our part in improving global well-being</li> </ul> <p><b>Developing the Economy</b></p>

- We will support the roll out of superfast broadband to support access to global markets and provide opportunity for home based enterprise. This can also potentially reduce the need for work based travel
- We will support and encourage sustainable tourism businesses that use local produce and short supply chains to strengthen local identity

**Learning**

- We will support our schools to provide a rounded and balanced curriculum which includes an increasing focus on skill development and independent learning. Global citizenship and knowledge of global issues is an essential component of the curriculum

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## Listening to you

We believe all our citizens, partners and businesses should be regularly consulted so their voice influences future decisions and service provision. We have engaged citizens in a number of ways including:

### The Powys Budget Simulator – Autumn 2015, December 2016 and January 2017

- 476 residents submitted a budget that helped the council to consider and address the necessary savings targets to set a balanced budget for the financial year 2016/17
- The simulator was launched again in December 2016 seeking residents' views on £22m worth of savings proposals over three years. Participants could see the consequences of reducing budgets by between 10-30% as well as increasing Council Tax up to offset service reductions they felt were unacceptable. Results were fed back to cabinet and full council.

### Service consultations

A number of service consultations were carried out to ensure residents had their say on some of the final proposals about reductions for:

- Day care centres
- Libraries
- School modernisation plans
- 2 leisure centres and Staylitttle Outdoor Centre
- Household Waste and recycling centres

### Legislative consultations

The council engaged residents on legislative consultation documents such as Active Travel; conducted a population assessment as part of the duties under the Social Services and Well-being Act; and began engagement around the Well-being of Future Generations Act with the Powys Youth Forum and Citizens Panel.

### Key conclusions:

The research and consultation exercises conducted during the year on how to achieve budget savings for specific services like libraries, leisure centres, day care centres, household waste and recycling centres and via the simulator have provided clear evidence that residents are clearly aware of the budget deficit issue and the need to make savings. However the awareness doesn't change the views expressed by a growing number of residents about how they feel savings could be found. There is a clear view being expressed that Powys has too many members, and that further savings on management costs and consultants could be made.

There is a reluctance to see the services that provide for the more vulnerable in our society being cut. As per last year there was less appetite for budget cuts for children with disabilities, home care services, services for looked after children and family support services. Residential care and learning disability services also received lower cuts of just under 6%, followed by waste and recycling with a cut of just under 7%. There was also a reluctance to jeopardise services by cutting budgets to the point where there may be difficulty in maintaining statutory requirements. This applied to both schools and environmental health in particular.

Residents are now seeing and stating that they have seen a decrease in the level of services provided by the council over the past year and satisfaction with the services that we provide overall as a council has decreased over the past five years (source – Residents Satisfaction Survey).

We will continue to ensure you are given the opportunity to 'Have your say' through a variety of means including:

- Residents survey
- Citizens panel
- Budget simulator
- Youth forum
- Older people's forum
- Housing 100 panel
- Public meetings
- Social media

## Listening to our regulators

We are answerable to a number of external regulatory bodies who perform inspections on our services, making sure we are well managed and provide best value for money. We will embrace the findings of these inspections and will work in partnership with our regulators to put actions in place to deliver the required service improvements.

Since our plan was published we have received the following feedback from our regulators during 2016-17.

**Wales Audit Office (WAO)** is the public sector watchdog for Wales. Their aim is to ensure that the people of Wales know whether public money is being managed wisely and that public bodies in Wales understand how to improve outcomes.

Their Annual Improvement Report 2015-16 states:

*During the course of the year, the Auditor General did not make any formal recommendations to the council.*

*The council continues to make progress in its priority areas and maintains compliance with the Local Government Measure 2009*

*The council continues to make progress in delivering its shared priorities and, whilst its overall performance against the national indicators has declined over the previous year, it has largely maintained its position in comparison with other Welsh councils*

*The council is improving its financial management arrangements with the benefit of increasingly rigorous scrutiny and challenge but recognises that it needs to better align service and financial performance if it is to be confident of achieving its priorities with the resources at its disposal*

*The council has more work to do to provide assurance that its established governance arrangements are robust and that external regulatory reports are fully considered and addressed. The council recognises that, in its haste to introduce the new domiciliary care service, the integrity of its established governance arrangements was compromised and is working to mitigate the consequential risks*

*The council has more work to do to provide assurance that external regulatory reports are fully considered and action taken in response to the recommendations, where appropriate*

Care and Social Services Inspectorate Wales (CSSIW) encourages the improvement of social care, early years and social services by regulating, inspecting, reviewing and providing professional advice to ministers and policy makers. It provides the council with their views on the councils' annual review and evaluation of performance. Their Annual Review and Evaluation 2015-16 for Powys stated:

*Improvements have been made and with the additional senior management capacity, prospects are improving despite the budgetary pressures. It has made significant investment in reshaping services in order to deliver on the savings needed and the implementation of the SSWB Act.*

*The council is actively engaged in the completion of both market position statements and commissioning strategies across a range of service areas, including older people and*



*accommodation, assistive technology, learning disability and domiciliary care. It has carried out a detailed analysis of demography and need across all Council wards, matching current and future need against current resources.*

Estyn is the Office of Her Majesty's Chief Inspector of Education and Training in Wales. Their mission is to achieve excellence for all learners in Wales through raising the standards and quality in education and training. Estyn has a wide range of statutory inspection and reporting responsibilities which include inspection of all publicly funded education and training across Wales.

*The proportion of pupils eligible for free school meals in Powys is the lowest in Wales. This is taken into account when evaluating the performance in the council.*

*Since 2012, performance has steadily improved in the Foundation Phase indicator<sup>1</sup> and the core subject indicators for key stages 2 and 3. Although performance in each of these measures is well above the Wales average, it is below that of similar councils.*

*At key stage 4, over the last five years, performance in both the level 2 indicator including English or Welsh and mathematics and the capped average wider points score has improved, but at a slower rate than the average for Wales as a whole. While performance in these measures has remained well above the Wales average, it is below that of similar councils. The council has only met one of the Welsh Government's benchmarks for performance at key stage 4 in the last three years. Of the 12 secondary schools in Powys, three were in special measures at the start of 2016.*

*16 In most of the main indicators for primary and secondary schools, the performance of pupils eligible for free school meals is higher than for similar pupils across Wales.*

*Attendance in primary and secondary schools has improved and now places Powys amongst the highest authorities in Wales.*

WAO 361A2016 (June 2016)

### **Financial Resilience: Savings Planning**

Whilst the council is strengthening its arrangements for developing savings plans, too many are insufficiently developed and have unrealistic delivery timescales which may not fully support future financial resilience

Proposal for improvement

Strengthen financial planning arrangements by:

- Ensuring that the service savings targets set for third party spend, income and cost improvement opportunities can be achieved in planned timescales
- Ensuring that all savings plans are sufficiently well developed for inclusion in the annual budget
- Forecasting the use of reserves over the Medium Term Financial Plan period

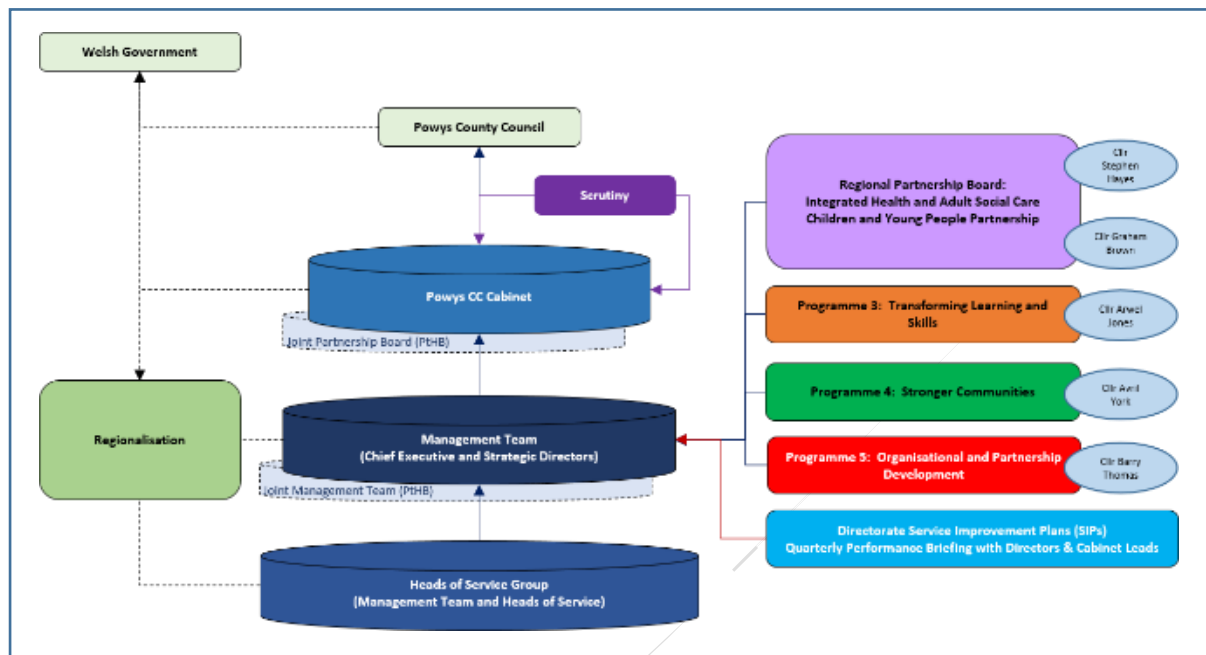
WAO 695A2016 (December 2016)

## Staying on track and monitoring performance

We will organise ourselves in the following ways to give ourselves the best chance of success.

### Governance arrangements

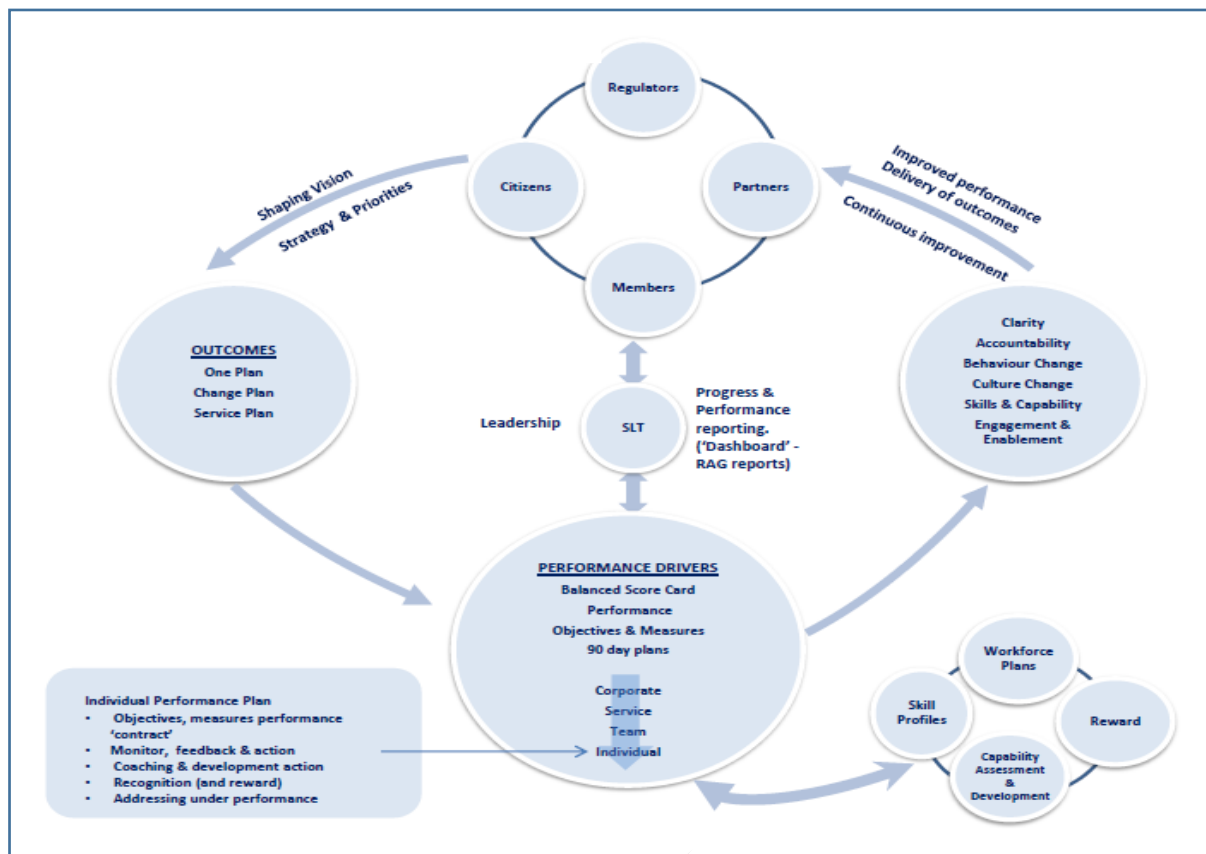
To manage the delivery of our plans, we have a structure that ensures arrangements for improvement are effective and well-managed through robust governance.



### Monitoring our performance

It is important that we monitor our performance and report back on the progress we make in a way that provides real accountability. We operate a regular reviewing cycle that effectively monitors our performance and helps us to learn from what is working, and what is not.

## The performance and monitoring cycle



### Self-evaluation

Self-evaluation is an important part of our performance framework. It allows us to effectively evaluate our work and provides assurance to our regulators and citizens that we are doing the right thing.

Our self-evaluation aims to be:

- Rooted – ensuring that self-assessment is embedded in our service planning
- Relevant – what did we do? How well did we do it? Did we make a difference?
- Reasonable – an open and honest assessment
- Robust – ensuring performance data and information is accurate and relevant
- Rounded – ensuring our governance arrangements are robust

### Scrutiny

To ensure that we give sufficient challenge to service improvement we will put in place scrutiny arrangements that:

- Continuously ask whether we are doing what we set out to do, and whether we are doing it well
- Are well defined and highly valued
- Are member-led, including the views of the public, partners and regulators
- Balance community concerns with issues of strategic risk and importance
- Are well communicated allowing the voice of citizens to be heard in the decision-making process

The council's audit committee, which is independent of both the cabinet and scrutiny functions oversees the work of internal audit and receives the reports of the Wales Audit Office. It has

responsibility for approving the council's accounts and monitors the council's performance in relation to its budget and achievement of performance targets.

## Key facts about Powys

Displayed as infographic:

Theme	50 facts update
Population	15.1% of the Powys residents in mid 2015 were children under 15, (Wales 16.8%), 59.1% were aged 15 to 64, (Wales 63.0%), 14.2% were aged 65 to 74, (Wales 11.2%) and 11.5% were aged 75 and over, (Wales 9.0%).
	Powys covers a quarter of Wales and is the most sparsely populated county in England and Wales, with just 26 persons per square kilometre in mid 2015, (Wales 149)
	18.6% of Powys residents who could speak Welsh according to the 2011 Census of Population, (Wales 19.0%)
	The proportion of people aged 75 and over in Powys increased from 9.7% in mid 2003, (Wales 8.3%), to 11.5% in mid 2015, (Wales 9.0%), due to the national increase in life expectancy and the net out migration of the student age group from Powys
	In mid 2015 we had an estimated population of 132,642.
	It is estimated that there were 59,138 households in Powys in mid 2015, representing an increase in households of 1.2% since mid 2011, (Wales 2.2%).
Health, Social Care & Well-being	In August 2016 4.3% (5,670) of the Powys population, were in receipt of Disability Living Allowance, (Wales 5.7%) and 220 Powys residents were in receipt of Incapacity Benefit / Severe Disablement Allowance, equivalent to 0.3% of Powys residents aged 16 to 64, (Wales 0.4%).
	The estimated life expectancy at birth in 2012 to 2014 was 80.6 years for men, (Wales 78.5), and 83.7 years for women, (Wales 82.4).
Labour Market	<p>Around 29% of our workforce is employed in the public sector in September 2016. Other large sectors are:</p> <ul style="list-style-type: none"> <li>• Distribution, hotels and restaurants (18%)</li> <li>• Manufacturing (8%)</li> <li>• Agriculture and Fishing (10%)</li> <li>• Construction (9%)</li> <li>• Banking, finance and insurance (13%)</li> </ul>
Democracy	99,987 Powys residents were on the electoral register for Assembly and Local Government elections, on 1st Dec 2015, equivalent to 92.8% of the 2015 estimated population aged 18 plus, (Wales 89.3%).
	69.4% and 72.5%, 69.4% of the electorate in the Montgomeryshire constituency and 72.5% of the Brecon and Radnor constituency voted in the 2010 General Election, (Wales 64.9%)
Economy and Business	The National Accounts economic indicator, Gross Value Added (GVA) per head at current basic prices, rose from £13,990 in 2010, (Wales £15,648), to £16,972 in 2015, (Wales £18,002). This represented a rise over the year from 63.3% of the UK GVA per head in 2010, (Wales 70.8%), to 66.9% in 2015, (Wales 71.0%)
	In August 2016, 0.8% of Powys people aged 16 and over were claiming Income Support, (Wales 1.6%).
	At the end of 2014 there were 5,740 active businesses in Powys, a net decline of 0.1% from the 5,745 active at the start of the year, (Wales 3.0% rise). 470 businesses were started in 2014, equivalent to 8.2% of the businesses active at the start of the year, (Wales 12.6%). However, 385 other businesses had closed during the year, equivalent to 6.7% of the active businesses at the start of the year, (Wales 9.5%).

## Glossary

**Average point score** - every pupil is assigned a point score which reflects the educational grades they achieve at the end of compulsory education (typically age 16). Each grade is worth a certain number of points. The average point score is the average score of pupils throughout the county.

**Commissioning** - this puts the focus on providing the right service for the citizen, from the right provider at the right price for the taxpayer. Sometimes this will mean providing a service differently.

**Community Befriending Agent model** – this is about supporting the person in a number of different places rather than in just one building. A befriending agent would work in the community identifying and supporting (perhaps through volunteers) older people who are experiencing loneliness or social isolation, helping them to access services and social activities.

**Core Subject Indicator** - this is a measure of how many learners achieved the expected level in each of the core subjects (i.e. English or Welsh, Mathematics and Science) in combination.

**Education through Regional Working (ERW)** - ERW is an alliance of 6 local education authorities governed by a legally constituted joint committee. Its aim is to implement the agreed regional strategy and business plan to support school improvement.

**Governance** - is the system by which we will direct and control our services, and relate to our community.

**Joint Venture Company (JVC)** - a business arrangement between two or more parties with pooled resources, focussed around delivering a specific service. Both parties are responsible for profits, losses and costs associated with it. However, the venture is its own entity, separate and apart from their other business interests.

**Local Asset Backed Vehicle (LABV)** - this is a venture between the council and a private sector partner. It is a means of enhancing the value of the council's property assets, and is known in Powys as the Powys Real Estate Partnership. The focus is on the pre-development benefits working with a partner can bring. Any increase in value the partner can bring to one of the council's existing assets will be split 50/50 between the council and the partner organisation.

**Looked after children (LAC)** – means children that the council has responsibility for, who cannot be looked after by their parents.

**Medium Term Financial Strategy (MTFS)** – this is a rolling 3-year plan which focusses on both revenue expenditure (day-to-day running costs of providing services) and capital expenditure (long-term investment in infrastructure, like schools and roads), as well as setting out the council's overall financial strategy.

**Safeguarding** - is about protecting children, young people and vulnerable adults from abuse or neglect.

**Service Improvement Plan (SIP)** – this is an annual plan made by each council service which sets out which improvements it will focus on making within the next 12 months, and the way that improvements will be measured.

**Third sector** - the voluntary sector or community sector (also non-profit sector).

**Transformational** – means radical changes as opposed to small steps.

## How to contact us

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**Facebook:**

**Youtube:**

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



# CC34- 2017

## CYNGOR SIR POWYS COUNTY COUNCIL.

### Democratic Services Committee 21st February, 2017

**REPORT AUTHOR:** Solicitor to the Council

**SUBJECT:** Review of the Constitution

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**REPORT FOR:** Decision

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#### 1. Summary

- 1.1 The report asks the Committee to make a recommendation to the County Council to revise Sections 4, 5, 7, and 12 of the Council's Constitution.

#### 2. Background

- 2.1 The Committee will be aware that the Wales Audit Office (WAO) undertook a review of the Council's governance and financial resilience at the end of 2016. As a result of the feedback to the review the Council has developed an action plan to respond to issues raised by the WAO in advance of the final report by the WAO being received.
- 2.2 One of the major issues identified by the WAO related to strategic decision making by the Cabinet and the involvement of scrutiny in scrutinising major reports prior to their being considered by the Cabinet. In addition WAO expressed concern regarding the operation of the Cabinet and in particular the right to speak at Cabinet meetings by Scrutiny Chairs and Opposition Group Leaders.
- 2.3 A meeting was held on Tuesday 14<sup>th</sup> February, involving the Chairs of the Scrutiny and Democratic Services Committees with the Leader and representatives of the Cabinet and a way forward was discussed. As a result it was identified that urgent changes to Sections 5 and 7 of the Constitution were required, which are presented to the Committee for consideration.
- 2.4 In addition there are two sections of the Constitution (Sections 4 and 12) which have already been revised as part of the current ongoing review of the Constitution and are also presented to the Committee for consideration.

#### 3. RECOMMENDATION.

<b>Recommendation to the Democratic Services Committee</b>	<b>Reason for Recommendation:</b>
<b>That Sections 4, 5, 7 and 12 of the Constitution as amended be approved for consideration by the Council at its meeting on 7<sup>th</sup> March, 2017.</b>	<b>To update Sections of the Constitution in response to the WAO review of the Council's governance arrangements, and as part of the ongoing review of the Constitution.</b>

<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	<b>Y</b>	<b>Within Budget:</b>	<b>Y / N</b>

<b>Relevant Local Member(s):</b>	
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<b>Person(s) To Implement Decision:</b>	<b>Clive Pinney, Solicitor to the Council</b>
<b>Date By When Decision To Be Implemented:</b>	<b>March 2017.</b>

<b>Contact Officer:</b>	Wyn Richards, Scrutiny Manager and Head of Democratic Services.
<b>Tel:</b>	01597-826375
<b>Email:</b>	wyn.richards@powys.gov.uk

**Background Papers used to prepare Report:**

## SECTION 4 – FULL COUNCIL

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### Introduction

4.1 The Full Council is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's Budget and Council Tax and approving a number of key plans and strategies, which together form the Policy Framework (listed below). It is responsible for all of the functions not the responsibility of the Cabinet. It will carry out some functions itself, but others will be delegated to Committees or named Officers.

### The Policy Framework

4.2 The Policy Framework means the following plans and strategies:

Plan, Scheme and Strategy	Reference
• Children and Young People's Plan;	• <b>Regulations made under Section 26 of the Children Act 2004 (c.31)</b>
• Best Value Performance Plan;	• <b>Section 6(1) of the Local Government Act 1999 9c.27)</b>
• Community Strategy;	• <b>Section 4 of the Local Government Act 2000 (c.22)</b>
• Crime and Disorder Reduction Strategy;	• <b>Sections 5 and 6 of the Crime and Disorder Act 1998 9c.37)</b>
• Health and Well-Being Strategy;	• <b>Section 24 of the National Health Service Reform and Health Care professions Act 2002 9c.17)</b>
• Local Transport Plan;	• <b>Section 108 of the Transport Act 2000 (c.38)</b>
• Plans and alterations which together comprise the Development Plan;	• <b>Section 10A of the Town and Country Planning Act 1990 (c.8)</b>
• Welsh Language Scheme;	• <b>Section 5 of the Welsh Language Act 1993 (c.38)</b>
• Youth Justice Plan;	• <b>Section 40 of the Crime and Disorder Act 1998 (c.37)</b>
• Powers to approve a Young People's Partnership Strategic Plan and a Children and Young Peoples Framework Partnership	• <b>Section 123, 124 and 125 of the Learning and Skills Act 2000 (c.21)</b>
• Housing Strategy;	• <b>Section 87 of the Local Government Act 2003 (c.26)</b>
• Rights of Way Improvement Plan;	• <b>Section 60 of the Countryside and Rights of Way Act 2000 (c.37)</b>
• Pay Policy	• <b>Section 38(1) of the Localism Act 2011</b>

## SECTION 4 – FULL COUNCIL

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• Single Integrated Plan	• <b>Part 2 – Local Government (Wales) Measure 2009<sup>1</sup></b>
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### **The Single Integrated Plan (The One Powys Plan)**

4.3 This replaces four of the existing plans and strategies which formed part of the Policy Framework, namely the Community Strategy, the Children and Young People's Plan, the Health, Social Care and Wellbeing Strategy and the Community Safety Partnership Plan.

### **The Budget**

4.4 The Budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits. The Full Council will decide the Council's overall revenue budget and overall capital budget and any changes to these. (See Section 15 for how the Council can change the Policy Framework or Budget referred to it for approval by the Cabinet.)

### **Housing Land Transfer**

4.5 Housing Land Transfer means the approval or adoption of applications (whether in draft form or not) to the National Assembly for Wales for a programme either:

4.5.1 by Full Council to dispose of 500 or more properties to a person under the Leasehold Reform, Housing and Urban Development Act 1993: or

4.5.2 to dispose of land used for residential purposes where approval is required under section 32 or 43 of the Housing Act 1985.

### **Functions of the Full Council**

4.6 Only the Full Council will exercise the following functions:

4.6.1 adopting and changing the Constitution;

4.6.2 approving or adopting the Single Integrated Plan (The One Powys Plan), Policy Framework, the Budget and any application to the National Assembly for Wales in respect of any Housing Land Transfer;

4.6.3 subject to the urgency procedure contained in the Access to Information Procedure Rules in Section 14 of this Constitution, making decisions about any matter in the discharge of an Executive Function which is covered by the Policy Framework or the budget where the decision maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to/or not wholly in accordance with the budget;

4.6.4 appointing and removing the Leader;

4.6.5 making appointments to the committees of the Council

4.6.6 making appointments of Chairs of the Scrutiny and Democratic Services committees of the Council

4.6.7 agreeing and/or amending the terms of reference for Committees, deciding on

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<sup>1</sup> Welsh Government Guidance "Shared Purpose – Shared Delivery" to Part 2 of the Local Government (Wales) Measure 2009 Rules 37 to 46.

## SECTION 4 – FULL COUNCIL

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their composition and making appointments to them (in accordance with the Local Government and Housing Act 1989) unless the appointments have been delegated by the Council;

- 4.6.8 changing the name of the area or conferring the title of freedom of the County;
- 4.6.9 making or confirming the appointment of the Head of Paid Services and other Chief Officers<sup>2</sup>;
- 4.6.10 making, amending, revoking re-enacting or adopting bylaws and promoting or opposing the making of local legislation or Private Bills;
- 4.6.11 all Local Choice Functions set out in Section 13 of this Constitution which the Council decides should be undertaken by itself rather than the Cabinet; and
- 4.6.12 all matters which by law must be reserved to the Council. For example, appointing the Chair of the Democratic Services Committee and the pay policy statement;
- 4.6.13 appointing representatives to outside bodies unless the appointment has been delegated by the Council.
- 4.6.14 to determine the level, and any change in the level, of the remuneration to be paid to a Chief Officer.

### Membership

- 4.7 All Councillors shall be members of Full Council.
- 4.8 Substitution is not possible at meetings of the Council.

### Chairing the Council

### Appointment And Term Of Office Of Chair, Vice-Chair And Assistant Vice-Chair Of Council

- 4.9 The County Council will at every Annual Meeting elect from amongst its Councillors:
  - 4.9.1 The Chair of the County Council;
  - 4.9.2 The Vice-Chair of the County Council;
  - 4.9.3 The Assistant Vice-Chair of the County Council.

and the Councillors so elected will hold office until the following Annual Meeting; they resign; are dismissed by a vote of Full Council upon a Motion on Notice; cease to be a member of the Council; or are unable to act as a member of the Council due to he/she being suspended or disqualified from being a Councillor under Part 3 of Local Government Act 2000.

- 4.10 The post of Chair, Vice Chair and Assistant Vice Chair will be nominated by Councillors in Montgomeryshire, Radnorshire and Brecknockshire in rotation.
- 4.11 In the event of a vacancy occurring between Annual Meetings the County Council will appoint a new Chair, Vice-Chair or Assistant Vice-Chair (as the case may be) at an ordinary meeting following the occurrence of the vacancy.

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<sup>2</sup> Defined in Section 2.2.2

## SECTION 4 – FULL COUNCIL

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### **Role and Function of the Chair**

4.12 The Chair of the Council and in his/her absence, the Vice Chair or Assistant Vice Chair will have the following roles and functions:

#### ***Ceremonial Role***

4.12.1 The Chair of the Council:

- 4.12.1.1 is the civic leader of Powys County Council ;
- 4.12.1.2 promotes the interests and reputation of the Council and the geographic area of Powys as a whole and acts as an ambassador for both; and
- 4.12.1.3 undertakes civic, community and ceremonial activities and fosters community identity and pride.

#### ***Responsibilities of the Chair***

4.12.2 The Chair of the Council will:

- 4.12.2.1 uphold and promote the purpose of the Constitution, and to interpret the Constitution with advice from the Monitoring Officer when necessary;
- 4.12.2.2 preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of Councillors with regards to their (a) participation in the affairs of Council; (b) access to documentation and information in accordance with Section 14; and (c) the interests of the Community;
- 4.12.2.3 ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Councillors who are not on the Cabinet are able to hold the Cabinet and Committee chairs to account;
- 4.12.2.4 ensure public involvement in the Council's activities;
- 4.12.2.5 be the conscience of the Council; and

#### ***Political Neutrality***

4.12.3 The Chair, Vice-Chair and Assistant Vice-Chair of the Council during their periods of office will not be actively involved with any political group to which they belong.

4.12.4 The Chair, the Vice-Chair, the Assistant Vice-Chair of the Council, cannot be a member of the Cabinet .

### **Council Meetings**

4.13 There are three types of Council meeting:

- 4.13.1 the Annual Meeting;
- 4.13.2 ordinary meetings; and
- 4.13.3 extraordinary meetings

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### Rules of Procedure and Debate

4.14 The Council Procedure Rules contained in Rule 4.15 to Rule 4.95 will apply to meetings of the Full Council and those rules marked “▲” will also apply to committee meetings (excluding Area (Shire) Committee meetings) and sub-committee meetings, but not to meetings of the Cabinet and Cabinet Committees. Those rules marked “◆” will apply to Area (Shire) Committee meetings.

### Council Procedure Rules - Annual Meeting of the Council

#### Timing and Business

4.15 In a year when there is an ordinary election of Councillors, the annual meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the annual meeting will take place in March, April or May. Every Annual Meeting will:

- 4.15.1 elect a person to preside if the Chair of the Council is not present. A member of the Cabinet cannot preside over a meeting of Council<sup>3</sup>;
- 4.15.2 elect the Chair of the Council (subject to 4.10 above);
- 4.15.3 elect the Vice Chair of the Council (subject to 4.10 above);
- 4.15.4 elect the Assistant Vice-Chair of the Council (subject to 4.10 above);
- 4.15.5 receive declarations of interest
- 4.15.6 receive apologies for absence
- 4.15.7 decide on any amendments to the Constitution<sup>4</sup> recommended by the Democratic Services Committee
- 4.15.8 receive any announcements from the Chair, Leader and/or the Head of Paid Service;
- 4.15.9 elect the Leader of the Council, except where the Leader was appointed for a period of four years or the term of the Council at the initial annual meeting of the Council;
- 4.15.10 be informed by the Leader of the number of Councillors to be appointed to the Cabinet;
- 4.15.11 decide on the allocation of seats on political balanced committees to political groups in accordance with the requirements of the Local Government and Housing Act 1989
- 4.15.12 receive from political groups nominations of Councillors to serve on each of the politically balanced committees in accordance with the seats allocated to the respective political groups and to make appointments accordingly
- 4.15.13 appoint the Scrutiny Committees, Democratic Services Committee, Planning, Taxi-Licensing and Rights of Way Committee, Licensing Act 2003 Committee,

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<sup>3</sup> Schedule 12, Local Government Act 1972 (as amended)

<sup>4</sup> Any amendment to the committees of the Council including their size and terms of reference as set out in the Council's Constitution are subject to any statutory constraints or limitations and provided that the Council shall appoint at least one scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions under this Constitution;

## SECTION 4 – FULL COUNCIL

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- Employment and Appeals Committee, Pensions and Investment Committee a Standards Committee and such other committees and sub-committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are Executive Functions (as set out in Section 13 of this Constitution);
- 4.15.14 allocate the Chairs of Scrutiny Committees to the relevant political groups and to approve the appointments to those Chairs made by the political groups
- 4.15.15 appoint the Chair of the Democratic Services Committee<sup>5</sup>
- 4.15.16 elect or appoint Members where vacancies occur in respect of:
- Independent Member of Standards Committee; and
  - Lay Member of the Audit Committee; and
  - Co-Opted Members of the Scrutiny Committee;
- 4.15.17 receive from the Leader any changes to the scheme of delegations (as set out in Section 13 of this Constitution);
- 4.15.18 to approve a Schedule of Members' Remuneration for the next ensuing financial year
- 4.15.19 consider any business set out in the notice convening the meeting.
- 4.15.20 other business, not specified in the summons as the Chair considers urgent, subject to the nature of the urgency being specified in the minutes PROVIDED ALWAYS that in allowing such urgent business the Chair shall have regard to the fact that the Annual Meeting of the Council is normally a civic / ceremonial occasion;
- 4.15.21 receive from political groups nominations of Councillors to serve on the Brecon Beacons National Park Authority and to make appointments accordingly
- 4.15.22 appoint 3 Councillors to the Welsh Local Government Association.
- 4.15.23 appoint 1 Councillor to the Welsh Local Government Association Co-Ordinating Committee
- 4.16 The order of business, with the exception of Rule 4.15.1 may be altered by the Chair or decision of Council
- 4.17 Additional agenda items for the Annual Meeting next following the ordinary election of Councillors:
- 4.17.1 Receive a report from the Returning Officer as to the Councillors elected;
- 4.17.2 Elect the Leader \*\*;
- 4.17.3 Appoint Councillors to the Standards Committee \*\*;
- 4.17.4 Appoint Councillors to the Area (Shire) Committees \*\*;
- 4.17.5 Make appointments of Councillors in accordance with the political balance requirements to:
- Police and Crime Panel \*\*;
  - Mid and West Wales Fire and Rescue Authority \*\*;
- \*\* Unless terminated earlier in accordance with this Constitution, this election / appointment will be for a term expiring at the next ordinary council elections.

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<sup>5</sup> Regulation 14(1) of Local Government Measure (Wales) 2011



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### Ordinary Meetings

4.18 Ordinary meetings of the Council will take place in accordance with a programme decided by the Council provided that the Chief Executive and Monitoring Officer shall have authority, subject to consultation with the Chair of Council, to change the date or time of any meeting, if such change is necessary in the interest of the convenient or efficient dispatch of the Council's business. The order of business at ordinary meetings will be as follows:

- 4.18.1 elect a person to preside if the Chair, Vice Chair and Assistant Vice-Chair are not present. A member of the Cabinet cannot preside at a meeting of the Council<sup>6</sup>;
- 4.18.2 receive any declarations of interest from Councillors;
- 4.18.3 receive apologies for absence;
- 4.18.4 approve as a correct record the minutes of the last meeting;
- 4.18.5 receive any announcements from the Chair, Leader or Chief Executive
- 4.18.6 decide on any amendments to the Constitution recommended by the Democratic Services Committee<sup>7</sup>
- 4.18.7 where required to elect, appoint, or remove Members to / from the following positions:
  - 4.18.7.1 Chair, Vice-Chair, Assistant Vice-Chair of Council;
  - 4.18.7.2 Leader;
  - 4.18.7.3 Independent Member of Standards Committee;
  - 4.18.7.4 Appoint Lay Member of the Audit Committee and Co-Opted Members of the Scrutiny Committee;
  - 4.18.7.5 Chair of a Scrutiny Committee (excluding Chair of Audit) or Democratic Services Committee.
- 4.18.8 (if required due to the formation of a new political group or due to a Councillor joining a political group):
  - 4.18.8.1 decide on the allocation of seats on politically balanced committees to political groups in accordance with the requirements of the Local Government and Housing Act 1989; and
  - 4.18.8.2 receive from political groups nominations of Councillors to serve on each of the politically balanced committees in accordance with the seats allocated to the respective political groups and make appointments accordingly; and
  - 4.18.8.3 allocate the Chairs of scrutiny committees to the relevant political groups and to note the appointments to those Chairs made by the political groups in accordance with the Local Government (Wales) Measure 2011;

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<sup>6</sup> Schedule 12, Local Government Act 1972 (as amended)

<sup>7</sup> Any amendment to the committees of the Council including their size and terms of reference as set out in the Council's Constitution subject to any statutory constraints or limitations and provided that the Council shall appoint at least one scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions under this Constitution

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- 4.18.9 (if required due to vacancy) note appointment of chair(s) of scrutiny committee(s) by the political group(s) in accordance with the Local Government (Wales) Measure 2011
- 4.18.10 to receive the report of the Monitoring Officer setting out appointments to fill vacancies on committees and outside bodies s/he has made in accordance with the authority delegated to him / her to make such appointments which accords with the wishes of a political group to whom the committee seat or position on the outside body has been allocated
- 4.18.11 receive written statements from the Leader and / or members of the Cabinet (which statements shall be taken as read) and any questions and answers on any of the statements;
- 4.18.12 receive reports from the Cabinet, Leader, Cabinet member, and any questions, answers and observations on any of those reports;
- 4.18.13 receive reports from any of the Council's Committees introduced by the relevant Committee Chair, and any questions, answers and observations on any of those reports;
- 4.18.14 receive reports from any of the Council's statutory officers, or Chief Officers and any questions, answers and observations on any of those reports
- 4.18.15 receive any other report that the Chief Executive considers is required to be placed before the Council and any questions, answers and observations on any of those reports
- 4.18.16 receive reports about and receive questions and answers on the business of joint arrangements and external organisations;
- 4.18.17 consider any other business specified in the summons to the meeting, including consideration of proposals from the Cabinet in relation to the Council's Budget and Policy Framework;
- 4.18.18 receive any petitions
- 4.18.19 deal with any outstanding business from the last Council meeting
- 4.18.20 receive and consider recommendations from the Cabinet and the Council's committees
- 4.18.21 consider motions of which appropriate notice has been given;
- 4.18.22 receive questions submitted in accordance with Rule 4.30 (Questions on Notice), and answers in response to those questions.
- 4.18.23 consider and debate any major issue which is relevant to the Council and its functions, for example a "state of the county" debate
- 4.18.24 to receive the report of the Monitoring Officer setting out any changes by the Leader in the scheme of delegation and executive functions
- 4.18.25 consider any business set out in the notice convening the meeting
- 4.18.26 other business, not specified in the summons as the Chair considers urgent, subject to the nature of the urgency being specified in the minutes
- 4.18.27 to exclude the public for the consideration of any item in accordance with the Access to Information Procedure Rules in Section 14.
- 4.18.28 The order of business, with the exception of Rule 4.18.1 may be altered by the Chair or decision of Council
- 4.18.29 No meetings of the Council, or its committees (other than Committees, Sub-Committees or Panels dealing with planning, licensing and employment matters), shall be held in the month of August, unless circumstances so require.

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### Extraordinary Meetings

#### Calling Extraordinary Meetings

4.19 The Chief Executive may call Council meetings in addition to ordinary meetings. Those listed below may request the Chief Executive to call additional Council meetings:

- 4.19.1 the Council by resolution;
- 4.19.2 the Chair of the Council;
- 4.19.3 The Leader;
- 4.19.4 The Head of Paid Service;
- 4.19.5 The Monitoring Officer or the Section 151 Officer;
- 4.19.6 any five Councillors if they have signed a requisition presented to the Chair of the Council and s/he has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

#### Business

4.20 The business to be conducted at an extraordinary meeting shall be restricted to the item or items of business contained in the request for the extraordinary meeting and there shall be no consideration of previous minutes or reports from committees etc, except that the Chair may at his/her absolute discretion permit other items of business to be conducted for the efficient discharge of the Council's business.

### Time, Place and Duration of Meetings

#### Time and Place of Meetings

4.21 The time and place of meetings will be determined by the Chief Executive in consultation with the Chair and notified in the summons.

#### Duration of Meetings

<sup>8</sup>▲<sup>9</sup>◆4.22 At ordinary meetings, when 8 hours have elapsed after the commencement of the meeting, the Chair shall adjourn immediately after the disposal of the item of business being considered at the time. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

#### Notice of and Summons to Meetings

▲◆4.23 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules in Section 14. At least 3 clear days before a meeting, the Chief Executive will send a summons signed by him/her to every Councillor by post and / or by leaving it at their usual place of residence and / or by electronic means

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<sup>8</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>9</sup> ◆ Denotes application to Area (Shire) Committees.

## SECTION 4 – FULL COUNCIL

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including a link to the Members' website. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports and other documents as are available.

### Chair of Meeting

4.24.1 Whenever present the Chair of Council will chair meetings of the Council. In his / her absence the Vice-Chair of Council, or in his / her absence the Assistant Vice-Chair of Council or in his/her absence the Councillor elected to preside over the meeting in accordance with Rule 4.18.1, will take the chair. The person presiding at the meeting may exercise any power or duty of the Chair. A member of the Cabinet cannot preside at a meeting of the Council

<sup>10</sup>▲<sup>11</sup>◆4.24.2 At the first meeting of Committees or Sub-Committees (save the Standards Committee) in each municipal year the Committee / Sub-Committee will elect a Chair and Vice-Chair for the forthcoming 12 month period save where the Chair of Committee has been appointed by Council by the Full Council in accordance with Rules 4.15.14, 4.15.15 or Rule 4.18.7.5.

▲◆4.23.3 Whenever present the Chair of a Committee / Sub-Committee elected in accordance with Rule 4.24.2 above will chair meetings. In his / her absence the Vice-Chair of the Committee / Sub-Committee will take the chair. In the absence of the Chair and Vice-Chair the Committee / Sub-Committee will elect a Councillor to preside over the meeting. The person presiding at the meeting may exercise any power or duty of the Chair.

### Conduct of Meeting

▲◆4.25 The Chair shall conduct the meeting to secure a proper, full and effective debate of business items where a decision is required and a committee or sub-committee has not previously considered the matter. The steps the Chair may take include:

▲◆4.25.1 calling for more time to allow the speaker to properly explain the matter;

▲◆4.25.2 permitting a Member to speak more than once;

▲◆4.25.3 allowing employees of the Council to advise the meeting as appropriate, having regard to the provisions of Rules 4.94 and 4.95 below;

▲◆4.25.4 allowing a full discussion of reports and matters for decision;

### Quorum

▲◆4.26 The quorum of a meeting will be one quarter of the whole number of Members. During any meeting if the Chair counts the number of Members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

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<sup>10</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>11</sup> ◆ Denotes application to Area (Shire) Committees.

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### Remote Attendance

- <sup>12</sup>▲<sup>13</sup>◆4.27 Pursuant to Section 4 of the Local Government (Wales) Measure 2011, the County Council on 22<sup>nd</sup> October, 2014 decided not to allow any Council meetings to be held in accordance with the provisions of Section 4.

### Questions by Councillors

#### On Minutes, Reports or Statements of the Cabinet or Committees

- ▲◆4.28 A Member of the Council may ask the Leader, Cabinet member or the Chair of a Committee / Sub-Committee any question without notice directly **arising from an item in the minutes** (whether or not that minute has been approved as a true record at a subsequent meeting of the Cabinet or Committee / Sub-Committee), report or statements of the Cabinet / Cabinet member or a Committee / Sub-Committee, when that item is being received or is under consideration by the Council.

#### Questions on Notice at Full Council

4.29 Subject to Rule 4.30, a Councillor may ask:

- 4.29.1 the Chair;
  - 4.29.2 a member of the Cabinet;
  - 4.29.3 the chair of any committee or sub-committee;
  - 4.29.4 nominated Councillors of the Fire and Rescue Authority or the Brecon Beacons National Park Authority or the Police and Crime Panel
- a question on any matter in relation to which the Council has powers or duties or which affects the Council.

#### Notice of Questions

4.30 A Councillor may ask a question under Rule 4.29 if either:

- 4.30.1 written notice of the question has been delivered to the Monitoring Officer not later than 5.00 p.m. 10 Clear Days before the date of the Council meeting at which it is to be considered~~they have given at least 10 Clear Days' notice in writing of the question to the Monitoring Officer;~~ or
- 4.30.2 the question relates to urgent matters, they have the consent of the Chair and the Councillor to whom the question is to be put and the content of the question is given to the Monitoring Officer by 5 p.m. on the day prior to the meeting.

#### Maximum Number of Questions

- 4.31 A Councillor may ask only two questions (including any urgent question(s)) under Rule 4.29 except with the consent of the Chair of the Council. With the consent of the Chair of Council a Member may substitute an urgent question for a question that has already been raised provided that the urgent question complies with Rule 4.30.2.

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<sup>12</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>13</sup> ◆ Denotes application to Area (Shire) Committees.

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### Order of Questions

4.32 Questions of which notice has been given under Rule 4.29 will be listed on the agenda in the order determined by the Chair of the Council.

### Rejection of Questions

4.33 Questions under Rule 4.29 may be rejected if, in the opinion of the Monitoring Officer and the Chair they:

4.33.1 are not about a matter for which the Council has a responsibility and which affects the administrative area of the Council;

4.33.2 are defamatory, frivolous or offensive;

4.33.3 are substantially the same as a question which has been put at a meeting of the Council in the past six months and there has been no material change in the answer which would be given;

4.33.4 concern an item of business which is the subject of a report to the meeting;

4.33.5 disclose confidential or exempt information where there is no demonstrable need to know;

4.33.6 are based on opinion where the factual basis for the opinion is not detailed in the question

4.33.7 relate to personal and confidential information of an employee (or former employee) in the view of the Monitoring Officer and / or the Section 151 Officer.

### Withdrawal of Questions

4.34.1 A question of which notice has been given can only be withdrawn with the consent of the person asking the question;

4.34.2 If the Monitoring Officer considers that a response to a submitted question could be provided by a senior officer prior to the relevant Council meeting, then the Monitoring Officer may contact the Councillor concerned to ascertain whether the Councillor agrees that the question could be withdrawn.

4.34.3 A question which has been withdrawn under Rule 4.34.1 may only be reinstated provided that Rule 4.30 has been adhered to.

### Responses

4.35 A response to a question or supplementary question may take the form of:

4.35.1 a direct oral answer at the meeting or if it is more appropriate to supply the answer in written form, a written answer should be circulated at the meeting or later to the questioner and other Councillors (if requested). Where an oral answer is given the response shall last for no longer than 5 minutes.

4.35.2 where the desired information is in a publication of the Council or other published work, by reference to that publication,

### Supplementary Question

4.36 A Councillor asking a question under Rule 4.29 may ask one supplementary question without notice of the Councillor to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply. The Councillor asking the supplementary question may speak for no longer than 1 minute. The speech must not amount to a response or comment



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upon the response provided under Rule 4.35 above.

### Motions on Notice

#### Notice

4.37.1 Except for motions which can be moved without notice under Rule 4.42 and in cases of urgency under Rule 4.43, written notice of every motion, must be delivered to the Monitoring Officer not later than 5.00 p.m. 10 Clear Days before the date of the Council meeting at which it is to be considered.

4.37.2 Each motion must have one Member to propose and another Member to second the motion and the proposer and seconder must either sign the motion or otherwise confirm by email or in writing to the Monitoring Officer that they are proposing or seconding the motion.

#### Motion Set Out in Agenda

4.38.1 Motions for which notice has been given will be listed on the agenda in the order determined by the Chair.

4.38.2 If an issue arises at a meeting of a committee as to the appointment, promotion, dismissal, salary, superannuation or Conditions of Service, or as to the conduct of any person employed by the Council, such matter shall not be the subject of discussion until the Council has decided on the exercise of the power of exclusion of the public under the terms of the Access to Information Rules set out in Section 14.

#### Scope

4.39 Motions may be rejected if, in the opinion of the Monitoring Officer and the Chair they:

4.39.1 are not about a matter for which the Council has a responsibility and which affects the wellbeing of the administrative area of the Council;

4.39.2 are defamatory, frivolous or offensive;

4.39.3 are substantially the same as a motion which has been put at a meeting of the Full Council in the past six months;

4.39.4 concern an item of business which is the subject of a report to the meeting;

4.39.5 disclose confidential or exempt information where there is no demonstrable need to know;

4.39.6 are based upon a legally inaccurate premise;

4.39.7 relate to personal and confidential information of an employee (or former employee) in the view of the Monitoring Officer and / or the Section 151 Officer;

4.39.8 would amount to an attempt to “Call-In” a decision of Cabinet or a delegated decision made by a Portfolio Holder which would not be allowed due to application of the Call-In rules set out in Section 7.

#### Motion to Remove the Leader

4.40.1 In order for such a motion to be carried it must have the support of a simple majority of those Councillors voting and present in the room at the time the question was put.

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4.40.2 A motion to remove the Leader cannot be moved more than once in any rolling 6 month period.

### Two Motions per Councillor

4.41 No Councillor may give notice of more than 2 motions for any Council meeting, except with the consent of the Chair. Following debate and / or amendments a motion will be taken as a single motion.

### Motions without Notice

<sup>14</sup>▲<sup>15</sup>◆4.42 The following motions may be moved without notice:

- ▲◆4.42.1 to appoint a Chair of the meeting at which the motion is moved;
- ▲◆4.42.2 in relation to the accuracy of the minutes;
- ▲◆4.42.3 to change the order of business in the agenda;
- ▲◆4.42.4 to refer something to an appropriate committee, body or individual for consideration or reconsideration;
- ▲◆4.42.5 to appoint a committee or Member arising from an item on the summons for the meeting;
- ▲◆4.42.6 to receive reports and / or adopt and / or amend recommendations of the Cabinet, committees or Officers and any resolutions following from them;
- ▲◆4.42.7 to withdraw a motion;
- ▲◆4.42.8 to amend a motion;
- ▲◆4.42.9 a closure motion under Rule 4.54.5
- ▲◆4.42.10 to suspend a particular Council Procedure Rule (provided that at least one half of the whole number of Members are present)<sup>16</sup>;
- ▲◆4.42.11 to exclude the public and press in accordance with the Access to Information Procedure Rules;
- ▲◆4.42.12 to not hear further a Member named under Rule 4.86 or to exclude them from the meeting under Rule 4.87; and
- ▲◆4.42.13 to give the consent of the Council where its consent is required by this Constitution.
- ▲◆4.42.14 urgent motions, provided the requirements of Rule 4.43 is satisfied.

### Urgent Motions

4.43.1 An urgent motion complying with Rule 4.37.2 may be presented, with the permission of the Chair, provided it has been notified to the Monitoring Officer by 5.00 p.m. on the day prior to the Council meeting

4.43.2 Subject to Rule 4.43.3 below, the Chair has general authority to agree to take an urgent motion which is not on the agenda, and the discretion is entirely that of the Chair who alone needs to be satisfied as to the need for urgency;

4.43.3 The general authority referred to above is qualified in that an urgent motion should not be taken unless:

4.43.3.1 the matter dealt with in the motion has arisen between the deadline

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<sup>14</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>15</sup> ◆ Denotes application to Area (Shire) Committees.

<sup>16</sup> See Rule 2.10



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4.43.3.2 for the submission of motions and the date of the meeting; and  
the motion requires an urgent decision in the public interest which cannot be dealt with by other means (including referring the motion for consideration and decision to the Cabinet or a committee), or left to be decided at a subsequent meeting.

4.43.4 In all cases, the reason for the urgency shall be clearly stated on the motion, and the Chair will explain to the Council the reason why he or she has accepted a motion not listed on the agenda as urgent

### Rules of Debate

#### No Speeches until Motion Seconded

<sup>17</sup>▲<sup>18</sup>◆4.44 No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded. The proposer of the motion shall have the right to make the first speech in relation to the motion which s/he has moved by notice.

#### Right to Require Motion in Writing

▲◆4.45 Unless notice of the motion has already been given, the Chair may require it to be written down and handed to him before it is discussed.

#### Secunder's Speech

▲◆4.46 When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

#### Content and Length of Speeches

▲◆4.47 Speeches must be directed to the question under discussion or to a personal explanation or point of order. The proposer of a motion may speak for no more than 10 minutes; otherwise no speech may exceed 5 minutes without the consent of the Chair.

#### When a Member may Speak Again

▲◆4.48 A Member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- ▲◆4.48.1 to speak once on an amendment moved by another Member;
- ▲◆4.48.2 to move a further amendment if the motion has been amended since he last spoke;
- ▲◆4.48.3 if his first speech was on an amendment moved by another Member, to speak on the main issue (whether or not the amendment on which he spoke was carried);
- ▲◆4.48.4 in exercise of a right of reply;
- ▲◆4.48.5 on a point of order; and

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<sup>17</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>18</sup> ◆ Denotes application to Area (Shire) Committees.

## SECTION 4 – FULL COUNCIL

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<sup>19</sup> ▲ <sup>20</sup> ◆ 4.48.6 by way of personal explanation.

### Amendments to Motions

▲◆4.49.1 An amendment to a motion must be relevant to the motion and will either be:

- ▲◆4.49.1.1 to refer the matter to an appropriate committee, body or individual for consideration or reconsideration;
- ▲◆4.49.1.2 to leave out words;
- ▲◆4.49.1.3 to leave out words and insert or add others; or
- ▲◆4.49.1.4 to insert or add words;
- ▲◆4.49.1.5 to substitute another proposition

as long as the effect of Rules 4.49.1.2 to 4.49.1.4 is not to negate the motion.

- ▲◆4.49.2 Each amendment will be proposed, ~~and~~ seconded, committed to writing and handed to the Chair;
- ▲◆4.49.3 Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been decided.
- ▲◆4.49.4 If an amendment is not carried, other amendments to the original motion may be moved.
- ▲◆4.49.5 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- ▲◆4.49.6 After an amendment has been carried, the Chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.

### Alteration of Motion

- ▲◆4.50.1 A Member may alter a motion which he has moved without notice with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion.
- ▲◆4.50.2 Only alterations which could be made as an amendment pursuant to Rule 4.49 may be made.

### Withdrawal of Motion

- ▲◆4.51 A Member may withdraw a motion which he has moved with the consent of both the meeting and the seconder. The meeting's consent will be signified without discussion. No Member may speak on the motion after the mover has asked permission to withdraw it unless permission is refused.

### Right of Reply

- ▲◆4.52.1 If an amendment is moved, the mover of the original motion has the right of reply at the close of the debate on the amendment, but may not

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<sup>19</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>20</sup> ◆ Denotes application to Area (Shire) Committees.

## SECTION 4 – FULL COUNCIL

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otherwise speak on it.

<sup>21</sup> ▲ <sup>22</sup> ◆ 4.52.2 The mover of the amendment has no right of reply to the debate on his amendment.

▲ ◆ 4.52.3 A Member exercising a right of reply will not introduce any new matter and after the reply, a vote shall be taken without further discussion. Members may not speak after the owner of a motion has exercised a right of reply, except to seek clarification of a particular matter before the owner of the motion concludes his or her speech. A Member may not speak after a proposition has been voted on except on a point of order relating to it.

### Procedural Motions which may be Moved During Debate

▲ ◆ 4.53 When a motion is under debate, no other motion may be moved except the following procedural motions:

▲ ◆ 4.53.1 to withdraw a motion;

▲ ◆ 4.53.2 to amend a motion;

▲ ◆ 4.53.3 a closure motion under Rule 4.54.5

▲ ◆ 4.53.4 to exclude the public and press in accordance with the Access to Information Procedure Rules; and

▲ ◆ 4.53.5 to not hear further a Member named under Rule 4.86 or to exclude them from the meeting under Rule 4.87.

▲ ◆ 4.53.6 to suspend a particular council procedure rule (provided that at least one half of the whole number of Members are present).

### Closure Motions

▲ ◆ 4.54.1 to proceed to the next business;

▲ ◆ 4.54.2 to ask that the question be now put;

▲ ◆ 4.54.3 to adjourn a debate; or

▲ ◆ 4.54.4 to adjourn a meeting.

▲ ◆ 4.54.5 subject to Rule 4.54.8 below, if a motion to proceed to next business under Rule 4.54.1 is seconded and only if the Chair thinks the item has been sufficiently discussed, he will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

▲ ◆ 4.54.6 subject to Rule 4.54.8 below, if a motion that the question be now put under Rule 4.54.2 is seconded and only if the Chair thinks the item has been sufficiently discussed, he will put the procedural motion to the vote. If it is passed he will give the mover of the original motion a right of reply before putting his motion to the vote.

▲ ◆ 4.54.7 subject to Rule 4.54.8 below, if a motion to adjourn the debate or to adjourn the meeting under Rules 4.54.3 and 4.54.4 is seconded and only if the Chair thinks the item has been sufficiently discussed and cannot reasonably be so discussed on that occasion, he will put the procedural motion to the vote without giving the mover of the original motion the right of reply.

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<sup>21</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>22</sup> ◆ Denotes application to Area (Shire) Committees.

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▲◆4.54.8 in the event that a closure motion under Rule 4.54.1 to 4.54.4 is moved and seconded, the following procedure will apply in the order set out below:

4.54.8.1 the closure motion will be voted upon without further debate;

4.54.8.2 if an amendment has been moved and seconded before a closure motion has been passed by Full Council, that amendment must be discussed immediately but will be subject to the following restrictions:

- The debate on the amendment cannot exceed a maximum of 30 minutes in total, save for the exercising of the Chair's discretion.
- the proposer will have a maximum of 5 minutes to speak on the amendment;
- the relevant Portfolio Holder(s) will have a maximum of 5 minutes to speak on the amendment;
- the seconder and all other speakers will have a maximum of 3 minutes to speak on the amendment;

4.54.8.3 Full Council will vote on the proposed amendment debated under Rule 4.54.8.2 above.

4.54.8.4 a single new amendment to the substantive motion (as amended if appropriate) will be allowed if properly seconded, but will be subject to the following restrictions:

- the first new amendment proposed and seconded will be considered and no further proposed amendments will be considered;
- The debate on the new amendment cannot exceed a maximum of 30 minutes in total, save for the exercising of the Chair's discretion.
- the proposer will have a maximum of 5 minutes to speak on the new amendment;
- the relevant Portfolio Holder will have a maximum of 5 minutes to speak on the new amendment;
- the seconder and all other speakers will have a maximum of 3 minutes to speak on the new amendment;

4.54.8.5 the new amendment proposed in accordance with Rule 5.54.8.4 will be voted upon.

4.54.8.6 the substantive motion (as amended under Rule 4.54.8.2 or Rule 4.54.8.4) will be voted upon.

### Point of Order

<sup>23</sup>▲<sup>24</sup>◆4.55 A point of order is a request from a Member to the Chair to rule on an alleged irregularity in the procedure of the meeting. A Member may raise a

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<sup>23</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

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point of order at any time by indicating to the Chair by standing that they wish to raise a point of order and waiting for the Chair to call them to speak.~~The Chair will hear them immediately~~at a convenient point at the discretion of the Chair. A point of order may only relate to an alleged breach of these Council Rules of Procedure or the law. The Member must indicate the rule or law and the way in which s/he considers it has been broken. The ruling of the Chair on the matter will be final.

### Personal Explanation

▲◆4.56 A Member may make a personal explanation at any time. A personal explanation may only relate to one of the following:

- ▲◆4.56.1 some material part of an earlier speech by the Member in the present debate which may appear to have been misunderstood;
- ▲◆4.56.2 to reply to an allegation of misconduct made against the Member giving the explanation; or
- ▲◆4.56.3 to make an apology to the Council.

▲◆4.57 The ruling of the Chair on the admissibility of a personal explanation will be final.

▲◆4.58 Points of personal explanation will only be recorded in the minutes if the Monitoring Officer considered that such an inclusion would provide greater clarity to the minutes.

### Declarations of Interest

▲◆4.59 A Member may at any time declare a personal interest under the Members' Code of Conduct and when a Member makes a declaration s/he shall be heard immediately and shall be allowed to make the declaration without interruption.

### Previous Decisions and Motions

#### Motion to Rescind a Previous Decision

▲◆4.60.1 A motion or amendment to rescind a decision made at a meeting within the past six months cannot be moved unless the notice of motion is signed by at least 10 Members.

4.60.2 Rule 4.37.2 does not apply to a motion under Rule 4.60.1.

4.60.3 For the sake of clarity rule 4.60.1 does not apply to decisions taken by the Cabinet.<sup>25</sup>

#### Motion Similar to One Previously Rejected

<sup>26</sup>▲<sup>27</sup>◆4.61.1 A motion or amendment in similar terms to one that has been rejected at a meeting in the past six months cannot be moved unless the notice of

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<sup>24</sup> ◆ Denotes application to Area (Shire) Committees.

<sup>25</sup> N.B. Meetings of Cabinet are not committee meetings of the Council.

<sup>26</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

## SECTION 4 – FULL COUNCIL

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motion or amendment is signed by at least 10 Members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

4.61.2 Rule 4.37.2 does not apply to a motion under Rule 4.61.1.

### Voting

#### Majority

▲◆4.62 Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.

#### Chair's Casting Vote

▲◆4.63 If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

#### Method of Voting

▲◆4.64 Unless a recorded vote is demanded under Rule 4.66 the Chair will take the vote by show of hands, or by use of the Council's electronic voting system if any, or if there is no dissent, by the affirmation of the meeting.

#### Ballots

4.65.1 In respect of Full Council the vote will take place by ballot if 10 Councillors present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

▲◆4.65.2 In respect of committees the vote will take place by ballot if a majority of the Members present at the meeting demand it. The Chair will announce the numerical result of the ballot immediately the result is known.

#### Recorded Vote

4.66.1 Subject to 4.66.2 below, whenever an electronic voting system is available voting at Full Council and Cabinet meetings shall take place by means of that electronic voting system and the votes cast by each Councillor will be made available on the Council's website upon publication of the draft minutes for that meeting.

4.66.2 In respect of Full Council if 10 Councillors present at the meeting demand it, before a vote is taken, the details of the votes cast by each Councillor will be made available to the meeting.

▲◆4.66.3 In respect of committees if a majority of Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the

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<sup>27</sup> ◆ Denotes application to Area (Shire) Committees.

## SECTION 4 – FULL COUNCIL

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minutes. A demand for a recorded vote together with a demand for a ballot will be voted upon by the committee.

### **Right to Require Individual Vote to be Recorded**

<sup>28</sup>▲<sup>29</sup>◆4.67 Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

### **Voting on Appointments**

#### **Voting on appointments to external bodies and organisations**

▲◆4.68.1 If there is one position (in an external body or organisation) to be filled by a nominee or representative of the Council and more than one person is nominated for that position then the position will be filled by the person with the greatest number of votes. If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

▲◆4.68.2 If there are two or more positions (in an external body or organisation) to be filled by nominees or representatives of the Council and the number of nominations exceeds the number of such positions, each Councillor of the Council will be able to exercise one vote for each such position (but may vote only once for each nominee) and the persons to whom more votes have been given than other persons up to the number of positions to be filled, shall be appointed. If there are equal numbers of votes for and against, the Chair will have a second or casting vote. There will be no restriction on how the Chair chooses to exercise a casting vote.

#### **Voting on employee appointments**

▲◆4.69 In the event of there being more than two candidates for an appointment and no candidate receives the required majority on the first vote, the candidate with the least number of votes will be eliminated and a further vote will be taken. This procedure will be repeated until a candidate receives the required majority. If more than one candidate has the same number of votes and that is the lowest number of votes cast, a vote will be taken to decide the candidate to be eliminated from future votes. In the event of an equal number of votes being cast at this stage, the Chair will have a casting vote.

#### **Voting on Internal Councillor Appointments**

▲◆4.70 This Rule applies to the appointment of Councillors to positions within the Local Authority or to joint committees with other authorities including:

- 4.70.1 the Chair / Vice-Chair / Assistant Vice-Chair of Council;
- 4.70.2 Leader;

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<sup>28</sup> ▲ Denotes application to Committees as well as Full Council (~~excluding Cabinet~~)

<sup>29</sup> ◆ Denotes application to Area (Shire) Committees.



## SECTION 4 – FULL COUNCIL

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- <sup>30</sup> ▲ <sup>31</sup> ◆ 4.70.3 the Chair or Vice-Chair of a Committee or Sub-Committee;
- ▲ ◆ 4.70.4 Member of a Committee or Sub-Committee or Panel;
- ▲ 4.70.5 Member of any other internal Council board, panel or group with or without officers;
- ▲ 4.70.6 Member of any joint committee, board, panel or group involving the Council and one or more local authorities, and / or other public bodies.
- ▲ ◆ 4.71 If there are more than two Councillors nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person. Voting under this paragraph will normally be conducted by ballot paper.
- ▲ ◆ 4.72 Where there is a tie with two or more candidates receiving the least number of votes they both be eliminated from the voting where the addition of all the votes cast for the tied candidates would not equal or exceed the candidate with the next number of lowest votes. If the total number of votes cast for the candidates who tied would equal or exceed the next candidate, then only one of those candidates be eliminated and that decision be determined by ballot between the two.
- ▲ ◆ 4.73 Where there is a tie, at the end of the voting process between two candidates the Chairman shall either use his / her second or casting vote, or require the appointment to be determined by the drawing of lots.
- ▲ ◆ 4.74 This procedure may be varied by agreement of the meeting.

### Minutes

#### Signing the Minutes

- ▲ ◆ 4.75 The Chair will sign the minutes of the proceedings at the next suitable meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

#### No Requirement to Sign Minutes of Previous Meeting at Extraordinary Meeting

- ▲ ◆ 4.76 Where in relation to any meeting, the next meeting for the purpose of signing the minutes is an extraordinary meeting<sup>32</sup>, then the next following meeting will be treated as a suitable meeting for the purposes of signing of minutes<sup>33</sup>.

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<sup>30</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>31</sup> ◆ Denotes application to Area (Shire) Committees.

<sup>32</sup> a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972

<sup>33</sup> paragraph 41(1) and (2) of Schedule 12 to the Local Government Act 1972



## SECTION 4 – FULL COUNCIL

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### Form of Minutes

<sup>34</sup>▲<sup>35</sup>◆4.77 Save as provided below the form of the minutes will be a matter for the Chief Executive:

- ▲◆4.77.1 Minutes will contain all motions and amendments in the exact form and order the Chair put them.
- ▲◆4.77.2 Replies given to questions of which notice has been given under Rule 4.30 will be recorded in the minutes.

### Record of Attendance

- ▲◆4.78 All Members present during the whole or part of a meeting must sign their names on the attendance sheets before the conclusion of every meeting to assist with the record of attendance.
- ▲◆4.79 Members permanently leaving a meeting shall advise the Chair or the clerk of their departure so that this can be formally recorded in the minutes, including the time of departure and the committee clerk shall so record in the minutes of that meeting.
- ▲◆4.80 Before Members leave a meeting room before the conclusion of business the Chair shall advise that Member of the above requirement.

### Exclusion of Public

▲◆4.81.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Section 14 of this Constitution or Rules 4.89 and 4.90 (Disturbance by the Public).

<sup>36</sup>■◆4.81.2 Where members of the public have been excluded pursuant to Rule 4.81.1, Members may nevertheless remain in the meeting (with the exception of confidential meetings of the Standards Committee) unless they have a personal and prejudicial interest.

### Members' Conduct

#### Declarations of Interest

▲◆4.82 Members must in all matters consider whether they have a personal interest (within the meaning within the Members' Code of Conduct) in a matter to be discussed at a meeting, and whether that Code of Conduct requires them to disclose that interest and if they conclude that it does, must disclose the existence and nature of the interest at the commencement of the discussion or when the interest becomes apparent and decide whether they should withdraw from consideration of the matter as required by the Code.

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<sup>34</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>35</sup> ◆ Denotes application to Area (Shire) Committees.

<sup>36</sup> ■ Denotes application to Committees as well as Full Council (including Cabinet)

## SECTION 4 – FULL COUNCIL

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- ▲◆4.83 A Member who is under the Members' Code of Conduct required to disclose the existence and nature of such an interest must complete the requisite form provided for that purpose at meetings.

### Speaking at Meetings

- <sup>37</sup>▲<sup>38</sup>◆4.84 When a Member speaks at a meeting he/she must address the meeting through the Chair. If more than one Member signifies their intention to speak, the Chair will ask one to speak. Other Members must remain silent whilst a Member is speaking unless they wish to make a point of order or a point of personal explanation.

### Chair Standing

- ▲◆4.85 When the Chair stands during a debate, or otherwise indicates that the meeting must be silent, any Member speaking at the time must stop and all Members must be seated.

### Member not to be Heard Further

- ▲◆4.86 If a Member persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further. If seconded, the motion will be voted on without discussion. If the motion is passed the named Member may not discuss or debate any further business whilst it is transacted at the meeting.

### Member to Leave the Meeting

- ▲◆4.87 If the Member continues to behave improperly after a motion under Rule 4.86 is carried, the Chair may move that either the Member leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion. If the motion is passed the named Member must leave the room forthwith.

### General Disturbance

- ▲◆4.88 If there is a general disturbance making orderly business impossible, the Chair may adjourn the meeting for as long as he thinks necessary.

### Disturbance by Public

### Removal of Member of the Public

- ▲◆4.89 If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room.

### Clearance of Part of Meeting Room

- ▲◆4.90 If there is a general disturbance in any part of the meeting room open to the public, the Chair may call for that part to be cleared.

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<sup>37</sup> ▲ Denotes application to Committees as well as Full Council (excluding Cabinet)

<sup>38</sup> ◆ Denotes application to Area (Shire) Committees.

## SECTION 4 – FULL COUNCIL

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### Filming, Audio Recording and Use of Social Media During Meetings

<sup>39</sup>▲<sup>40</sup>◆4.91 Filming, audio recording and use of social media is permitted during meetings except (a) where children and / or vulnerable adults are participating in the debate by way of a presentation, or (b) where meetings or parts of meetings which are held in confidential session pursuant to Section 14, or (c) where a meeting is being webcast.

### Suspension and Amendment of Council Procedure Rules (Rules 4.15 to 4.95)

#### Suspension

▲◆4.92 The Council Rules of Procedure may be suspended in accordance with Rules 2.9 and 2.10.

#### Amendment

▲◆4.93 Any motion to add to, vary or revoke these Council Rules of Procedure will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council PROVIDED ALWAYS that this Rule will not apply to any recommendations or report by the Democratic Services Committee concerning the variation, revocation or amendment of these Council Rules of Procedure.

#### Officer Advice

4.94 Any report placed for decision before Council should contain all necessary advice to enable Councillors to take a decision. Reports will be circulated in advance of the meeting and if a Councillor requires clarification on an issue related to the report, this should be sought prior to the meeting.

4.95 Further officer advice will only be available at the meeting of Council with the consent of the Chair, in consultation with the Chief Executive. If there is a need for further detailed legal or financial advice to be provided, the meeting should be adjourned.

#### Attendance of Cabinet Members at Council Meetings

4.96 The Leader and Cabinet members in attendance at meetings of Full Council will not sit with the other Councillors but shall sit alongside the Chair, Vice-Chair and Assistant Vice-Chair of the County Council. The only officers to sit alongside the Chair shall be the Chief Executive, Monitoring Officer and Clerk unless otherwise authorised to do so by the Chief Executive.

#### Petitions

4.97 Where a Councillor delivers a petition to the Council in accordance with Rule 4.18.18 the Councillor may outline the request by the petitioners, the reason for the request and the number of the signatories **PROVIDED THAT** in any

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<sup>39</sup> ▲ Denotes application to Full Council, Cabinet and Committees,

<sup>40</sup> ◆ Denotes application to Area (Shire) Committees.

## SECTION 4 – FULL COUNCIL

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event the Councillor may not speak under this Rule for more than 5 minutes.

- 4.98 Where a member of the public delivers a petition to the Council the procedure for the receipt of that petition will be determined by the Chair of the Council.

### **All Council Seminars / Member Development Sessions**

- 4.99 The Chair, Vice-Chair or Assistant Vice-Chair of the Council will preside at all Council Seminars or Member Development Sessions. Cabinet members with responsibility for portfolios which are the subject of the Council Seminar / Member Development Session may assist the Chair / Vice-Chair or Assistant Vice-Chair in facilitating the seminar / development session but may not preside over such a seminar / development session unless authorised by the Chair of the Council.

## SECTION 5 – THE CABINET

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### Introduction

5.1 The Cabinet is appointed to carry out all of the Council's functions which are not the responsibility of any other part of the Council, whether by Law or under this Constitution.

### Form and Composition of the Cabinet

5.2 The Cabinet will consist of:

5.2.1 the Leader of the Council (the "Leader"); and

5.2.2 at least two but not more than nine other Councillors appointed to the Cabinet by the Leader.

### Election

5.3 The Leader will be a Councillor elected to the position of Leader by the Council.

### Term of Office

5.4 The Leader is appointed for a period of 4 years or for such other period as is prescribed from time to time in legislation or until s/he leaves office pursuant to Rules 6.4 to 6.7.

### Role of the Leader

5.5 The Leader will Chair meetings of the Cabinet and determine the portfolios of Members of the Cabinet.

### Other Cabinet Members

5.6 Other Cabinet Members will be Councillors appointed to the position of Cabinet Member by the Leader. Each Cabinet Member shall hold office until:

5.6.1 s/he resigns from that office; or

5.6.2 s/he is removed either individually or collectively from office by the Leader who must give written notice of any removal to the Monitoring Officer. The removal will take effect two Clear Days after receipt of the notice by the Monitoring Officer; or

5.6.3 s/he ceases to be a Councillor; or

5.6.4 s/he is suspended from being a Councillor under Part III of the Local Government Act 2000 (although s/he may resume office at the end of the period of suspension).

5.7 The Leader may at any time appoint a Cabinet Member to fill any vacancies.

5.8 The Cabinet shall not include the Chair, the Vice-Chair, the Assistant Vice-Chair of the Council, a member of a Scrutiny Committee, the Chair of any other Committee or Sub-Committee of the authority (save for the Pensions and Investments Committee and Chair of Area (Shire) Committees).

## SECTION 5 – THE CABINET

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### **Delegation of Functions**

5.9 The Leader may exercise Executive Functions himself/herself or may otherwise make arrangements to delegate responsibility for their discharge. The Leader may delegate Executive Functions to:

- 5.9.1 the Cabinet as a whole;
- 5.9.2 a committee of the Cabinet (comprising Cabinet Members only);
- 5.9.3 an individual Cabinet Member;
- 5.9.4 a joint committee;
- 5.9.5 another local authority or the executive of another local authority;
- 5.9.6 a delegated Officer.
- 5.9.7 an Area (Shire) Committee.

### **Responsibility for Functions When There is No Cabinet**

5.10 During any period when there is no Cabinet, any functions which are the responsibility of the Cabinet shall be allocated to and discharged by the Head of Paid Service or in his/her absence the Strategic Directors acting singularly or collectively **PROVIDED THAT** in discharging such functions the Head of the Paid Service or the Strategic Directors shall have regard to and comply with any protocol applying to the exercise of delegated powers in so far as that is reasonably practicable, and in consultation with all the Leaders of political groups in accordance with the Local Government (Committees and Political Groups) Regulations 1990.

### **Rules of Procedure and Debate**

5.11 The proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules in Rules 5.12 to 5.29 below.

### **Cabinet Procedure Rules**

#### ***Delegation by the Leader***

5.12 The Monitoring Officer, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in the Council's scheme of delegation at Section 13 to this Constitution. This will contain the following information about Executive Functions:

- 5.12.1 the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- 5.12.2 the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;
- 5.12.3 the nature and extent of any delegation of Executive Functions to any other authority or any joint arrangements;
- 5.12.4 the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made

#### ***Sub-Delegation of Executive Functions***

5.13.1 Where the Cabinet is responsible for an Executive Function, they may

## SECTION 5 – THE CABINET

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delegate further to joint arrangements, or an Area (Shire) Committee or an Officer.

5.13.2 Where a committee of the Cabinet or an individual Member of the Cabinet is responsible for an Executive Function, they may delegate further to an Area (Shire) Committee or an Officer.

5.13.3 Unless otherwise stated in the delegation, where Executive Functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who made the delegation.

### ***The Council's Scheme of Delegation and Executive Functions***

5.14.1 The Leader may amend the scheme of delegation relating to Executive Functions at any time. In doing so the Leader will give written notice to the Monitoring Officer and wherever practicable to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Monitoring Officer will present a report for information purposes to the next ordinary meeting of the Council setting out the changes made by the Leader. Where the Leader withdraws any delegation from any person, body or committee the delegated powers revert back to the Leader with immediate effect from the time of receipt of the notice by the Monitoring Officer.

5.14.2 Where the Leader seeks to withdraw delegation from a committee of the Cabinet, notice will be deemed to be served on that committee when it is served on its chair.

### ***Conflicts of Interest***

5.15.1 Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 18 of this Constitution.

5.15.2 If any Member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Section 18 of this Constitution.

5.15.3 If the exercise of an Executive Function has been delegated to a committee of the Cabinet, an individual Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Section 18 of this Constitution.

### ***Cabinet Meetings***

5.16.1 The frequency and timing of meetings of the Cabinet will be determined by the Leader. The Cabinet will meet at the Council's main offices or another location to be agreed by the Leader.

5.16.2 Those listed below may ask the Monitoring Officer to call Cabinet meetings in addition to those agreed by the Leader:

5.16.2.1 the Head of Paid Service;

5.16.2.2 the Section 151 Officer



## SECTION 5 – THE CABINET

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- 5.16.2.3 the Monitoring Officer
- 5.16.2.4 any three members of the Cabinet.

5.16.3 Any request presented in accordance with Rule 5.16.2 above must be in writing and must specify the business to be transacted at the meeting.

### ***Public or Private Meetings of the Cabinet?***

5.17 The Cabinet will hold its meetings in public, except in the circumstances set out in the Access to Information Procedure Rules in Section 14, for example where confidential or exempt information is being discussed.

### ***Quorum***

5.18 The quorum for a meeting of the Cabinet, or a committee of the Cabinet, shall be 3 members of the Cabinet. During any meeting if the person presiding counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the person presiding. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting of the Cabinet.

### ***How are Decisions to be Taken by the Cabinet***

5.19.1 All decisions taken by the following need to follow the Access to Information Procedure Rules set out in Section 14:

- 5.19.1.1 Cabinet;
- 5.19.1.2 Cabinet Committee;
- 5.19.1.3 Individual Members of the Cabinet

5.19.2 All decisions taken by the Executive, a Committee of the Executive, or an Individual Member of the Executive shall comply with the Budget and Framework Procedure Rules (so far as appropriate) as set out in Section 15.

5.19.3 All decisions taken by the Executive and / or a Committee of the Executive will be taken by a majority vote of those present at the meeting with the person Chairing the meeting having a second or casting vote.

### **How are Cabinet Meetings Conducted?**

#### **Who Chairs?**

5.20 The Leader will chair at any meeting of the Cabinet or its committees at which s/he is present. In his absence, a Deputy Leader will chair. In his/her absence, then a person appointed by the meeting to do so by those present shall chair the meeting.



## SECTION 5 – THE CABINET

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### Who May Attend?

5.21.1 These details are set out in the Access to Information Procedure Rules in Section 14 of this Constitution. See also Rule 3.218.2 in relation to Member participation in meetings.

5.21.2 Subject to Rule 5.25.3 below a Member may attend any meeting of the Cabinet or Cabinet Committee (whether or not they are a member of the Cabinet or a Cabinet committee)

5.21.3 The right to attend will not apply in the following cases:

5.21.3.1 where the Member is required to declare an interest and withdraw from the meeting under the Code of Conduct;

5.21.3.2 where the Cabinet or a Committee of the Cabinet (as the case may be) is exercising functions of a quasi-judicial nature and have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;

5.21.3.3 where the Monitoring Officer or his/her representative advises that as a matter of law non-members of the Cabinet or Cabinet committee (as the case may be) should withdraw.

### What Business?

5.22 At each meeting of the Cabinet the following business will be conducted:

5.22.1 elect a person to chair if the Leader or a Deputy Leader is not present;

5.22.2 receive apologies for absence

5.22.3 approval of the minutes of the last meeting;

5.22.4 declarations of interest, if any;

5.22.5 matters referred to the Cabinet by a Scrutiny Committee for reconsideration by the Cabinet in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Sections 7 and 15 of this Constitution;

5.22.6 consideration of reports from a Scrutiny Committee or other committees;

5.22.7 consideration of reports from Cabinet Committees;

5.22.8 reports from Cabinet Members

5.22.9 reports from Officers of the Authority.

5.22.10 make recommendations to the Council or a scrutiny or other committee

5.22.11 consider such other business specified in the summons to the meeting;

5.22.12 consider other business, not specified in the summons as the Leader considers urgent, subject to the nature of the urgency being specified in the minutes

5.22.13 exclude the public for the consideration of any item in accordance with the Access to Information Procedure Rules

5.22.14 consider the Cabinet Forward Work Programme and to ensure that the programme has been populated for at least 8 months and is regularly updated.

### Consultation

## SECTION 5 – THE CABINET

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- 5.23 All reports to the Cabinet from any Member of the Cabinet or an Officer on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation undertaken and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

### Who can put Items on the Cabinet Agenda?

- 5.24.1 The Leader will decide upon the schedule for meetings of the Cabinet. S/he may put any matter on the agenda of any Cabinet meeting whether or not authority has been delegated to the Cabinet, a committee of it or any Member or Officer in respect of that matter.
- 5.24.2 Any Member of the Cabinet may require the Monitoring Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration.
- 5.24.3 The Head of Paid Service, the Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require that such a meeting be convened.
- 5.24.4 The Leader will make sure that an item is placed on the agenda of the next available meeting of the Cabinet and / or Cabinet Committee where a Scrutiny Committee or the Full Council have resolved that an item be considered by the Cabinet and / or Cabinet Committee.
- 5.24.5 Any member of the Council may ask the Leader to put an item on the agenda of a Cabinet and / or Cabinet Committee meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting of the Cabinet and / or Cabinet Committee. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. This individual will be invited to attend the meeting, whether or not it is a public meeting, and, at the discretion of the Leader or person presiding, be permitted to speak.

### Speaking at Meetings

- 5.25.1 Subject to Rules 5.25.3 and 5.26 below only Cabinet Members, employees or persons asked to or with a duty to advise Cabinet or other persons asked by the Cabinet to do so may speak at an Cabinet meeting
- 5.25.2 ~~Subject to rule 5.25.3 below a Member may attend any meeting of the Cabinet or a Cabinet Committee (whether or not they are a member of the Cabinet or of the Cabinet Committee) and w~~With the permission of the person chairing, a Member may speak at a Cabinet meeting on matters affecting his / her ward. Members wishing to speak should wherever possible notify the Chair in advance of the meeting. Members speaking under this Rule will be allowed a maximum of 5 minutes, subject to the discretion of the person chairing the meeting to extend the time.
- 5.25.3 The right to speak pursuant to rule 5.25.2 will not apply ~~in the following cases:~~
- ~~5.25.3.1~~—where the Member is required to declare an interest and withdraw from the meeting under the Code of Conduct;

## SECTION 5 – THE CABINET

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- ~~5.25.3.2 — where the Cabinet or a Committee of the Cabinet (as the case may be) is exercising functions of a quasi-judicial nature and have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;~~
- ~~5.25.3.3 — where the Monitoring Officer or his/her representative advises that as a matter of law non-members of the Cabinet or Cabinet committee (as the case may be) should withdraw.~~

**PROVIDED THAT** nothing in this rule shall prevent the Chair of the meeting exercising his/her powers to ensure the orderly conduct of the proceedings.

### **Rights of ~~Leaders of Political Groups~~, Chairs of Scrutiny Committees to Speak at Meetings.**

5.26 ~~A Councillor being the leader of a political group in accordance with the Local Government (Committees and Political Groups) Regulations 1990, shall have the right (such right to be exercised reasonably and not so as to interfere with the proper conduct of business) to speak once on any item at any meeting of the Cabinet or a Committee of the Cabinet even though s/he is not a member of the Cabinet or Cabinet Committee as the case may be. In the absence of the leader of such political group the Councillor designated as the leader's deputy may exercise this right. The above also applies to the Chairs (or in their absence Vice-Chairs) of the Scrutiny Committees may speak for no longer than 5 minutes at a meeting of the Cabinet only to present a scrutiny report to the Cabinet for consideration, and to respond to questions from Cabinet Members on the scrutiny report.~~

This right may not be exercised ~~in the following cases:~~

~~5.26.1 where the Councillor-Scrutiny Chair / Vice-Chair is required to declare an interest and withdraw from the meeting under the Members' Code of Conduct;~~

~~5.26.2 — where the Cabinet or any Committee of the Cabinet exercising a quasi-judicial function have asked the members of the public and the parties to withdraw whilst they deliberate before reaching a decision;~~

~~5.26.3 — where the Monitoring Officer or his/her representative advises that as a matter of law or to protect the Council's interest non-members of the Cabinet or the Committee of the Cabinet (as the case may be) should withdraw;~~

~~5.26.4 — in relation to Scrutiny Committees any matter outside the remit of that committee.~~

**PROVIDED THAT** nothing in this rule shall prevent the Chair of the meeting exercising his/her powers to ensure the orderly conduct of the proceedings

### **Disturbance by the Public, Filming, Audio Recording and Use of Social Media**

## SECTION 5 – THE CABINET

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- 5.27.1 The provisions in Council Procedure Rules in Rules 4.89 to 4.90 in relation to disturbance by the public apply to meetings of the Cabinet.
- 5.27.2 The provisions in Council Procedure Rules in Rule 4.91 relating to filming, audio recording and use of social media apply to meetings of the Cabinet.

### **Format of Reports for Cabinet Decisions**

- 5.28 Reports prepared by Cabinet Members and / or officers on which it is intended that Cabinet decisions are taken whether by the Leader, the Cabinet, a Cabinet Committee, Individual Cabinet Members or an officer shall comply with a report template protocol provided by the Monitoring Officer.

### **Call-In of Decisions**

- 5.29 A decision of the Cabinet, a Committee of the Cabinet, or an Individual Member of the Cabinet is subject to the Call-In provisions set out in the scrutiny procedure rules in Section 7 of this Constitution.

## **SECTION 12 – FINANCE, CONTRACTS AND LEGAL MATTERS**

### **Financial Management**

12.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Section 16 of this Constitution.

### **Contracts**

12.2 Every contract made by the Council will comply with the Contract Procedure Rules set out in Section 17 of this Constitution.

### **Legal Proceedings**

- 12.3.1 The Solicitor to the Council is authorised to institute, defend, participate in or settle any legal proceedings and take all necessary steps in any case where such action is necessary to give effect to decisions of the Council, or in any case where the Solicitor to the Council considers that such action is necessary to protect the Council's interests;
- 12.3.2 The Solicitor to the Council has delegated powers to authorise Officers to appear in court on the Council's behalf.

### **Authentication of Documents**

- 12.4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Solicitor to the Council or other person authorised by him/her in writing, unless any enactment or otherwise authorises or requires, or the Council has given requisite authority, to some other person to do so;
- 12.4.2 Every contract shall be made or confirmed in writing and signed by all parties concerned in accordance with Rules 17.50 and 17.51;
- 12.4.3 In addition to any other person who may be authorised by resolution of the Council, the proper officer for the purposes of authentication of documents under the Local Government Acts shall be any one of the following:
- 12.4.3.1 the Chief Executive;
  - 12.4.3.2 the Solicitor to the Council;
  - 12.4.3.3 any Chief Officer or Deputy Chief Officer of the Council concerned with the matter to which the document relates;
  - 12.4.3.4 any Officer authorised in writing by such Chief Officer, Deputy Chief Officer, or Solicitor to the Council.

### **Common Seal of the Council**

#### **Common Seal**

- 12.5.1 The Common Seal of the Council shall be kept in a safe place in the custody of the Solicitor to the Council.
- 12.5.2 The Common Seal may be affixed to those documents which in the opinion of the Solicitor to the Council should be sealed.

#### **Sealing and Execution of Documents**

- 12.5.3 The Solicitor to the Council, or such other officer authorised in writing to do so by the Solicitor to the Council, shall have authority to affix the Common Seal and execute under Seal any deed or document.

## SECTION 12 – FINANCE, CONTRACTS AND LEGAL MATTERS

12.5.4 The ~~Officer of~~Solicitor to the Council (or such other officer appointed by the Solicitor to the Council in writing) ~~referred to above~~ shall have authority to execute any deed or document not required by law to be under seal ~~which is necessary to effect the decisions of the Council~~.

### **Record of Sealing of Documents**

12.5.5 An entry of the sealing of every deed or document to which the Common Seal has been affixed shall be made by the Solicitor to the Council and consecutively numbered in a book to be provided for the purpose.

## CYNGOR SIR POWYS COUNTY COUNCIL.

County Council – 7<sup>th</sup> March, 2017

**REPORT AUTHOR:** Democratic Services Committee

**SUBJECT:** Area (Shire) Committees

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**REPORT FOR:** Decision

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### 1. Summary.

1.1 The report from the Democratic Services Committee recommends to the County Council that the Area (Shire) Committees be abolished as from the Annual General Meeting in May 2017, but that the civic role of Chair and Vice-Chair of the Shire be retained.

### 2. Background.

2.1 Powys County Council came into existence on 1<sup>st</sup> April 1996 as a result of the Local Government (Wales) Act 1994. As part of the creation of the new Council in 1996 it was accepted that there should be a formal recognition of the distinct former counties of Montgomeryshire, Radnorshire and Brecknockshire in any arrangements.

2.2 The Local Government (Wales) Act 1994 contains provisions for a formal scheme of delegation of responsibilities, including to area committees which at the time required the approval of the Secretary of State. However Powys County Council did not utilise this formal route, and established three Area (Shire) Committees which exist to the current time. It is within the gift of the Council to amend these arrangements at any time, including the discontinuation of the Area (Shire) Committees, without the need for any external approval.

2.3 Prior to 2002, these Area (Shire) Committees determined matters relating to a range of the Council's services in each Shire area. However with the change to a Board and subsequently Cabinet Model of Executive Arrangements following the Local Government Act 2000, the Cabinet took over the responsibility for decision making on operational matters, and the role of the Area (Shire) Committees diminished. A very small number of delegated responsibilities have been given to Area (Shire) Committees by the Cabinet. There has also been no appetite from the Council or successive Cabinets to increase this level of delegation since 2002. In fact powers have been withdrawn. However it would be a fair assessment that since 2002 the Area (Shire) Committees have struggled with the role they are asked to play, and the question of the role and responsibilities of these committees has been revisited on numerous occasions over the years, including in 2015 when the frequency of meetings was revised and a review of the new arrangements requested for report to Council early in 2017.

2.4 One additional role which was considered was a scrutiny role. However following clarification with Welsh Government it was made clear that Area (Shire)

Committees cannot be scrutiny committees. The role of these committees has been drawn further into question with the Council establishing the Local Environment Initiative / Neighbourhood Management, with the decentralisation of services to smaller groups of Members in consultation with Area Managers, Town and Community Councils etc.

### 3. Current Position.

3.1 In January 2015 the County Council decided that all Area (Shire) Committees should meet on a bi-monthly basis with additional meetings only being called in an emergency and that this position should be reviewed in 2017. In 2016 the Radnorshire Committee considered the frequency of meetings and concluded that it would prefer to meet on a monthly basis as previously. However it was suggested that the views of all Members should be sought. A survey was undertaken in the Autumn of 2016 the results of which were reported to the Democratic Services Committee on 23<sup>rd</sup> January, 2017.

3.2 The responses to the survey were as follows:

Shire	Number of Shire Members	Number That Responded	Percentage Response
Montgomeryshire	34	12	35% of the shire
Radnorshire	15	5	33% of the shire
Brecknockshire	24	6	25% - of the shire
<b>Totals</b>	<b>73</b>	<b>23</b>	<b>31.5%</b>

Of those who responded - Number who Support Holding Shire Meetings

Shire	Support Holding Shire Meetings	Don't Support
Montgomeryshire	11	1
Radnorshire	5	0
Brecknockshire	2	4
<b>Totals</b>	<b>18</b> <b>(78% of those who responded)</b>	<b>5</b> <b>(22% of those who responded)</b>

Of those who supported the holding of Shire meetings, below is the result of those who felt that there should be the same or a different frequency of meetings in each Shire

Shire	Same Frequency	Different
Montgomeryshire	6	4
Radnorshire	2	3
Brecknockshire	3	0
<b>Totals</b>	<b>11</b> <b>(61% of those who supported holding shire meetings)</b>	<b>7</b> <b>(39% of those who supported holding shire meetings)</b>



3.3 In considering the results of the survey the Democratic Services Committee noted the low response by Members and felt that the majority of Members had an apathy towards the operation of the Shire Committees.

#### **4. Roles and Responsibilities.**

4.1 Roles and Responsibility of the Area (Shire) Chair.

4.1.1 The Area (Shire) Chair has two separate and distinct roles:

- Civic Role as Chair of the Shire within the particular Shire e.g. Citizenship Ceremonies, and to assist the Chair of Council with civic roles within the County as required.
- To Chair meetings of the Area (Shire) Committees.

4.1.2 The Democratic Services Committee considered that the civic role of the Chair and Vice-Chair of a Shire was an important function within the Council which should be continued irrespective of whether the Council continued to have Area (Shire) Committees.

4.2 Roles and Responsibilities of Area (Shire) Committees.

4.2.1 The following Executive functions are currently delegated:

##### Highways Functions:

Within a framework agreed by the Executive, and within an annual budget to be allocated by the Executive, and subject to an individual project limit of £50,000 :

All decisions in relation to highway maintenance within the overall plans determined by the Executive relating to:

- (a) Local Improvement Programmes;
- (b) The general Highway Maintenance Programme;
- (c) Non-structural Bridge Maintenance.

The making of permanent Traffic Regulation Orders (with certain limited exceptions which are to be decided by Cabinet i.e. Water Break it's Neck, Moelfre City and car parks and car park charging). Temporary Traffic Regulation Orders are the responsibility of the Cabinet.

Promoting and developing local road safety initiatives.

#### **5. Costs of operating the Area (Shire) Committees.**

5.1 The revenue budgets for Members and Democratic Services are not broken down by Shires. The total budget expenditure for Members in 2015/16 was £2,849,239. The budget for 2016/17 is £2,408,160. The total expenditure for Democratic Services in 2015/16 was £97,289. The budget for 2016/17 is £108,970.

5.2 Officer Costs – For the period April 2016 to March 2017 the costs of officer attendance at Shire meetings is:

Montgomeryshire	£3285.28	17 officers
Radnorshire	£3285.28	17 officers
Brecknockshire	£2815.95	17 officers
<b>Total</b>	<b>£9386.51</b>	

These costs are based on an attendance by a Senior Officer and clerk of 3 hours each, and an attendance by other officers of 1 hour each. These costs do not include any travelling and subsistence expenses, nor do they include the time spent preparing reports. They are non cashable savings.

5.3 The cost of Members' travel is as follows:

Montgomeryshire	£2754.00
Brecknockshire	£1458.00
Radnorshire	£1701.00

5.4 Cabinet Member Costs.

The cost of Cabinet members from other Shires attending:

Montgomeryshire	£295.00
Brecknockshire	£405.00
Radnorshire	£472.50

5.5 Costs of Photocopying Agendas – agendas are now produced electronically.

5.6 There has been no capital expenditure.

5.7 Refreshments.

The Council meeting on 30<sup>th</sup> April 2014 decided to end the provision of refreshments at meetings. Refreshments are not provided for Shire Meetings.

5.8 A very rough indication of the total costs for Shire Committees for April 2016 to March 2017 is set out below:

Item	Montgomeryshire	Radnorshire	Brecknockshire
Officer Costs	£3285.28	£3285.28	£2815.95
Members' Travel	£2754.00	£1701.00	£1458.00
Cabinet Members attending other Shires	£295.00	£472.50	£405.00
<b>Total:</b>	<b>£6334.28</b>	<b>£5458.78</b>	<b>£4678.95</b>

Total Cost for 3 Shires – £16,472.01

These costs do not include officers travelling costs.

## **6. Frequency of Meetings.**

- 6.1 Montgomeryshire and Radnorshire meet bi-monthly, whilst Brecknockshire meets on a quarterly basis.

## **7. Officer Support for the Committees.**

- 7.1 Currently the Council's Management Team has a rota of attendance at Area (Shire) Committee meetings but due to the day to day pressures of diary management, senior officer attendance cannot be guaranteed. As a result of the response to the Williams Commission report, from January, 2015 the Management Team has changed its meeting days to Wednesdays so that joint meetings with the Powys Teaching Health Board can be undertaken. This has clashed with meetings of the Area (Shire) Committees so that officer attendance at these meetings has been revisited.
- 7.2 Given the limited decision making power of the Area (Shire) Committees, attendance of senior officers at these meetings is not cost effective.

## **8. Decisions Taken:**

- 8.1 Montgomeryshire has taken 9 decisions to date in 2016/17 relating to Highways, parking and road safety matters at 3 meetings.
- 8.2 Brecknockshire has taken 7 decisions to date in 2016/17 relating to Highways, parking and road safety matters at 4 meetings.
- 8.3 Radnorshire has taken 5 decisions to date in 2016/17 relating to Highways, parking and road safety matters at 1 meeting.

## **9. Options for Further Delegation of Executive Functions.**

- 9.1 In discussions with the Area (Shire) Committees it is difficult to identify any additional Executive Functions which could be delegated to these committees. The former Board and subsequent Cabinets have not extended the scheme of delegation. In fact the scheme of delegation has reduced since it was first commenced in 2002. It is also difficult to conceive that any functions other than those of a minor nature would be delegated as the majority of Cabinet decisions are strategic decisions which require an all-County approach and would be inappropriate to delegate.
- 9.2 The need to hold decision makers to account in a clear and transparent way could lead to a conflict for Members if decisions are taken by members of Area (Shire) Committees who also have a scrutiny role. Any decisions taken under delegated authority from the Cabinet e.g. Highways matters, can be subject to a call-in by a scrutiny committee.

## **10. Local Environment / Neighbourhood Management.**

- 10.1 To further progress the work of the Local Environment Initiative and to support a community approach to service delivery, Locality Forums have been established in

Local Environment Areas within the County. The Locality Forum is an opportunity for local Members for the area together with officers and the Portfolio Holders for the service, to focus on any local issues that may impact on the delivery of a seamless and efficient service for the residents of Powys. Discussions can focus on the budget and the extent to which it is possible to meet local priorities.

- 10.2 The neighbourhood management pilot that was held in Newtown, has resulted in the development of a toolkit which is available for all communities to use. The toolkit is a guide for residents who want to start their own neighbourhood management group in order to tackle quality of life issues. The toolkit has useful contact details for Powys County Councillors, Town & Community Councillors, Neighbourhood Policing Teams, the Fire Service, Kaleidoscope Substance Misuse and many others.
- 10.3 The Community Delivery project supports the County Council's vision for 'Stronger Communities in the Green Heart of Wales'. It is the County Council's intention to become a place maker and enabler of local communities rather than the traditional provider of services. We will work with our partners in the public, voluntary and independent sector to support community leaders and volunteers, to develop initiatives through the transfer of assets and services, that will enable their communities to be vibrant and sustainable for the future. A large number of property assets including playgrounds, allotments and similar open spaces, have transferred to Town & Community Councils. A growing number are also taking on the delivery of services i.e. public conveniences, grounds maintenance, street cleaning, and Libraries and Day Care Centres.

## **11. Impact of the changes to Local Government over the next few years.**

- 11.1 There is no indication from Welsh Government that there will be a move in Wales away from an Executive Model of governance in Councils i.e. a Cabinet System, so the likelihood of any further delegated responsibilities being transferred to the Area (Shire) Committees is remote. In fact with a more regional approach to service delivery it is anticipated that the Council's involvement will centre around the Cabinet and Scrutiny Committees.
- 11.2 The expectation from Welsh Government is that other organisations / bodies such as Town and Community Councils and Voluntary Organisations would be expected to take on more responsibilities currently being undertaken by County Councils either jointly or under contractual arrangements. As part of the Council's reconfiguration as a commissioning authority and in the face of severe budget cuts, the Council is already undertaking the transfer of services / facilities to Town and Community Councils and others which will reduce the input which Area (Shire) Committees will have in such matters, as these committees do not have a scrutiny function.

## **11. Rotational Arrangements for the Chair of Council.**

- 11.1 Since 1996 the Council has operated a system where the Chair of Council is selected on a rotational basis from the Area (Shire) Committees with each Shire having the same number of opportunities to select as the others i.e. 1 in 3 in a 3 year rotation. There are no proposals to amend this process.

## 12. Comments.

- 12.1 Legal – The recommendation can be supported from a legal point of view.
- 12.2 Finance – The removal of these committees will realise an estimated annual cashable saving of £7,000 and there is also the opportunity cost of releasing time that can be used effectively elsewhere by officers.
- 12.3 Communications - The report is of public interest and requires use of news release and appropriate social media to publicise the decision.

## 13. Statutory Officer Comments.

### 13.1 Section 151 Officer.

The Strategic Director – Resources (Section 151 Officer) has commented as follows: “The comments made by Finance about savings arising from the abolition of the current structures is noted”.

### 13.2 Monitoring Officer

The Solicitor to the Council (Monitoring Officer) has commented as follows: “I note the legal comment and have nothing to add to the report”.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
<b>(i) that the Area (Shire) Committees be abolished as from the Annual General Meeting in May 2017.</b>	<b>(i) to complete the review in respect of the Area (Shire) Committees; and</b>
<b>(ii) that the civic role of Chair and Vice-Chair of the Shires be continued and that an annual meeting of members from the relevant Shire area be held to undertake the election of the Chair and Vice-Chair.</b>	<b>(ii) to continue the civic role of the Chair and Vice-Chair of the Shire and to establish a process for the annual election of the Chair and Vice-Chair of the Shire on an annual basis.</b>

<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	<b>Y / N</b>	<b>Within Budget:</b>	<b>Y / N</b>

<b>Relevant Local Member(s):</b>	
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<b>Person(s) To Implement Decision:</b>	<b>Clive Pinney / Wyn Richards</b>
<b>Date By When Decision To Be Implemented:</b>	<b>May 2017</b>

Contact Officer:	Wyn Richards, Scrutiny Manager and Head of Democratic Services.
Tel:	01597-826375
Email:	wyn.richards@powys.gov.uk

### Background Papers used to prepare Report:

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

## CYNGOR SIR POWYS COUNTY COUNCIL.

County Council  
7th March, 2017

**REPORT AUTHOR:** Audit Committee

**SUBJECT:** Appointment of the Audit Committee Independent / Lay Member following the County Council Elections in May 2017

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**REPORT FOR:** Decision

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### 1. Summary

- 1.1 The report is recommending to the County Council that the current postholder as Independent / Lay Member of the Audit Committee be reappointed for a second and final 5 year term of office as from the AGM on 18<sup>th</sup> May, 2017 until the next County Council elections in May 2022.

### 2. Background and Proposal

- 2.1 The Council is required in accordance with the Local Government Measure 2011 to appoint an Audit Committee with a prescribed membership as follows:
- (a) at least two-thirds of the members of the audit committee are members of the Council;
  - (b) at least one member is a lay member;
  - (c) no more than one member of the committee is a member of the authority's executive (the Cabinet);
  - (d) the senior member of the executive (the Leader) is not a member of the audit committee.
- 2.2 An act of an audit committee is invalid if the membership of the committee breaches the requirements set out in paragraph 2.1 above.
- 2.3 The Statutory Guidance from the Local Government Measure recommends that a lay member should not be appointed for more than two full terms of a local authority.
- 2.4 Following the County Council Elections in 2012, the Council undertook a recruitment and interview process to appoint a Lay Member who is the current postholder. In advance of the County Council elections for 2017 the Council should now be commencing the process for making an appointment to the role of Lay Member (as well as to appoint co-optees to other scrutiny committees) to commence as from the Council AGM in May 2017. In respect of the Audit Committee, if this process is not undertaken then the Audit Committee will be unable to function in accordance with paragraph 2.2 above until that Lay Member is appointed and there is the potential for a delay as occurred in 2012 where the Lay Member was not appointed until September.

- 2.5 However, the statutory guidance provides the Council with a potential alternative solution i.e. to reappoint the current Lay Member for a further term of office. This brings with it a number of advantages including:
- (a) removing the time delay for the Council having a functioning Audit Committee following the election;
  - (b) the Council not incurring the cost (both financial and time) of advertising the role and undertaking interviews, which will involve current Members;
  - (c) the Council having a person with a proven track record in the role who has gained knowledge and experience of the Council and its operation and can therefore “hit the ground running”.
- 2.6 The current Lay Member has been asked if he would be interested in continuing his role if the Council agreed to reappoint him to the role. He has confirmed in writing that he would be interested in continuing as Lay Member, subject to the approval of the County Council.

### **3. Impact Assessment**

- 3.1 Is an impact assessment required? – No as this is not a policy change or change of objective.
- 3.2 If Yes is it attached? – N/A

### **4. Comments on the Report.**

- 4.1 Finance – The recommendation can be supported from a finance point of view
- 4.2 Legal – The Recommendation can be supported from a legal point of view
- 4.3 Corporate Communications - The report is of public interest and requires news release and use of appropriate social media to publicise the decision.
- 4.4 Statutory Officers.

Strategic Director – Resources (Section 151 Officer) has commented as follows: ) “I support the recommendation and that the reappointment will provide continuity after the forthcoming election should the committee membership change”.

The Solicitor to the Council (Monitoring Officer) has commented as follows: “I note the legal comment and have nothing to add to the report

- 4.5 The Chair of the Audit Committee has commented as follows: “I am happy to support extending the term of office for John Brautigam. He has proved to be an excellent co-opted member and this has also been indicated by other members of the audit committee with him being voted in as the vice chair of audit.”
- 4.6 The report was considered at the meeting of the Audit Committee on 3<sup>rd</sup> February, 2017, and the Committee’s recommendation is set out below.



**5. Recommendation.**

<b>Recommendation to the County Council:</b>	<b>Reason for Recommendation:</b>
<b>That the current Audit Committee Lay Member be reappointed for a second and final term of office from the AGM on 18<sup>th</sup> May, 2017 for a period of 5 years until the next Council elections in May 2022.</b>	<b>To facilitate the appointment of the Audit Committee Lay Member from May 2017 to enable the Committee to function following the Council elections in May 2017.</b>

<b>Relevant Policy (ies):</b>	
<b>Within Policy:</b>	<b>Y</b>
<b>Within Budget:</b>	<b>Y</b>

<b>Relevant Local Member(s):</b>	
----------------------------------	--

<b>Person(s) To Implement Decision:</b>	<b>Wyn Richards, Scrutiny Manager and Head of Democratic Services</b>
<b>Date By When Decision To Be Implemented:</b>	<b>May 2017.</b>

<b>Contact Officer:</b>	Wyn Richards, Scrutiny Manager and Head of Democratic Services.
<b>Tel:</b>	01597-826375
<b>Email:</b>	wyn.richards@powys.gov.uk

**Background Papers used to prepare Report:**

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

## CYNGOR SIR POWYS COUNTY COUNCIL.

Council  
7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Stephen Hayes  
Portfolio Holder for Adult Social Care

County Councillor Graham Brown  
Portfolio Holder for Children's Services

**SUBJECT:** Regional Partnership Board – Population Assessment

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**REPORT FOR:** Approval

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### **1. Social Services and Well-being (Wales) Act 2014**

- 1.1 The Social Services and Well-being (Wales) Act 2014 requires Powys County Council (PCC) and Powys Teaching Health Board (PTHB) to jointly prepare a Population Assessment through their single partnership arrangement (Powys regional Partnership Board).
- 1.2 The Act requires the population assessment to be formally approved by full council on submission by the PCC's cabinet and by the board of the PTHB.
- 1.3 Data has been collated from service users, services and partners and assessed to determine where there are gaps in meeting need and where preventative services could contribute to improved outcomes. The findings included in this report have been considered and approved by Powys Regional Partnership Board on 13<sup>th</sup> February 2017.
- 1.4 The population assessment for Powys has been prepared in parallel with the Powys PSB's Well-being Assessment, recognising both the synergy and efficiency of combining both resource and knowledge to produce 2 coherent, complementary and aligned assessments.

### **2.0 Proposal**

- 2.1 It is proposed that the 2017 Population Assessment in Appendix A is approved and recommended to full council for approval on 7<sup>th</sup> March 2017.

### **3.0 One Powys Plan**

- 3.1 The population assessment is a key document for informing the statutory area plan which will need to be approved by 31<sup>st</sup> March 2018.

#### **4.0 Options Considered/Available**

4.1 No other options were considered.

#### **5.0 Preferred Choice and Reasons**

5.1 The population assessment has been prepared in line with the requirements of the Act and the relevant codes of practice issues by Welsh Government to aid in its preparation.

#### **6.0 Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc**

6.1 The population assessment shows due regard to guiding principles and key policies.

#### **7.0 Children and Young People's Impact Statement - Safeguarding and Wellbeing**

7.1 The population assessment shows due regard.

#### **8.0 Local Member(s)**

8.1 The population assessment is relevant to all wards.

#### **9.0 Other Front Line Services**

9.1 As is the Social Services and Well-being (Wales) Act 2014, the population assessment is relevant to other services where appropriate.

#### **10.0 Support Services (Legal, Finance, Corporate Property, HR, ICT, BPU)**

10.1 As is the Social Services and Well-being (Wales) Act 2014, the population assessment is relevant to other services where appropriate.

10.2 Legal : The recommendation can be supported from a legal point of view.

#### **11.0 Public Services Board/Partnerships/Stakeholders etc**

11.1 The population assessment has been prepared under the stewardship of the Powys Regional Partnership Board and approved at their formal meeting on 13<sup>th</sup> February 2017. The assessment has also been prepared in parallel with the statutory well-being assessment that has been prepared under the stewardship of the Powys Public Service Board. This has ensured 2 coherent, complementary and aligned assessments.

## 12.0 Corporate Communications

12.1 Consultation and engagement has contributed to the preparation of the population assessment and communication will continue following its approval.

12.2 Communications comments

## 13. Statutory Officers

The Solicitor to the Council (Monitoring Officer) has commented as follows: "I note the legal comment and have nothing to add to the report."

## 14. Members' Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
<b>That the Population Assessment in the Appendix attached to the report is approved.</b>	<b>The population assessment provides an essential foundation for developing the statutory area plan by 31<sup>st</sup> March 2018.</b>  <b>Approval by full council is a statutory requirement of the Act.</b>

<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	<b>Y / N</b>	<b>Within Budget:</b>	<b>Y / N</b>

<b>Relevant Local Member(s):</b>	
----------------------------------	--

<b>Person(s) To Implement Decision:</b>	
<b>Date By When Decision To Be Implemented:</b>	

<b>Contact Officer Name:</b>	<b>Tel:</b>	<b>Fax:</b>	<b>Email:</b>
Diane Reynolds			diane.reynolds@powys.gov.uk

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



# The Draft Care and Support Population Assessment for Powys



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# 1. Welcome to the draft care and support population assessment for Powys

The Social Services and Well-being (Wales) Act has been in force since April 2016. The Act imposes duties on local authorities, health boards and Welsh Ministers that require them to work to promote the well-being of those who need care and support, or carers who need support. There is a requirement on local authorities and Local Health Boards to undertake an assessment of the extent to which there are people who need care and support and carers who need support. This assessment brings together information from Powys County Council, Powys Teaching Health Board and Public Health Wales for Powys. Together with partners we have analysed our data and assessed the current state of care and support for our population.

The act requires us to assess and report our findings against eight core themes:

- Children and Young People
- Older People
- Health and Physical Disabilities
- Learning disabilities and Autism
- Mental Health
- Sensory Impairment
- Carers
- Violence against Women, Domestic Abuse and Sexual Violence.

Our assessment looks at each theme and assesses the issues impacting on people's daily lives and well-being. This means looking at things like people's health, access to services and education/training opportunities, condition of housing and access to transport. It aims to capture the strengths and assets of our communities as well as to identify issues that people or communities are facing.

The evidence in this assessment will allow us to identify and prioritise the issues that are most important locally and begin to examine how they can be addressed. It will be used to make decisions about the services we need to provide in Powys to meet peoples care and support needs and the support needs of carers. We will use our findings to set objectives which will be published in our local area plan which is due for publication in 2018.

This assessment was undertaken at the same time as the Well-being Assessment required under the Well-being of Future Generations (Wales) Act, and although the definition of well-being is slightly different in each Act, we recognise that both assessments need to be fully aligned, to ensure our responses meet the needs of our residents.

Chair of Powys Regional Partnership Board

## 2. Powys Population

The population of Powys was **132,642** in 2015.

This consists of:

- 33,972 people aged 0-24,
- 64,512 people aged 25-64,
- 29,611 people aged 65-84,
- 4,547 people aged 85 and over.



Created by Marie Van den Broeck  
from Noun Project

**98.4%** of the population of Powys are white (Wales: 95.6%)



Created by Marie Van den Broeck  
from Noun Project



Powys covers **5180 km<sup>2</sup>**, covering a quarter of the area of Wales with just **26** persons per square kilometre, making Powys the sparsest and **most rural county** in Wales and among the sparsest in the UK.

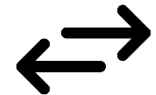
In Powys, there are total of **59,138** households, of which **18,948** are single person households.

In the 2011 Census, **19%** of the population said they could speak Welsh.



In 2015, **5,900** people **migrated into** Powys and **5,500 migrated out**. Migrants flowing in and out are usually aged 15-29, whilst only 12% of inward migrants are elderly.

Created by Marie Van den Broeck  
from Noun Project



Some areas of Ystradgynlais, Newtown and Welshpool are very **deprived** when compared with the rest of Wales, according to the Welsh Index of Multiple Deprivation

## 3. Our Main Findings

The section describes the findings of our assessment, broken down into each of the eight core themes. In addition to the 8 core themes identified in the Act, Regional Partnership Boards can also review additional themes relevant to their area. In addition to the core themes (summarised in Sections A to H), the development of our Care and Support Population Assessment has identified 'Advocacy Services' as an important local theme. Our findings are summarised in Section I. Each of the following sections provides an overview of our findings. They summarise:

- "What do we know?" from available data such as social services information, the ONS census, public health data, etc.
- "How do we compare with other local authorities?"
- "What to citizens say?" based on our surveys and engagement across the county
- "What do staff say?" using feedback from teams across the partners in the Regional Partnership Board
- "What do regulators say?" drawing on sights from Health Inspectorate Wales, ESTYN, CCSIW and other regulators
- "What we don't know?" making clear where we know we have gaps in this assessment
- "Are there differences between localities" identifying any variations between different parts of the county
- "Are there any preventative measures associated with this data?" highlighting work already underway to improve care and support for the people of Powys
- "What might the future impacts be?" identifying changes we are forecasting for the future

Most themes are presented as a single assessment. Given the particular importance and complexity of the Children & Young People theme for the future of Powys, this is presented as six sub-themes: Educational Attainment; Attainment of Children Eligible for Free School Meals; Exclusions; Childcare Sufficiency; Vulnerable Children; and, Childhood Obesity."

## A. Children and Young People



**33,972**

**0-24 year olds living in Powys**

### Projections

**27,897**

**(18% drop by 2036)**

This section assesses the younger population in Powys. Currently there are 33,972 0-24 year olds living in Powys, yet this is projected to drop by 18% by 2036 (to 27,897 people). As the younger population reduces, this will have a knock on effect on many of the services we provide. We are going to be looking in further depth at the

potential effects of a smaller child population, and the educational attainment in Powys, in terms of exclusions and the attainment gap between those who receive free school meals and those who don't. We will be analysing the sufficiency of childcare in the county, and the numbers of vulnerable children. Lastly, we will be focusing on the growing issue of childhood obesity.

We asked young people in the county for their views on wellbeing, as part of the Powys Public Service Board's response to the Wellbeing of Future Generations Act (Wales) 2015. The majority of respondents felt that 'Family relationships' was the most important and Welsh language the least. The issue with the largest gap between its importance and its performance was Future Employment

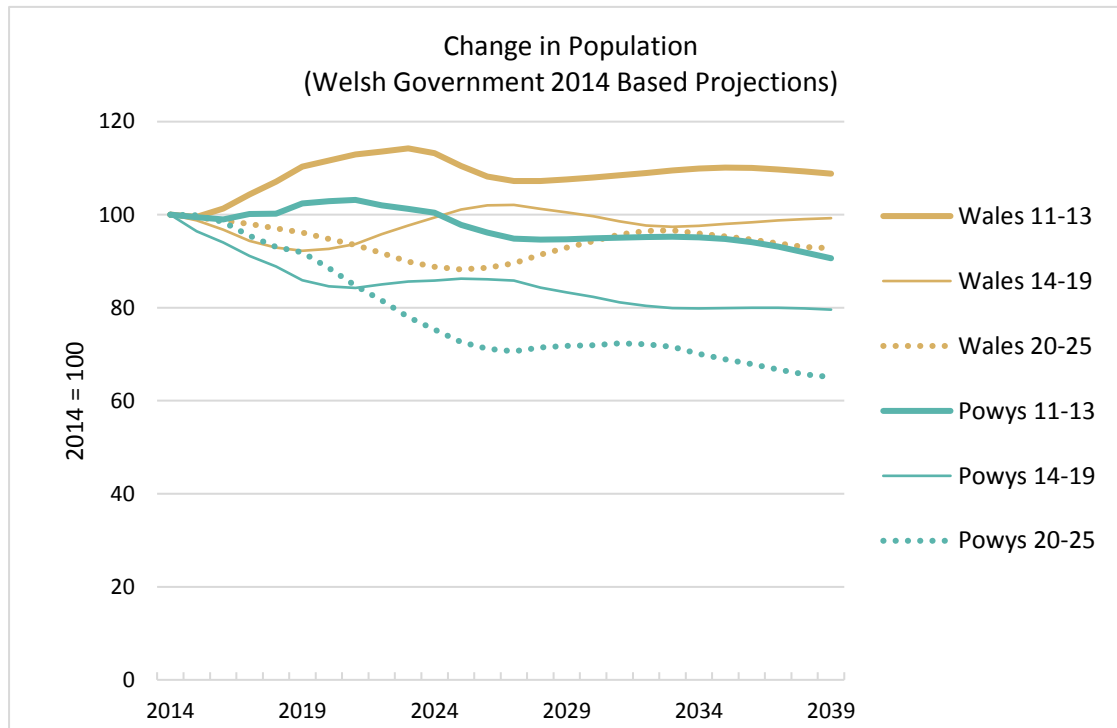
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### What do we know about Children and Young People in Powys and how we support them?

The population of children and young people in Powys is predicted to decrease in the future, mainly due to an on-going trend for young people to leave the county in favour of more urban areas, as well as the reduced birth rate across Powys. The effects of this are already becoming apparent, with the average age of the population increasing rapidly. While some services, such as schools, have begun preparations to mitigate the impact of this changing demographic, there is a high likelihood of other knock on effects of a reduced child population. In particular, the cost of commissioned services is likely to increase and staff recruitment may become more difficult as

the available workforce shrinks. The child population is predicted to begin to shrink by marginal amounts by 2018, with a decrease in the early year's population. This will slowly spread to all early years and young adults' age groups, with the initial severe effects being felt by 2025 (Powys County Council, 2015). There are 17,244 children in Powys schools, 9,486 of those in Primary Schools, 7,466 in Secondary Schools and 292 in Special Schools.



### How do we compare with other local authorities?

The effects and scale of a reduced child population are expected to be less serious across Wales as a whole. While Powys is expected to experience a drop of up to 30% by 2035, Wales as a whole is only expected to see a reduction of 5% at worst (PCC, 2015).

### What do citizens say?

Most citizen feedback from the Facebook engagement mentioned long journeys to get to schools, and a lack of local services and encouragement for businesses to generate jobs. Potential solutions offered were relaxing planning rules for new builds, and providing leisure opportunities to attract and retain younger people.

### What do staff say?

In Powys, delivering services to a widely dispersed population remains difficult and if the number of children and young people declines, this could be interpreted as services becoming cheaper to deliver - this isn't necessarily the case as a reducing population means less critical mass for service delivery. This can result in increased costs for delivering the service, less productivity due to travel time and cost, and increased training costs due to transport issues.

As we commission more services, a lower population of children and young people could affect how attractive it is for providers to deliver services, as it becomes more expensive for them to do so. This would lead to less competition within the market and therefore a higher cost for the public services - similarly, delivering the service in-house could remain costly due to transport costs, unless there are other innovative methods of service delivery.

What we don't know.

We are not able to estimate the level of complexity in some cases and show demand across the different tiers of need.

Are there differences in localities?

All partners are committed to delivering services via a locality-based model, ensuring that we design services to best fit the local population. The highest level of deprivation are found in specific areas such as Ystradgynlais, Newtown and Welshpool.

Are there any preventative measures associated with this data?

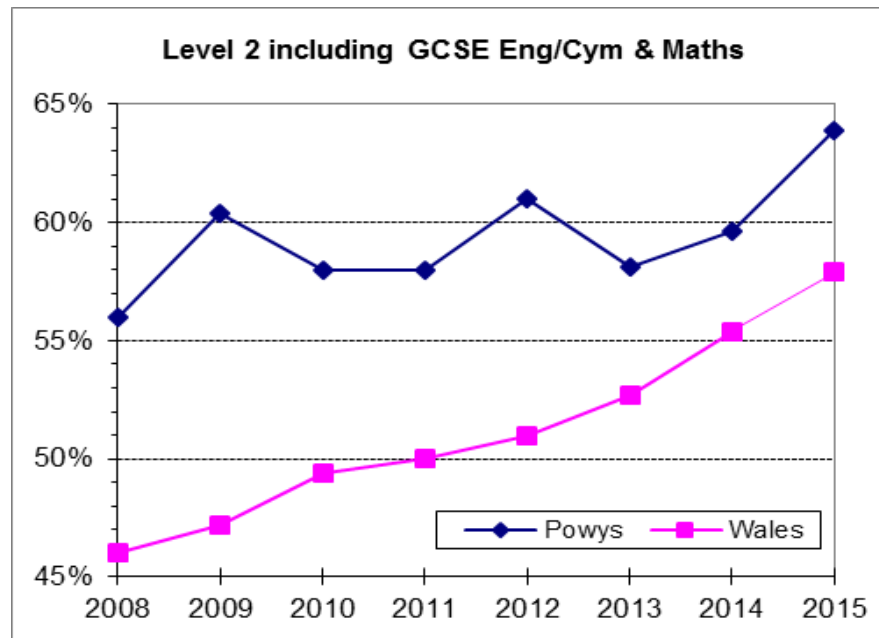
Services in the county are already commissioned to deliver in response to identified need whilst ensuring economies of scale. For example, the CYPP commissioned an internet-based counselling service to ensure that young people, wherever they are in Powys, are able to access support. We were then able to integrate the online service with a face-to-face service so that young people can request an appointment to see a local counsellor in their area.

## Educational attainment



### What do we know about educational attainment?

Standards in Powys are generally good. There has been good evidence of improvement in standards in Powys schools in recent years. However there is too much variation. Recent Estyn inspections (since September 2010) have placed 25% of Powys High Schools in Special Measures, one in need of significant improvement and a further 25% (3 schools) in Estyn Monitoring (PCC, 2016).



Recruitment and retention of head teachers and senior leaders is often difficult. There has been significant changes in head teachers in Powys in the past three years. Current head teachers in 6 out of 12 Powys High Schools (50%) have been in post for 1 year or less and 4 out of 12 schools (33%) have had at least 3 Heads or Acting Heads in post during the last 5 years.

52% of pupils continued from year 11 to sixth form in Powys schools in 2016. Retention of pupils to Powys school 6th forms is under increasing competition from tertiary college provision both locally and in neighboring counties of both England and Wales (Careers Wales, 2015). Furthermore, the rapidity of the school transformation process designed to alleviate these issues is heavily influenced by the political process, public opinion and recent reductions in the purchasing power of schools.

### How do we compare with other local authorities?

Some Powys High Schools are not performing as well as they should be when compared to other Local Authorities in Wales given the local context. However there are positive upward trajectories in some key indicators even in some schools which are causing concern.

## What do citizens say?

The Powys Residents Survey carried out in both 2013 and 2015 showed a significant decline in satisfaction with the Secondary Education system from 68% to 59%.

## What do staff say?

In the last School Perception Survey carried out in 2014 Head teachers were asked to rate the appropriateness of the provision for 14-19 education planned by the council and its partners. Of the 27 responses received only 19% rated the service as 'Good' or better, 56% rated it as 'Satisfactory' and 26% rated it as either 'Poor' or 'Very Poor'.

## What do our regulators say?

Estyn: The School and local authority inspection service in Wales (Estyn) have previously recommended that Powys maintains the momentum of the School Transformation process and uses its powers of intervention to accelerate school improvement where deficiencies have been identified.

## What we don't know.

We did not identify any gaps in our data.

## Are there differences in localities?

Powys High Schools by and large serve their local communities hence any inconsistencies in performance will impact significantly on the locality. The three schools in Special Measures may have had an adverse impact on the local communities.

## Are there any preventative measures associated with this data?

The Powys/ERW School Improvement Team works closely with schools to mitigate the impact of local deficiencies where possible. The whole Schools Service aims to identify and implement long-term solutions through the School Transformation process.



What might the future impacts be?

Current High School transformation projects aim to resolve many of the issues hindering the progress of schools which are in difficulty. More significant progress should be visible in the future providing the current momentum is maintained. The benefits of current projects to transform High School provision should fully materialise in the long-term.

## Attainment of children eligible for Free School Meals



What do we know about the attainment of children eligible for free school meals and how do we support them?

Powys has the lowest percentage of children entitled to free school meals in Wales (10.4%, Wales: 16.8%). Current data shows an attainment gap between students who do receive free school meals and those who don't.

How do we compare with other local authorities?

Whereas there is a gap between the attainment of pupils eligible for free school meals and those not eligible, pupils eligible for free School meals in Powys generally do as well or better than Welsh averages.

What do citizens say?

We have not identified any information will now look to strengthen the evidence base on this topic

What do staff say?

School leaders including governors are required to carefully monitor the progress of vulnerable pupils. All schools are required to evaluate the impact of the Pupil Deprivation Grant (PDG) on the attainment of pupils eligible for free school meals and to publish how they use the grant on their school website. Nearly all schools state that they make good use of this grant.

### What do our regulators say?

We have not identified any information and are pursuing this as a data gap.

### What we don't know

There is no shortage of data on all aspects of school performance, most of which is in the public domain.

### Are there differences in localities?

The highest level of deprivation are found in specific areas such as Newtown, Welshpool and Ystradgynlais.

### Are there any preventative measures associated with this data?

The Schools Service and commissioned services such as early year's intervention in Flying Start, Incredible Years, and anti-bullying programmes play an important role in preventing the behaviours that require response.

## Exclusions



### What do we know about exclusions?

Over a number of years there has been a consistent rate of permanent exclusions in schools with fixed term exclusions also of significance, however there is variation between schools and exclusions are a complex issue.

Procedures are in place which ensure the schools take responsibility for the exclusions and the pupils and parents have their rights protected in terms of appeal. There is a clear expectation that due to the excellent work of two high schools in particular over recent months that the figures will reduce as an accurate reflection of pupils having their needs met in the school.

There are specific schools that historically have had high numbers of exclusions but they have invested in provision to increase the support for those vulnerable learners. There has been a significant investment in schools to increase the skill and knowledge base of staff in working with those who may be liable to challenge schools with their behavior.

### How do we compare with other local authorities?

We have not identified any information will now look to strengthen the evidence base on this topic

### What do citizens say?

We have not identified any information will now look to strengthen the evidence base on this topic

### What do staff say?

Staff have undergone appropriate training in Thrive and/or attachment awareness, and report very favourably on the impact of these interventions.

### What do our regulators say?

We have not identified any information and are pursuing this as a data gap.

### What we don't know.

The context of exclusions needs to include the numbers in Pupil Referral Unit (PRU), managed moves, and those in receipt of elective home education.

### Are there differences in localities?

The highest level of deprivation are found in specific areas such as Newtown, Welshpool and Ystradgynlais.

### Are there any preventative measures associated with this data?

Local Challenge Advisors provides monitoring, support, and challenge for schools and head teachers to improve the performance of vulnerable pupils. Schools are also provided with a comprehensive resource of best practice in terms of effective use of the PDG. Challenge Advisors make a judgement of the effectiveness of PDG in all schools.

### What might the future impacts be?

Expectation is that exclusions will reduce to a level that reflects what may happen, for example, where a permanent exclusion is appropriate.

## Childcare Sufficiency



### What do we know about childcare sufficiency?

There are a total of 267 registered childcare settings (Children and Young People's Partnership, 2015). These are made up of a mixture of privately operated, volunteer based, and school run organisations. In addition to this, the Welsh Government operates two national schemes in Powys. The first, Flying Start, operates in Powys' five major towns. This scheme provides for a total of 12.5 hours of care per week beginning in the term after their second birthday and ending at the start of the term following their third birthday (CYPP, 2013). In addition to Flying Start, the Welsh government also provides the Three Year Old funded education scheme, which provides ten hours of childcare per week beginning after a child become ineligible for Flying Start, and ending at the start of the term before their fourth birthday. Following the Council's decision to raise the age of primary school admission, a gap in provision is expected to appear with no full time day care for those over three years old. The Welsh government is developing a proposal for a program providing 30 hours per week of childcare to support working parents. However, this proposal has not yet been confirmed.

### How do we compare with other local authorities?

We have not identified any information will now look to strengthen the evidence base on this topic

### What do citizens say?

Currently consulting parents as part of the Childcare Sufficiency Assessment.

### What do staff say?

We have not identified any information will now look to strengthen the evidence base on this topic

### What do our regulators say?

We have not identified any information will now look to strengthen the evidence base on this topic.

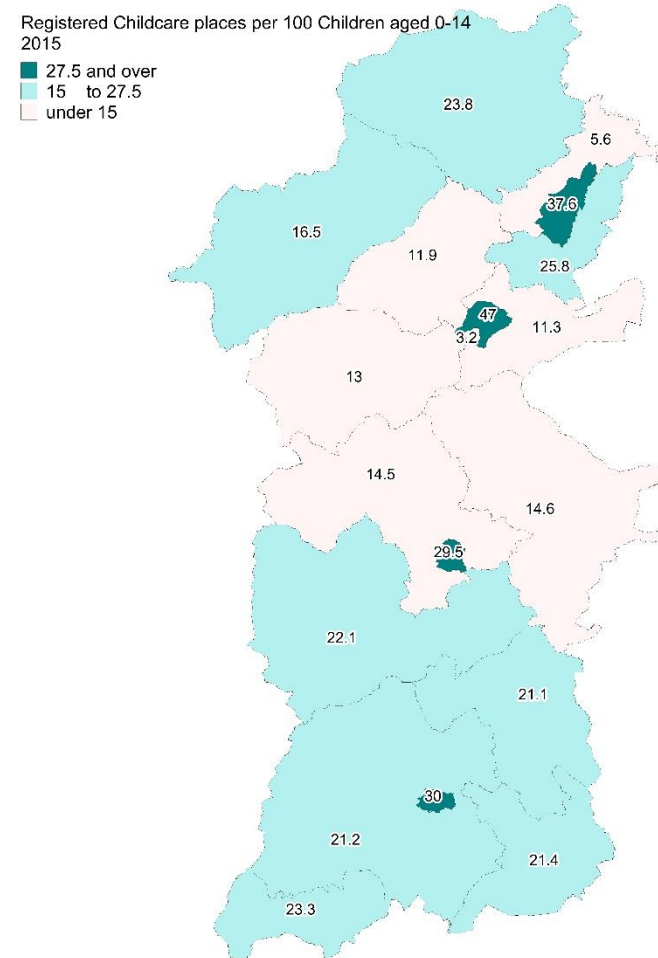
### What we don't know.

We have not identified any information will now look to strengthen the evidence base on this topic

### Are there differences in localities?

The number of childcare places available per 100 children varies from 13 places in Guilsfield Brook to 86 places per 100 children in Newtown North-East (PCC, 2016). When looking at these figures, we should bear in mind that parents may choose childcare in an area outside of where they live (e.g. closer to where they work) and this may account for the wide variation seen in the number of places in a particular area compared with the estimated population of that area. The childcare market is ultimately subject to demand and supply forces and the Council will support childcare settings which have temporary sustainability issues and it will also support new childcare settings to establish in areas where there is demand for new provision.

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 Ni ddylid gwneud unrhyw gopïau ychwanegol heb ganiatâd y Cyngor.



Are there any preventative measures associated with this data?

We have not identified any information will now look to strengthen the evidence base on this topic

## Vulnerable Children



What do we know about vulnerable children?

Over the last five years in Wales, the number of looked after children has increased by 5% (PCC, 2015). In Powys however, this has not been the case, with figures remaining largely static for the past five years at around 150 looked after children, representing one of the lowest rates in Wales (PCC, 2015). However, the needs of these children have steadily become more and more complex, result in more frequent placement breakdowns, at great expense to the local authority. Powys has 103 approved foster parents on the local authority register (Welsh Government, March 2016). There is a strong need for more foster parents, with better training and ability to cope with these more complex needs (Welsh Government, 2015). While the number of looked after children is low, the number placed on the child protection register has been steadily increasing, with neglect being the most common reason (PCC, 2015). The number of new entrants to the Youth Justice Service has fallen since 2010. The number of children in need has recently began to drop following improvements to the service, which allowed more cases to be closed.

The importance of early childhood experiences has been demonstrated in recent research by Public Health Wales, which examines the long-term effects of adverse childhood experiences (ACEs), such as domestic or sexual abuse, and violence (Public Health Wales, 2016).

How do we compare with other local authorities?

Powys has one of the lowest rates of looked after children in the whole of Wales, and while the numbers of looked after children has increased by 5% in the rest of Wales, we have remained static.

What do citizens say?

We have not identified any information will now look to strengthen the evidence base on this topic

What do staff say?

We have not identified any information will now look to strengthen the evidence base on this topic

### What do our regulators say?

We have not identified any information and are pursuing this as a data gap.

### What we don't know.

We need to undertake greater analysis around where children are known to services, in order to understand if there is anything that can be done differently to prevent escalation of need.

### Are there differences in localities?

Over the past 6 years Newtown has consistently been the locality with the highest levels of registrations, and these are significantly higher than many of the other similar localities.

### Are there any preventative measures associated with this data?

Service is currently investing in training to support foster carers and is actively recruiting foster cares for specific children with complex needs. The service is also in the process of reviewing its Corporate Parenting Action Plan. Educational outcomes for our looked after children remains one of the key priority areas for both Children's Services & Schools Service.

### What might the future impacts be?

We may see increased pressures being placed on local authority budgets as a result of increased cost to accommodate children with complex needs. The ability for our complex looked after children to fully achieve educational outcomes may be impacted as research shows that looked after children do not attain as well as non-looked after peers. This may lead to reduced employment opportunities and long term reliance on local authority support.

## Childhood obesity



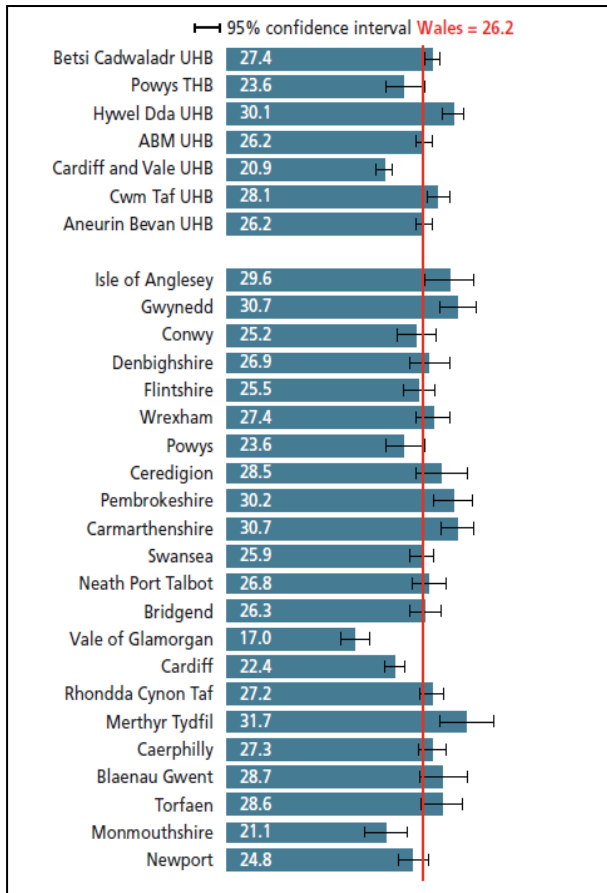
### What do we know about childhood obesity?

The issue of childhood obesity is becoming one of increasing concern in Wales. While rates are low in Powys compared to other local authorities in Wales, in Powys just under 1 in 10 children will still start school obese, with just under a quarter either overweight or obese (Public Health Wales Observatory, 2014). Overweight and obesity are of public health concern across age groups, however they are of particular concern in children and young people as they have detrimental effects on health and well-being during childhood and the longer term implications for future ill health.

### How do we compare with other local authorities?

Rates of overweight or obesity in children are not significantly different to the Wales average. Powys does have significantly lower rates than some local authorities, however the following figures show some national and local differences.





Percentage of children aged 4 to 5 years who are overweight or obese, Wales, health boards and local authorities, Child Measurement Programme for Wales, 2014/15  
 Source: Public Health Wales

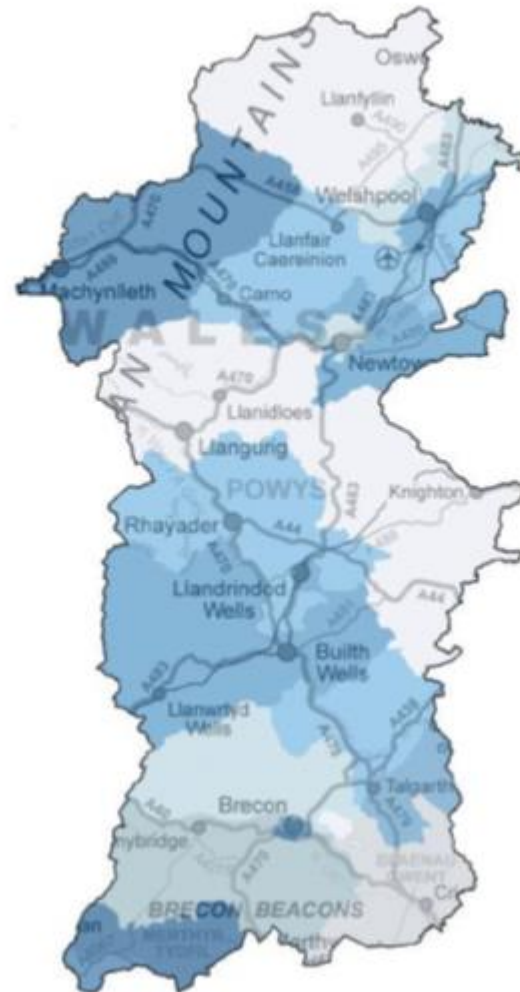
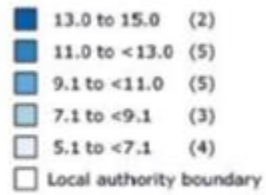
## Percentage of children aged 4 to 5 years who are obese, Powys THB MSOAs, Child Measurement Programme for Wales, 2012/13-2014/15

Due to smaller sample sizes at MSOA level, caution should be taken when making comparisons between areas.

Produced by Public Health Wales Observatory, using CMP data (NWIS) © Crown copyright and database right 2016. Ordnance Survey 1000044810

Obesity at 4-5yrs, Powys MSOAs, 2012/13-2014/15.

Source: Public Health Wales



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### What do citizens say?

We have not identified any information will now look to strengthen the evidence base on this topic

### What do staff say?

We have not identified any information will now look to strengthen the evidence base on this topic

### What do our regulators say?

We have not identified any information and are pursuing this as a data gap.

### What we don't know.

The Child Measurement Programme (CMP) is a large-scale annual survey and provides robust data on weight in reception age children (4-5yrs) across Wales including at Health Board and Local Authority level.

There is no equivalent survey for children or young people of other ages or for adults although self-reported data on overweight and obesity is available for adults.

### Are there differences in localities?

We have not identified any information will now look to strengthen the evidence base on this topic.

### Are there any preventative measures associated with this data?

Powys Healthy Weights Steering Group chaired by the Director of Public Health coordinates a range of work which aims to promote healthy weight across the life-course. Sub-groups have been established to coordinate aspects of PHWSG's overall action plan. These include sub-groups which focus on health weight in pregnancy and pre-school aged children and in school-aged children and young people. A wide range of the services provided or commissioned by local authorities have the potential to influence child obesity through opportunities for physical activity and the promotion of healthy eating.

### What might the future impacts be?

The assessments for children and young people who are carers, those with mental health issues sensory impairment, disabilities or learning difficulties have been analysed according to the themes below and can be accessed by clicking on the links.

- [Carers](#)
- [Mental health](#)
- [Sensory impairment](#)
- [Health and physical disabilities](#)
- [Learning disabilities and autism](#)



Created by Thomas Helbig  
www.helbig-project.com

**34,158** people aged 65 and over  
(26% of population)

**3%** aged over 85

**15,571** people aged 50+ are  
predicted to be living alone

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## Projections

The **65 plus** population is projected to increase by **38%** by 2036.

The **85 plus** population is expected to increase by **159%** by 2036.

We want to support older people to live independent lives. This includes supporting people to live at home or providing suitable accommodation options. As the elderly population increases (including the number of people with dementia), there will be more demand on the services that we provide to support older people.

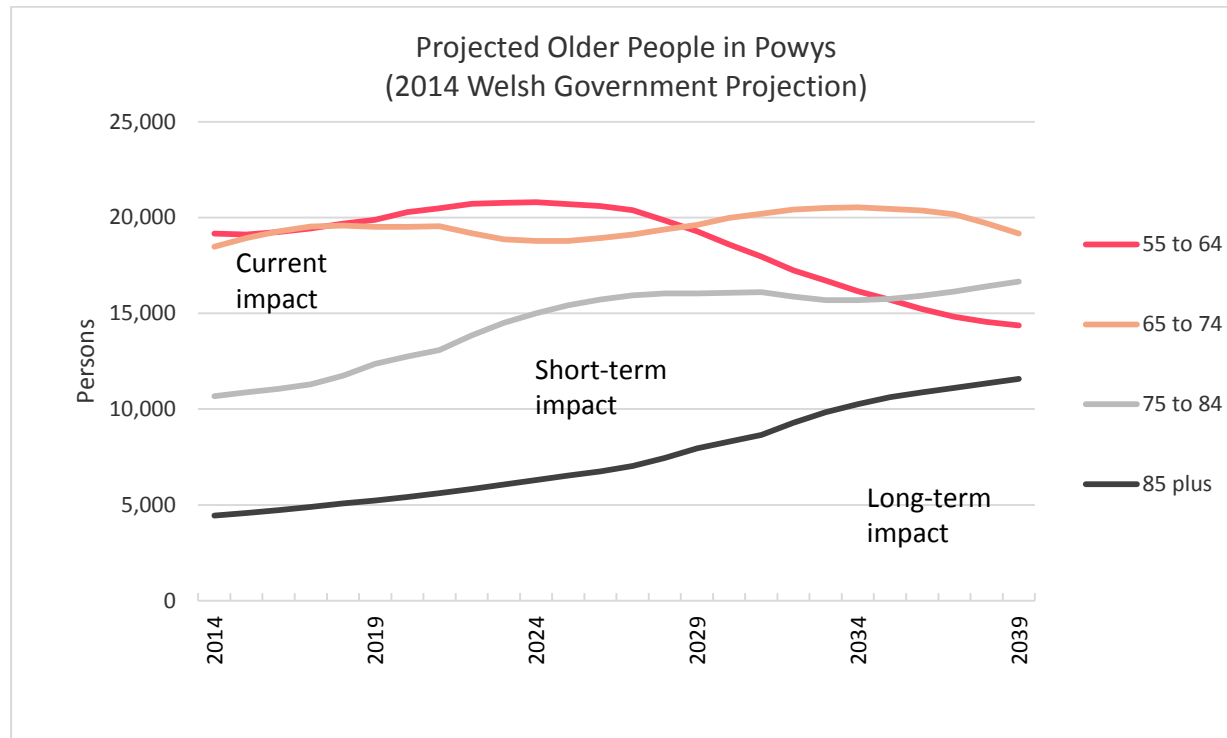
A proportion of elderly residents currently live in social housing and many wish to stay in their own home for as long as possible. When people are placed in a care home they are sometimes placed somewhere that is not close to their home. The number of people that we support through domiciliary

care is increasing. There are challenges for independent living, especially isolation and loneliness which can increase as people get older. Rural areas can face extra challenges in terms of supporting people to live at home for example the number of people that we support through domiciliary care varies across the county.

This section assesses the older population in Powys, with particular reference to people aged 65 and those aged 85 plus. The “65 plus” population (currently 34,158) is projected to increase by 38% by 2036 (to 47,165). The “85 plus” population is expected to increase by 159% by 2036 (4,547 to 10,879) (ONS, 2015)).

There are estimated to be 15,571 people over 50 living alone in Powys in 2015 (ONS, 2015). Age UK (2010) states that research shows the figure of those often or always lonely is between 6% and 13%. 6% in Powys would equate to approximately 1,697 people suffering from loneliness and social isolation; 13% would equate to 4261 (Age UK, 2010). The Institute for Research and Innovation in Social Services (IRISS) found that loneliness and isolation are common problems amongst older people and that tackling loneliness and isolation is inherently preventative in terms of delaying or avoiding the need for more intensive support.

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## What do we know about older people and how we support them?



We support people to live at home through services that include Domiciliary Care and assistive technology. There are currently 2,823 people over 65 receiving a service (from PCC) (2,494 for sensory disability, 120 for mental health, 102 for learning disability, 4 for substance misuse, 103 for other reasons). 83% of adult clients

aged 65 plus are supported in the community. In 2015/16 we provided 354 housing adaptations for older people and 11,773 hours of Domiciliary Care per week to 859 clients around Powys (August 2016). Between 1<sup>st</sup> April 2015 and 31<sup>st</sup> December 2015 there were 5,555 referrals into Reablement (including Primary and Secondary referrals, of which 2,155 were accepted into Reablement).

Day time activities for older people are provided at 11 centres: 6 PCC owned or leased centres with 306 clients registered, 5 non-PCC sites with 114 clients registered. Of the day time activity service users, 52% live alone, 45% have mobility issues, and 15% are wheelchair users. 76% are women and 24% men. The average age of daytime activity service users is 83 years.

Housing plays an important part in any individuals' well-being, but for older people, suitable accommodation can be even more important, helping them to stay independent and live fulfilled lives. In Powys, we currently have three main accommodation types: people own homes, sheltered housing and care homes (residential or nursing). There are 31 care homes in Powys, 12 of which are council owned homes run by Bupa and 19 privately run homes. We provide 406 Residential care beds, 276 Residential EMI care beds, 246 nursing care beds and 187 EMI Nursing care beds. There are 58 extra care units, currently one 10 unit Extra Care Housing facility attached to a Sheltered Housing scheme (Blodlondeb) in Llanidloes and 48 unit Extra Care Housing scheme at Llys Glan yr Afon in Newtown. These schemes are currently only available to rent. Over the period September 2015 to August 2016, 717 Elderly or Frail people resided

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Ni ddylid gwneud unrhyw gopiau ychwanegol heb ganiatâd y Cyngor.

Domiciliary Care Clients August 2016  
Source: Powys CC © Powys CC

■ 115 to 142  
■ 72 to 115  
■ 51 to 72  
■ 36 to 51



in a Powys care home, including 228 new admissions in that 12 month period. 254 Older/Frail clients received a respite placement with the same period. There were an additional 131 placements made in care homes located outside Powys. 69% of residents are female, 31% male and the average age of people at admission is 84.

There are 2,005 sheltered housing units in Powys – 1,420 receive a regular visit by mobile warden or home support, 167 includes some form of shared facilities (e.g. a residents' lounge and possibly laundry and garden), and all have a Careline Alarm connection.

The proportion of adult care clients supported with electronic assistive technology as part of a care package is increasing (69 and 106 per 1,000 clients respectively of that period)

Our Integrated Care Teams for Older People aim to support older people to lead fulfilled lives within their communities (One Plan, 2014) by bringing together health with social care through shared processes, information systems and co-location, these teams help maximise opportunities for individuals to be supported at home. (PCC/PtHB Statement of Intent, 2015). We are in the early stages of this project with a pilot underway in Ystradgynlais and a plan for the roll out of Integrated Care Teams for Older People across Powys in 2017.

How do we compare with other local authorities?

In 2015/16 we supported 67 people aged 65 plus (per 1,000 population), slightly higher than the Wales figure of 64. We supported 19 people aged 65 plus (per 1,000 population in a care home (Wales 19).

What do citizens say?

Many people say that they want to stay in their own home and stay connected with their community rather than move as personal needs change. Other things that people said were important to them were feeling safe and secure, being able to socialise and meet the challenge of chores and upkeep.



Many older people reported being happy with the service that they currently receive in terms of day time activities and there is strong support for the existing provision from service users and their families and carers. Citizens have stressed the Importance of this service to carers/family members in terms of the respite that centres provide. Service users enjoy the companionship, meals and the independence that they provide. In addition, the overarching issue that came out during the Listen and Learn process was the companionship that people valued most in terms of attending the Day Centre. Loneliness and isolation was remarked upon by a number of citizens, including in reference to the socialisation opportunities available through day centres. When Powys Residents were asked which services are missing from their local community, the sixth most common answer was “places to go during the daytime for older people”

In terms of Domiciliary Care, concern was expressed about the time allowed for individual visits, missed appointments, changes to routines and continuity of carers visiting clients. 40% of those we asked said they felt that the service in Powys was Very Good or Good. Concern was expressed about the perceived lack of skills and professionalism of carers although there was also a lot of praise for the dedication and caring nature of the staff. Some older people say that they would use more assistive technology if they knew what was available and how it operates: (Joint Older Peoples Commissioning Strategy Consultation / Listening and Learning). Direct payments are popular with some citizens, although some felt that service users often needed a family member to support them in managing the process and some expressed concern from some about potential safeguarding issues.

Similarly to day centres, residential accommodation provides opportunities for older people to socialise. Respondents have called for more ‘bespoke’ and flexible provision within residential homes with greater opportunities for interaction outside the care home and for more specialist dementia care and nursing provision in parts of the county. Whilst the majority of people in a care home chose to be in one, others were moved there due to a decline in their health, and an inability of family or carers to adequately provide for them.

### What do staff say?

Regarding older people, there is support to continue to support people to live in their current accommodation. It has been suggested that a community approach needs to be taken, and community support / public services responses could be managed or targeted at communities by grouping residences together via hub and spoke models.

Dependency levels increase upon admission into a residential home, and staff vary at each home in terms of promotion of independence. Staff identified that transport links and rurality can provide challenges to service provision.

The suggestion of a retirement village was put forward by staff members. Staff feel that clients worry about isolation and loneliness if they live alone. Staff expressed the need to develop existing facilities for day time activities and the important respite that they provide for carers.

For providers the ability recruit high quality staff was considered the most important consideration to enable them to remain as independent for as long as possible

### What do our regulators say?

Care and Social Service Inspectorate Wales (CSSIW) report March/May2015:

The council continues to align itself for the implementation of the Social Services and Wellbeing (Wales) Act in 2016, with elected member development days to ensure that members are kept fully abreast of the new legislation and how the council seeks to enable the independence of people. In February 2015, the cabinet approved a change in adult social care's eligibility criteria to 'substantial' to bring them in line with the majority of other Welsh authorities and to prepare for the eight forthcoming national eligibility criteria. The council has also achieved the commissioning and retendering of its supported living services during the year, which led to a major redesign of services, moving to a more outcome focussed and meaningful service, which not only achieved significant financial savings but clearly has improved outcomes for people.

CSSIW reviewed the new integrated intermediate care facility in Builth Wells which is registered as a care home. This facility has already been able to evidence positive outcomes for people who are benefiting from the integrated approach to early intervention and prevention. The ability of people to access a range of health and care services on one site has already proved valuable. There is now a need to evaluate its performance in order to ascertain whether this service is meeting its original goals and to ensure that social care support is regularly maintained.

Continuing to commission and work with all local providers within the domiciliary care market has remained a high priority for Adult Social Care following challenges met in implementing the outcome of previous procurement measures undertaken in early 2014. In meeting the challenges encountered, the service re-established its in-house domiciliary care service following three successful tendering organisations subsequently leaving the Powys market.

The need to stabilise and shape the domiciliary care market and culture of provision was acknowledged by staff and stakeholders as being necessary for service development. The launch of a single point of access, together with the restructure of adult services in a relatively short timescale, with its inherent anxieties and challenges, has caused additional pressure on care management teams and their ability to embed these changes effectively. This agenda, whilst necessary for the successful implementation of the Social Services and Wellbeing (Wales) Act 2014, is both demanding and ambitious in the context of budget restrictions and capacity. Therefore prospects going forward are uncertain. However, CSSIW recognises there are signs of improvement as the council follows through its internal action plans with regard to carers work, review performance and engagement with the provider sector. The positive delivery of care to people and the effectiveness of the reablement service is evidenced by the percentage of clients age 65 and over who are supported in the community having improved from 81% last year to 86% this year. The rate of older people aged 65 and over helped to live at home per 1,000 population has improved from 71% last year to 73% this year. The percentage of clients receiving no ongoing support following reablement has increased from 64% last year to 69% this year, and the percentage of reablement clients where outcomes have been achieved at 84% at year end is above the 80% target.

Areas for improvement include the implementation and realisation of the role of assistive technology in supporting people at home.

#### What we don't know.

- Causes of hospital admissions (currently it is the ailment that is recorded rather than the cause).
- People who are admitted and then as a result need a change in accommodation on hospital discharge

The advantage of obtaining this data is to help understand whether there are hospital admissions due to people living in hazardous accommodation. Understanding whether there could have been alternative accommodation types for people leaving hospital is key in terms of the modelling being undertaken preventing residential care admissions.

A tracking and mapping of outcomes for people accessing early intervention and prevention services - we need to ensure that WCCIS (Welsh Community Care Information System) is linked to any early intervention and prevention model so that we can provide robust evidence of interventions taken and potential costs saved.

We are lacking data on trips and falls.

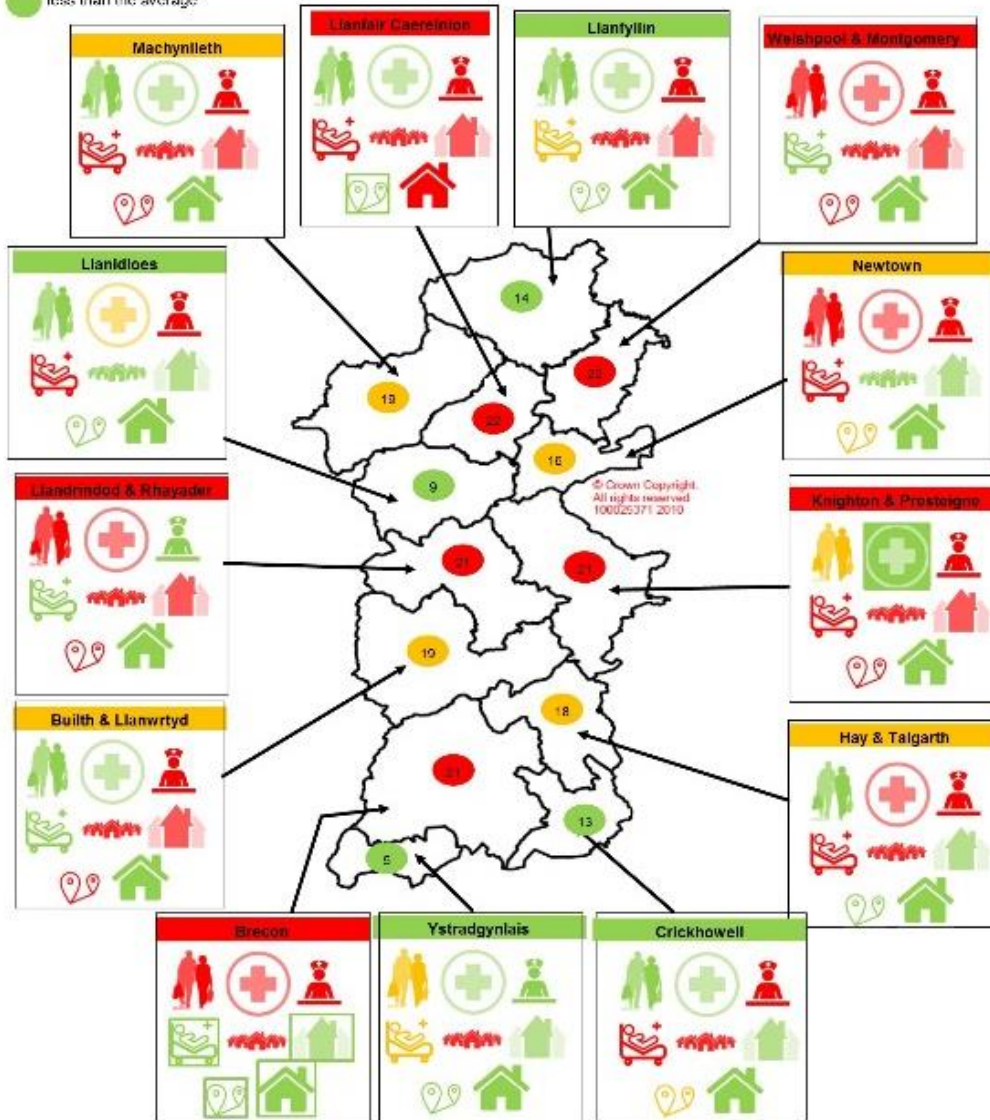
Are there differences in localities?

The map below illustrates the current situation across the 13 localities in terms of a range of care home measures. Each locality has been given a RAG status according to how far from the Powys average each locality.



The shading assigned to each of the icons below reflects how far from the Powys average each locality is:

- more than 10% above average (or no provision)
- up to 9.9% MORE than the average
- less than the average



The table below summarises domiciliary care provision across the 7 Powys Community Areas by hours and number of clients

Community Area	Number of Carer Hours Provided per week as at 1st Aug 2016 (Data in brackets is per 1,000 population)	Number of Clients provided with Domiciliary Care as at 1st Aug 2016 (Data in brackets is per 1,000 population)
South Central	1,913 (64)	129 (4)
Mid-West	2,334 (120)	171 (9)
Mid-East	969 (100)	66 (7)
North East	2,742 (99)	199 (7)
North Central	2,442 (82)	175 (6)
North West	428 (69)	44 (7)
South West	945 (93)	75 (7)
<b>Total</b>	<b>11,773</b>	<b>859</b>

The average number of days it takes to commission a domiciliary care package varies across the county. In the South it takes 24.9 days, Radnor is 16.3 days and the North is 16.7 days (as at Q3 2016/17).

Are there any preventative measures associated with this data?

2,000 units of accommodation designated for Older People. Adult Social Care own 12 Residential homes and work in partnership with Powys Teaching Health Board on one integrated care facility. Adult Social Care have recently worked in partnership with Wales and West to open Extra Care in Newtown. There is currently a range of services traditionally focused on crisis management and continued care rather than addressing demand failure, early signs of crisis and Reablement/independence. It is recognised that there are opportunities to improve service alignment a co-ordination and work is under way to seize these opportunities.

## What might the future impacts be?

Expenditure in this area is likely to keep rising because we will be unable to manage the front door of people flowing in to statutory services - more time will be spent assessing people's needs and public anxiety will grow because we are unable to respond. Safeguarding issues could rise because people are falling through the net because the service is unable to cope. Higher DTOC longer delays and higher expenditure for Health and other services. Provision is available but not in the right place. For example, people travelling further afield for services plus an increased cost for service provision. There may be vacant care beds in the Mid and South and insufficient capacity in the North resulting in out of county placements.

The assessments for older people who are carers, those with mental health issues sensory impairment, disabilities or learning difficulties have been analysed according to the themes below and can be accessed in these sections:

- [Carers](#)
- [Mental health](#)
- [Sensory impairment](#)
- [Health and physical disabilities](#)
- [Learning disabilities and autism](#)



Created by Timothy Miller  
with Heart Project

The population of Powys has significantly greater **life expectancy** than  
Wales

A child born in the least affluent parts of Powys can expect to live 6 years less than a child born in the most affluent areas.

**6,872** people in Powys have a physical or sensory disabilities

**20%** of working age people are Equality Act (EA) core or work-limiting disabled

**0.9%** of working age people claiming Disability Living Allowance, Attendance Allowance or Industrial Injuries benefits

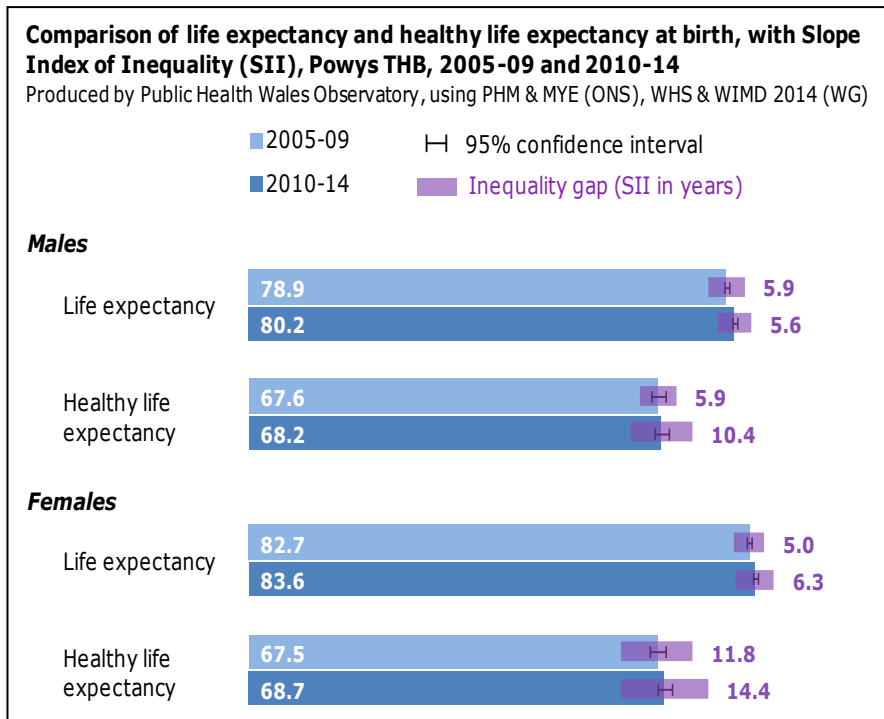
Tudalen 188

What do we know about health and physical disability in Powys?



When you compare Powys with the rest of Wales, we experience significantly higher life expectancy for men and women. This continues to improve, yet inequalities have widened between the most and least affluent along the social gradient (The social gradient in health refers to the fact that inequalities in population health outcomes are associated with the socioeconomic status of individuals (Rebalancing healthcare, working in partnership to reduce social inequity, Welsh Government, 2015-16). Comparison of life expectancy (LE) and healthy life expectancy (HLE) at birth, with Slope Index of Inequality (SII), Powys THB, 2005-09 and 2010-14





Source: Public Health Wales

Children living in the least affluent parts of Powys can expect to live six years less than a child living in more affluent areas (Public Health Wales NHS Trust, 2016). Also, a child brought up in the least affluent areas can expect to live 10 years less in good health if they are male, and 14 years less if they are female.

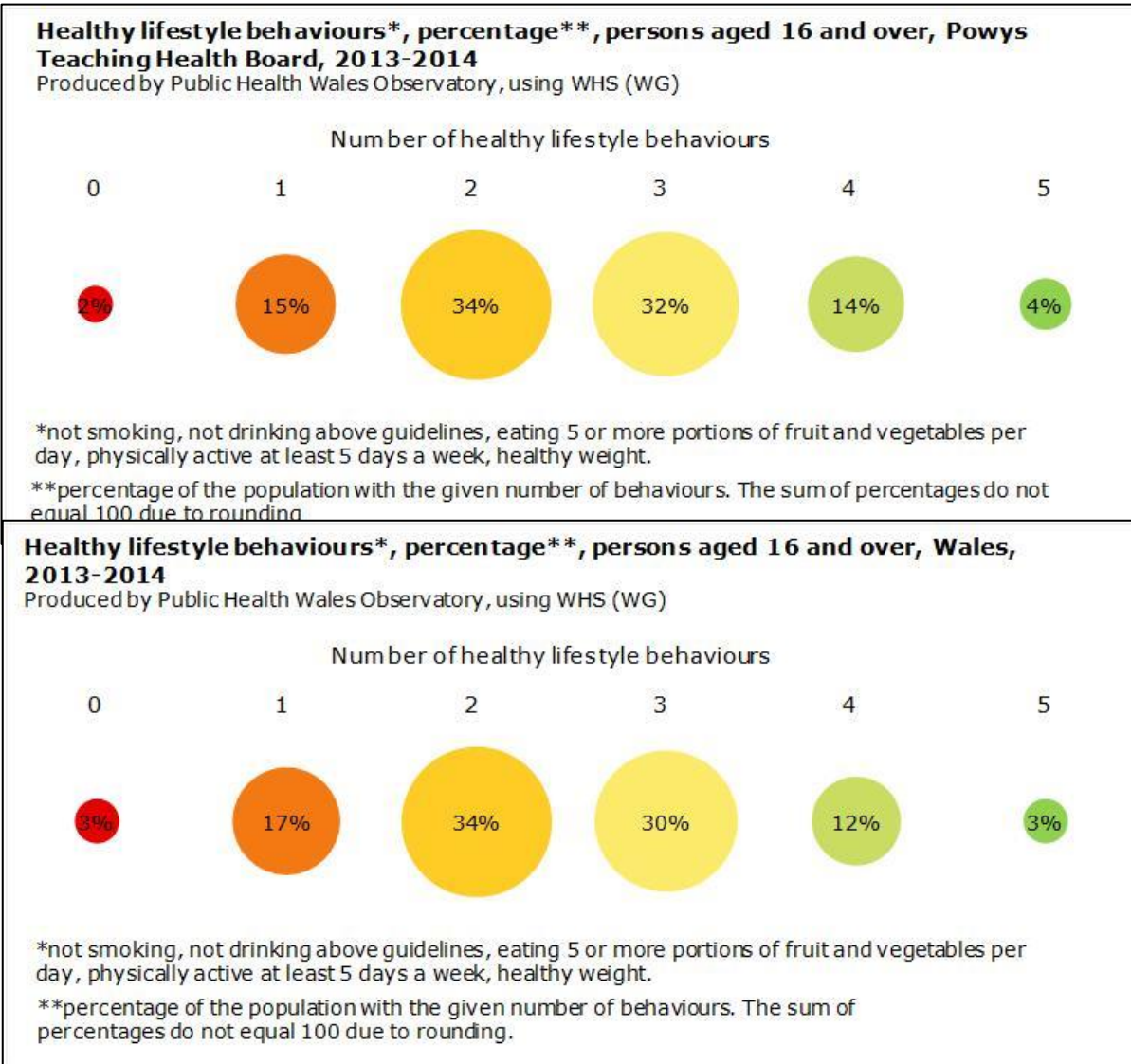
When compared with the rest of Wales, Powys adults tend to have healthier lifestyle behaviours. However, nearly 6 in 10 adults are overweight or obese and this is predicted to continue to rise (Public Health Wales NHS Trust, 2016). Several serious conditions are associated with being overweight or obese. They include type 2 diabetes, hypertension, coronary heart disease and stroke, osteoarthritis and cancer.

Just under one in five adults currently smoke (Public Health Wales NHS Trust, 2016). Smoking is the single greatest cause of preventable mortality. Smoking causes a range of cancers, it leads to cardiovascular disease and a range of respiratory conditions, e.g. COPD and emphysema.

Four in 10 adults drink in excess of guideline amounts (Public Health Wales NHS Trust, 2016). Regular drinking to excess can cause cancer, stroke, heart disease, liver disease, brain damage, and damage to the nervous system. The impact of unhealthy lifestyles on individuals and wider health and social care services means that prevention is an important topic for the population assessment.

Just over one in three adults report eating five or more portions of fruit and vegetables in the previous day. In Powys, nearly four in ten adults reported being physically active on five or more days in a given week. In contrast, a quarter of the population reported that they did no physical activity.

Across Powys, nearly two in ten adults reported their health generally being as fair or poor. This is slightly lower than the Welsh average.



Healthy lifestyle behaviours, persons aged 16 and over, Wales and Powys.

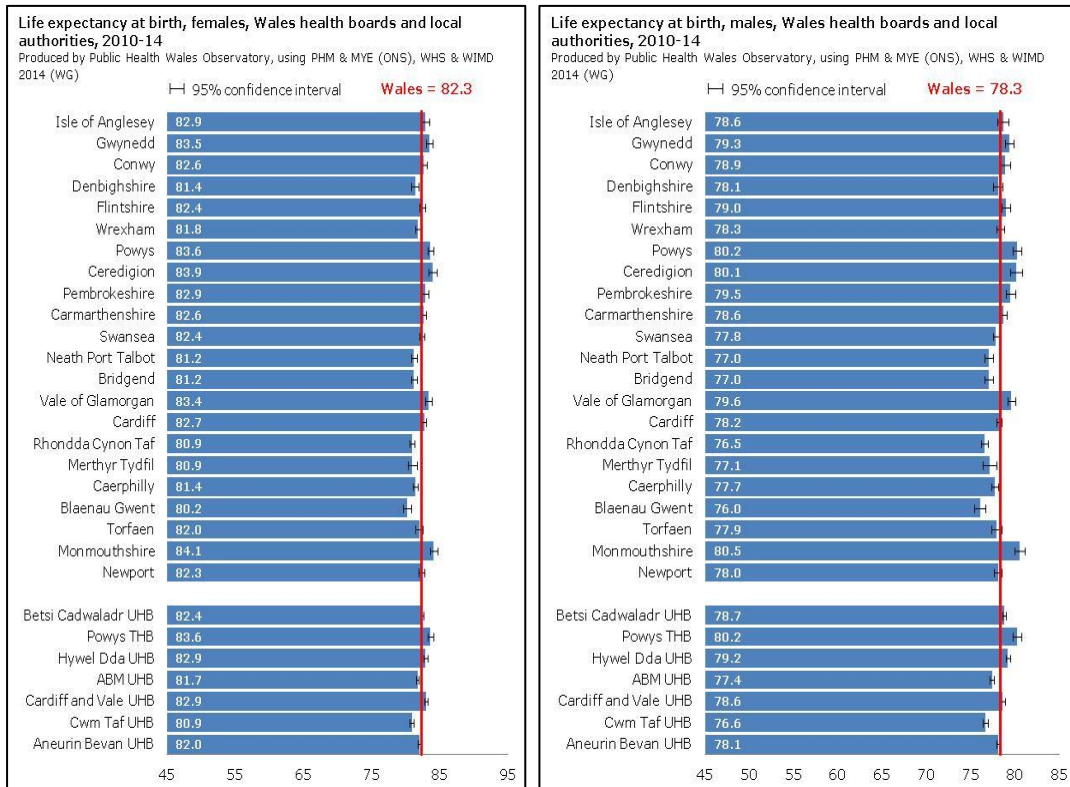
Source: Public Health Wales

There is strong evidence that investment in promoting the mental health and wellbeing of parents and children notably in the pre-school years, can avoid health and social problems later in life. The Wales Health Survey indicates that levels of emotional wellbeing are significantly higher in Powys than in Wales. The distribution of health assets at small area level are also generally higher than in Wales as a whole. Health assets enhance the ability of individuals, communities, and populations to maintain their health and wellbeing. These act as protective or supporting factors to buffer against life's stresses. They include the capacity, skills, knowledge, connections and potential in a community.

## How do we compare with other local authorities?

Life expectancy in Powys is generally higher than in other local authority areas in Wales. This is especially so for males, where life expectancy is the second highest in Wales. The distribution of healthy lifestyle behaviours across health boards is very similar, although Powys has a slightly higher percentage of adult exhibiting three or more healthy behaviours.

Life expectancy at birth, females and males, Welsh health boards and local authorities, 2010-14.



Tudalen 191

Source: Public Health Wales

6,872 people in Powys have a physical or sensory disabilities (Wales 75,753; March 2016). 20% of people of working age are Equality Act (EA) core or work-limiting disabled (Wales is 23%, 2015). 5% of the working age people claiming Disability Living Allowance.

The number of referrals for alcohol misuse is falling (377 in 2013/14). Research shows variance across Powys with regard to alcohol use among the adult population. The southern and northern areas experience higher levels of binge consumption than mid Powys. This may reflect the population distribution, as well as access to cheaper alcohol in the more urban areas. In comparison to Wales, Powys' adults report in the lower to mid-ranges of binge drinking patterns compared to higher rates in south Wales in general. Hospital admissions for alcohol specific conditions have remained stable for Powys, with a modest upward trend. This remains below the Welsh national average and slightly below the comparative area of Hywel Dda University Health Board. Although Powys is among the lowest health boards for months of life lost due to alcohol, if alcohol related premature deaths were avoided, it would still add a year to male life expectancy and an additional 6 months to female life expectancy.

Whilst general rates of children in need are below the Welsh averages, those children living with parents with substance misuse related problems is closer to the national average. Across the reporting period of April 2013-March 2015, the adult Service Provider Kaleidoscope has received between 200-325 referrals per quarter, with an average of 256 referrals.

Of the 2,054 presentations (a small percentage of clients presented more than twice), 58 per cent are for drug problems, 39 per cent for alcohol problems and the remaining 2.4 per cent presented as a concerned other. The current treatment system in Powys was commissioned in 2011 and saw a radical shift in treatment provision across the county. Prior to this time, one principle service had evolved across the county, largely driven by grant allocations. In 2011, a new commissioning model was adopted that placed integrated treatment systems into the local community, governed by adjunct Welsh Government policy standards. The Kaleidoscope and CAIS partnership won the contract to deliver adult and young people's services respectively. Currently a wide range of psychosocial therapies are being offered as 'named' interventions which have proven validity with drug and alcohol users.

### What do citizens say?

This indicates that citizens in Powys generally report higher levels of engagement with healthy behaviours than in Wales as a whole. Powys citizens self-report higher levels of regular fruit and vegetable consumption, they report exercising more and drinking to excess on a less frequent basis than in the rest of Wales. Levels of self-reported well-being also tend to be higher and levels of self-limiting illness tend to be lower. Although Powys citizens do not report better results to Wales on all measures, taken together, the findings

from the Welsh Health Survey suggest that the population of Powys participate in healthy behaviours to a greater extent when compared to the average across Wales. However it is important to note that results for Powys overall will mask differences which exist among different communities in Powys, and countywide findings may not be representative of all areas.

### What do staff say?

The Healthy Weights Steering Group has recognised that gaps exist in the provision of weight management services in Powys. There is some evidence of whole population services and interventions being in place to provide primary prevention programmes, and services are available at the other end of the scale for people requiring surgical intervention. However, gaps do exist in the intermediate stages where one to one or group-based intensive lifestyle management services are needed to help overweight/obese individuals stabilise their weight gain. This is the case for both children and adults. It is for these specific population groups that staff are focussed on trying to establish programmes and where service need is currently greatest.

### What do our regulators say?

We have not identified any information and are pursuing this as a data gap.

### What we don't know

No information identified.

### Are there differences in localities?

Life expectancy varies by locality, male: 74.3 - 83.2 years (Newtown South-West and Ffridd Faldwyn respectively), female: 80.1 – 88.8 (Welshpool and Guilsfield Brook respectively).

Physical activity: mid Powys has the highest rate (40%), whilst north-east Powys has the lowest rate (36%). All areas are significantly higher than Wales (2008-13 data)

Smoking: North-West and North-Central Powys have the highest rates of adult smoking (24%). Mid and South Powys have lower rates than Wales (2008-13 data).

Drinking above guidelines: South Powys (43.4%) has the highest rate of adult drinking above guidelines on at least one day a week. Mid-Powys (40.9%) is the lowest which is lower than Wales (2008-13 data).

Healthy eating: North-East Powys has the highest rate of adults reporting eating five or more portions of fruit and veg in the previous day (42.9%). North-East and Mid-Powys have higher rates than Wales (2008-13 data).

Adult obesity: North-West, North-Central Powys and Mid Powys are lower than Wales.

Are there any preventative measures associated with this data?

A number of efforts to address health inequalities at a strategic partnership level are captured in the Powys One Plan. This includes work to support vulnerable families, improve education for all, and provide stronger, safer communities.

What might the future impacts be?

Health inequalities are unlikely to alter very much over such a relatively short time period although over longer time-frames we could see life expectancy and healthy life expectancy gaps widening.

## D. Learning disability and Autism

Tudalen 194



Created by the pictures from Hear Project

**370** people with Learning Disabilities are supported to live in the community

A high proportion of the population have a learning disability compared with the rest of Wales

**753** people are known to have autism: **302** children and **421** adults.

### Projections

The percentage of people with learning disabilities is predicted to **increase** by 1.7% between 2015 and 2020.

The percentage of people with a severe learning disability is predicted to slightly decrease over the same period (-0.4%).



## What do we know about learning disability & autism and what we currently provide?

Powys in comparison to the Welsh average has a high percentage of the population who are 30-75 year olds with a learning disability and particularly higher than the national percentage of the population in the category 60-75 and 75+ (Daffodil).

The number of people in Powys with a learning disability is increasing, particularly in the older age categories and this has significant implications for the type and volume of support likely to be needed in the future. Powys has a number of systems and processes in place to support people to access services and support. These include assessment and care management systems, resource allocation systems, continuing health care, health checks, direct payments, transition arrangements, ongoing consultation, planning and strategy systems. Powys has a system for people to have a direct payment (a sum of money each week), so that people can arrange their own care through recruiting a personal assistant to help them reach their agreed outcomes. We currently support 65 people with a learning disability are supported to live where they want to with a direct payment.

Learning disability services in Powys are provided by the two statutory authorities and by independent sector providers. The joint learning disability services in Powys include: Consultant Psychiatrist, Psychologist, Social Workers, Speech & Language Therapist, Occupational Therapist, Community Support Officers, Health Care Assistants, Community Learning Disability Nurses, Physiotherapist, Clinical Nurse Specialist and Team Leaders.

A range of long-term and short-term accommodation services are commissioned in Powys, including residential care placements and supported living tenancies. However, there are also people that are placed out of county. These placements include small domestic settings, residential homes, residential specialist colleges, specialist behavioural facilities and larger residential communities catering for a diversity of service users with differing disabilities, care needs and behaviours which challenge services. To enable these people to return home would require an appropriate infrastructure within health and social care to sustain local placements.

As at September 30<sup>th</sup> 2016 services provided include:

- 24 people were receiving a day care service
- 108 people receiving direct payments
- 63 people receiving domiciliary care
- 8 people receiving meals
- 2 people supported receiving respite care

83% of the people we support are aged 16-64 and 51% are male, and 49% are female

Key priorities for the future are:

- Information
- Staying healthy
- Choice, control and relationships
- Flexible support
- Accommodation/housing
- Opportunities for work leisure and learning
- Staying safe
- Moving on and transition,
- Good Support
- Consultation and co-production

(Joint Commissioning strategy: adults with learning disabilities in Powys)

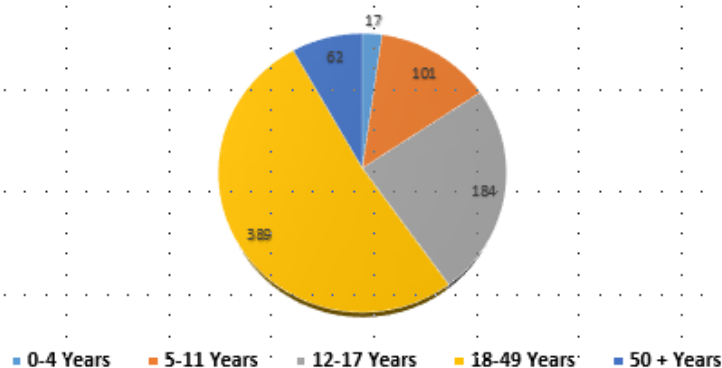


What do we know about children with learning disabilities and autism and how do we support them?

Autistic spectrum disorders (ASD) are the most common presentation of disability within children in Powys. This is followed by learning difficulties and conduct disorders.



## Number of Individuals known to have an ASD in Powys – August 2016



Number of individuals with an ASD by Age Range						
Age Range	0-4	5-11	12-17	18-49	50 +	TOTAL
No of People	17	101	184	389	62	<b>753</b>
<b>TOTAL</b>	<b>Children = 302</b>			<b>Adults = 451</b>		

There were 155\* open cases referred to the children with disabilities team in October 2016, the majority of these cases came from the north of the county, which is a slight decrease (25 cases) compared to 2012 (CYPP, 2015).

It is thought that this decline in number of presentations is linked to a steadily decreasing child population. If this is correct, the number of cases can be expected to continue to decline in line with the reducing child population. However, while the number of children appears to be decreasing, the complexity of their issues seems to be increasing. This may be linked to the increasing average age of mothers. According to the ONS, in 2014 there were three times as many mothers aged 25-34 than there were under 25 (ONS, 2014).

Number of individuals known to have an ASD in Powys (at August 2016), data source: Powys Health Board.

How do we compare with other local authorities?

We have not identified any information will now look to strengthen the evidence base on this topic

What do citizens say?

There are more children and young people with complex needs, such as challenging behaviour and classic autism. There are also more young people displaying mental health issues including those with disabilities. There is a need for more respite provision and specialised services such as trained foster carers and residential provision.

Service users have told us they want to have more control over their lives and disabled children and young people want to access the community activities that other children do. The transition between pathway stages needs to be smooth, having clear and meaningful outcomes and support. Parents have also told us that short breaks should be more accessible at an earlier stage, this would help to prevent escalation to specialist support.

### What do staff say?

Service capacity is a problem with some services such as educational psychology, learning disabilities nursing and occupational therapists. Delivering consistency of services across the sparsely populated rural community will remain a challenge especially with decreasing resources. We deliver short breaks to help support families and provide them with respite.

### What do our regulators say?

A number of commissioning strategies have been developed including learning disabilities, older people's accommodation, carers, mental health, physical disabilities and sensory loss.

The council has an integrated health and social care leadership board and has produced joint commissioning strategies in partnership with Powys Teaching Health Board, in relation to learning disability, older people and carers.

### What we don't know

- Special Educational Needs statement (including statement reason).
- Educational attainment of children with disabilities.
- Distance travelled to special schools - requested from Schools Service.
- Health Data.
- Service level Data (such as Ty Hafan hospice provision usage).

Are there differences in localities?

52% of cases are in the North and 48% are in mid and south Powys. The sparsity of population is more significant in the south of the county.

Are there any preventative measures associated with this data?

Commissioning of services to deliver short break support to families.

**10.4% of adult population report being on the mental register**

**(Wales 12.4%)**

**More males than females report mental health problems**



**Total number of social care clients (aged 18 plus) receiving services recorded as 223**

**Projections:**

**People in Powys with dementia is predicted to rise over the next five years**

**2,386 in 2015 to 2,771 (an increase of 16% by 2020) and to 4,399 by 2035 (84% increase)**

**By 2030, the number of people over 85 with dementia is predicted to overtake those aged 65-85. (2,532 for over 85's compared to 1,832 for over 65's, 532 for over 85's compared to 1,832 for over 65's)**

## Mental Health in adults

Improving mental health is a critical issue for people of all ages and its impact is cross cutting, affecting life chances, learning, home life, employment, safety, physical health, independence and life expectancy.



What do we know about young people's mental health and what we do to support it?

The average lost years to life for males with mental health problems is 11 years. Women with mental health problems on average lose 6 years. 1 in 4 people in the UK will experience a mental health problem each year. 25% of GP consultations are for people with mental health problems.

### Depression and Anxiety

8% of the Powys population report being treated for depression or anxiety and it is one of the top three leading causes of disability. One in four patients presenting to their GP live with depression with the average GP seeing at least one patient with depression during each surgery session. 80% of people identified as having depression, are managed entirely in a primary care setting. In the UK, 25% of older adults have depression requiring an intervention and over 40% of those in their 80s are affected by depression. This is significant given Powys' demography. It is also important to note that depression is the leading cause of suicides in England and Wales each year. It has been estimated that between 10-15% women suffer from post-natal depression. In Powys there are approximately 1000 births per year, which means around 100 women may suffer post-natal depression

### Dementia and Alzheimers

4,256 people in Powys aged over 65 are estimated to have dementia. At 44% Powys, along with Ceredigion, has the highest projected rise in the number of people with dementia in Wales. Dementia prevalence increases with age, roughly doubling every five years for people aged over 65 years. Dementia affects 20% of people over 80 years of age in the UK and one in 14 people over 65. In Powys it is thought that only 39.6% of the projected number of people with Dementia have a diagnosis. Up to 70% of acute hospital beds are occupied by older people, approximately 40% of whom have dementia. However, patients who have dementia experience many more complications and stay longer in hospital than those without dementia. It is also estimated that 30 per cent of people will die with dementia and many of these die in general hospital settings. The improvement in care for people with dementia in general hospitals is a component of the Powys Dementia Plan.

What do citizens say?

What do staff say?

What do our regulators say?

What we don't know

Are there differences in localities

Are there any preventative measures associated with this data?

What might the future impacts be?

## Mental Health in children



What do we know about young people's mental health and what we do to support it?

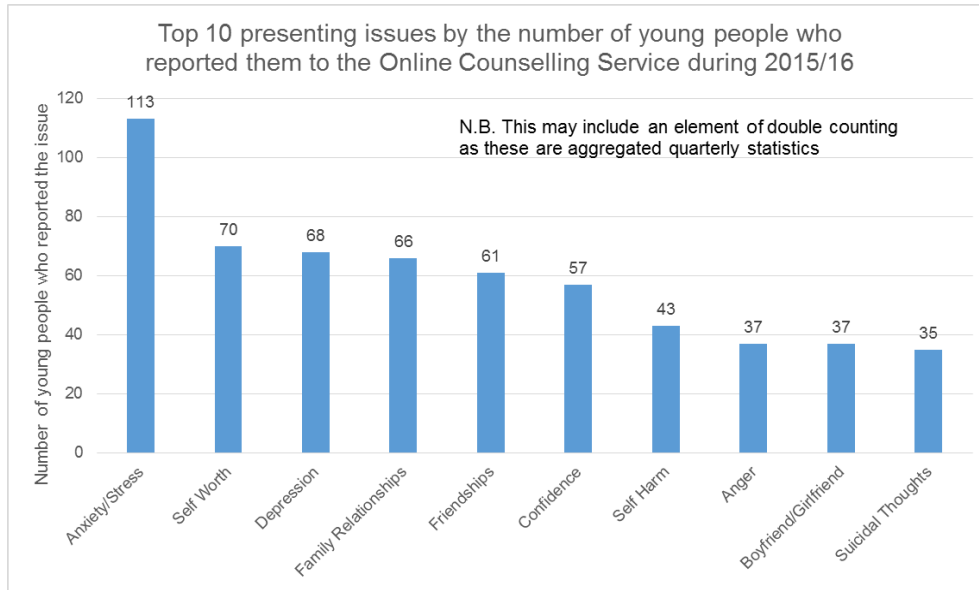
Overall, the number of assessments undertaken by Powys CAMHS (Child and Adolescent Mental Health Service) has increased between April 2014 and March 2016 and overall during this period, patients are waiting less time for an assessment.

In 2015/16, a total of 68 cases referred to "Team around the Family" highlighted emotional health and wellbeing as an area for improvement. Following the intervention, 29 cases showed an improvement in emotional health and wellbeing. During the same period, 64 cases highlighted identity, self- image and self-esteem as an area for improvement and following the TAF intervention, 35 had shown an improvement in this area.

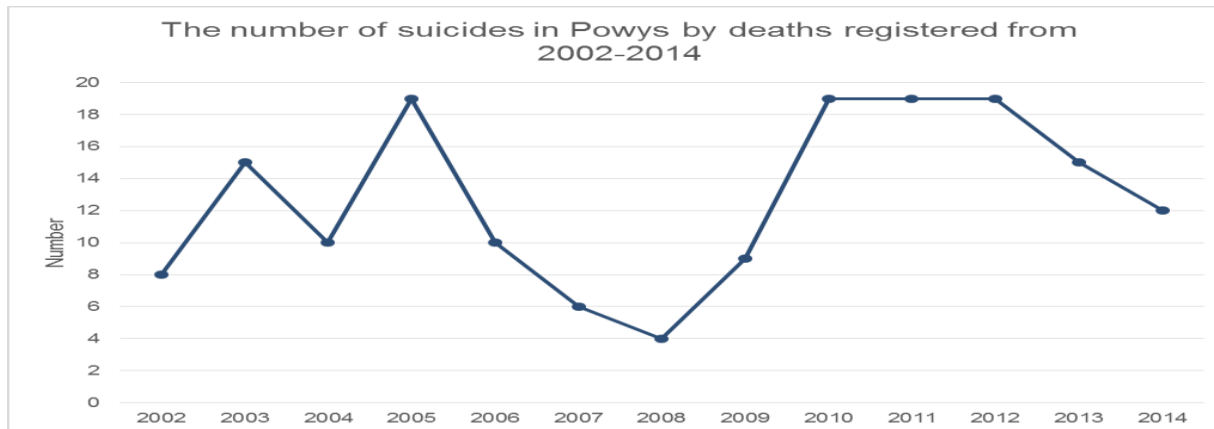
The number of new registrations to the Online Counselling Service has shown a slight increase over the period and this is despite the funding to the service having to be cut due to a cut to the Welsh Government grant which funds it.

The face-to-face service has also seen a similar increase in the number of referrals received during the period - over a third of referrals (36%) to this service are from males, which is in line with the Welsh average and is pleasing to see as males are often less likely to access counselling services (<http://www.bacp.co.uk/media/index.php?newsId=3462>).

Anxiety/stress was by far the most reported presenting issue for young people in Powys, followed by self-esteem related issues (self-worth and depression) and relationships with others (family and friends). Across Wales, males were more likely to be referred due to anger or behaviour related issues and females were more likely to be referred due to stress, self-harm or self-worth issues than their male counterparts. Both counselling services are also working with complex cases, as can be seen from the number of young people reporting suicidal thoughts and self-harm as issues for them.



We have also looked at the presenting factors when individuals have been referred to our 0-11 Family Behaviour Support Service - from April 2014-March 2016, 104 were due to low self-esteem, 48 due to mental health issues, 11 for bereavement, 11 for social isolation and 6 for bullying.



The number of suicides in Powys peaked during 2009-2012, however numbers do seem to be steadily falling.

### What do citizens say?

We have not identified any information will now look to strengthen the evidence base on this topic



### What do staff say?

More and more young people are becoming aware of issues and seeking help and advice from services. Recent surveys suggest that young people continue to place a much higher priority on their mental health than their predecessors, and are consequently more likely to seek help. As a result, greater demand is being placed on mental health services, and this is exacerbated by further pressure from ongoing cuts to service's budgets.

Males are also now more willing to access these services than in the past. Anxiety and stress represent the most common reported problem, along with self-worth issues and relationship difficulties.

At present, need is being managed and waiting times for assessments within CAMHS have improved. Additional funding was available to allow more young people to access counselling services, but this is no longer available due to funding reductions from Welsh Government. This impacts on the number of hours that online counsellors can support young people in Powys.

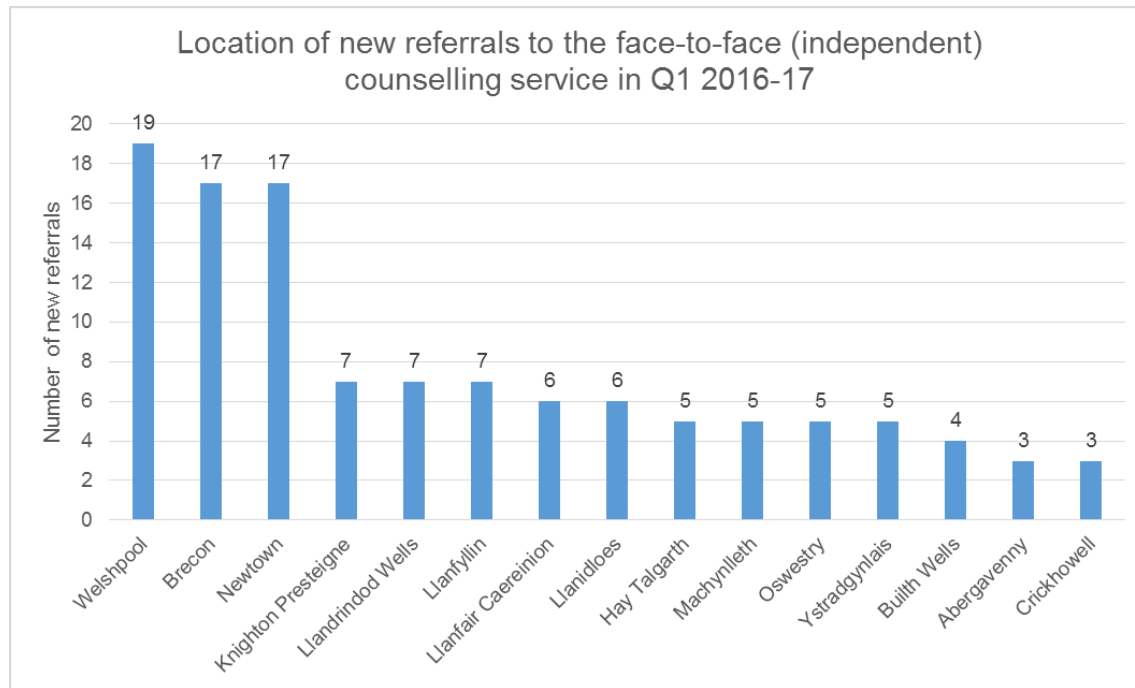
### What do our regulators say?

The Care and Social Services Inspectorate Wales (CSSIW) Performance Evaluation Report 2014–15:

The council has in place an integrated health and social care leadership board, comprising representation from the council, health board and the third sector. Alongside its stakeholder partnership boards in physical disability, sensory impairment, mental health, and learning disability together with the integrated care pathway for older people, this continues to drive the integrated agenda for the council.

### What we don't know

We do not have mental health data in relation to children with complex needs, some of whom are looked after children or children from other local authorities (COLA) who reside in Powys.



### Are there differences in localities?

The percentage of patients on the Mental Health register varies from 0.5 in Llanidloes to 1.29 in Hay and Talgarth

More young people have accessed the face-to-face counselling service in Welshpool, Brecon and Newtown.

### Are there any preventative measures associated with this data?

Young people can access online counselling 24/7 and can also request an appointment with a face-to-face counsellor via the online site. Within the online service, young people articulate goals at the start of support and the number of goals reached is measured at the end of the intervention. The face-to-face service uses the Young Persons-CORE outcome measure to track whether there is a clinical or reliable change following the intervention.

## F. Sensory Impairment

To be completed by PTHB

## G. Carers



Created by Creative Staff  
from Noun Project

**16,154** unpaid carers on census

**2,203** adult carers (age 26+) are known to Credu

**27%** of unpaid carers are aged over 65 (4,299)

**7%** young carers aged 0-24 years (1,066)

**80%** of young carers are providing up to 19 hours of care per week

Tudalen 2017

### Projections

The number of unpaid carers over 65 is predicted to increase by **35%** by 2030

The number of unpaid carers under 65 is predicted to decline by

**10%** by 2030

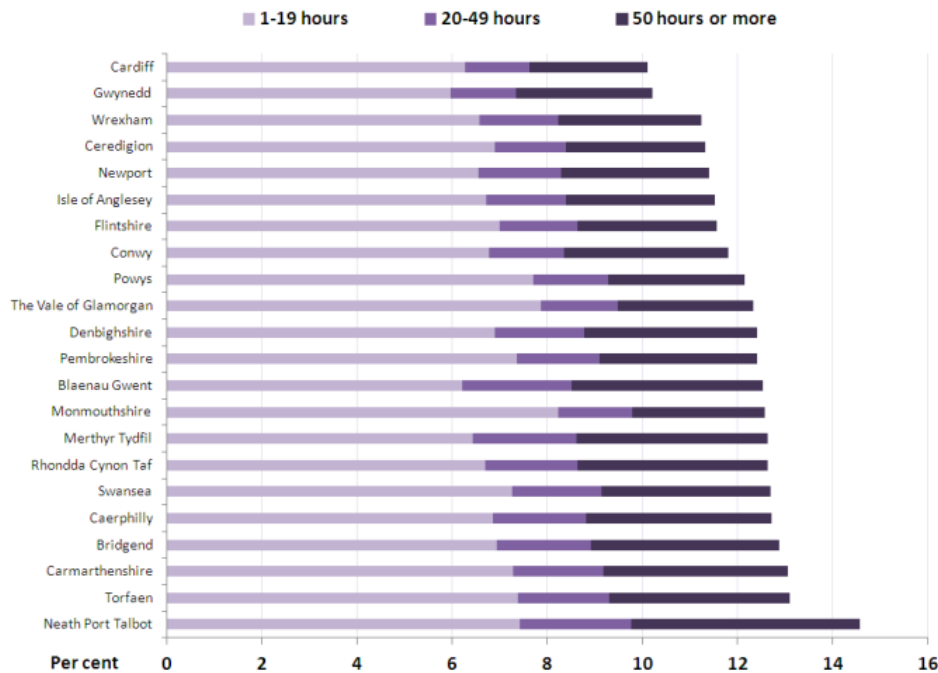
# Adult Carers



## What do we know about adult carers and how do we support them?

According to the 2011 census, there are 16,154 unpaid adult carers in Powys, which represents 12% of the population (ONS, 2016). 27% (4,304) of unpaid carers are aged over 65 whilst 7% (4,299) are aged 24 or under (ONS, 2016). 39% of adult carers are retired, 23% are full-time carers and 12% are employed part-time. Around half of carers provide between 1-19 hours of care per week. The number of unpaid carers is expected to increase along with the county's ageing population (ONS, 2016). However, unpaid carers under the age of 65 are projected to decrease by almost 10% by 2030. Ceredu are a Carers Trust Network Partner, and they support carers via outreach through Ceredu Powys (formerly known as Powys Carers Service). 2,203 adult carers (age 26+) are known to Ceredu. During the period 1 April 2016 to 30 November 2016, Childrens Services have undertaken 19 assessments on young carers. 5 of these have led to a care and support plan.

Tudalen 208



The perceived health of these carers has been found to be significantly poorer when compared to those who are not acting as carers.

## How do we compare with other local authorities?

The chart shows the percentage of the population that provide unpaid care by duration category and unitary authority. 12% of the Powys population provides unpaid care.

Source: Census - Office for National Statistics

## What do citizens say?

The Powys Populations Assessment Carers survey, was conducted in 2016 as part of this assessment, and examined how carers perceived the service in Powys. Of all carers surveyed, 69% said that they lived in a home that supported their well-being. 75% said that they were always or sometimes able to do the things that are important to them, and a large majority of the respondents (87%) also felt that they were part of their local community, although it should be noted that of the responding group only 56% said this was the case all the time. In terms of support from family, friends, and neighbours, 86% said that they were happy with the level of support they had. A total of 19% of all respondents said that they only felt safe at times. Only 38% knew who to contact about support, whilst 50% said that only at times did they have access to the right information and advice. However, the majority of carers, 69%, said that they had been actively involved in all discussions regarding their support.

A large majority of respondents, 94% said that they were able to communicate in their preferred language. A further positive result was that 86% of respondents said that they were treated with dignity and respect. Over two thirds of respondents, 62%, said that they felt supported to continue in their role as a carer, and finally, 69% said that they were happy with the support they had received.

Many carers (81%) of carers surveyed agreed that the support they had received had helped improve their health and wellbeing (Powys Population Assessment Questionnaire, 2016), and many also agreed that that contact with Credu has improved the social, employment or educational areas of life (72%).

The perceived health of carers in Powys is significantly poorer than the average for all people in Wales. A survey conducted by Credu in 2011) comparing the health of carers in Powys to the Welsh Health Survey of all citizens (2009) identified that the health of carers suffered as a result of their caring responsibilities.

## What do staff say?

Staff suggest that Peer Support groups can work independently but group dynamics can suffer without some Outreach Worker facilitation or support. Some staff see the need for developing capacity and resilience at community level engaging with the 3rd sector.

## What do our regulators say?

The Care and Social Services Inspectorate Wales (CSSIW) Performance Evaluation Report 2014–15

<http://cssiw.org.uk/docs/cssiw/report/150810-powysen.pdf>

“The assessment documentation used by Powys County Council supported an outcome focussed approach. Carers were identified and offered an assessment but the take up appeared to be low. One of the challenges for Powys is that many of the family carers lived at some distance from the person they cared for.”

“The low uptake in carers’ assessments is also a concern in this context as it puts additional strain on family and friends in this role.”

### What we don't know

Carers who we do not know about; Ethnicity for Carers reporting (although this has improved).  
 Information sharing protocols. There is no agreement in place between our Service Provider and Education in respect of sharing basic contact information with the Schools Service in order that we establish the number of young carers within Schools (by flagging them on Teacher Centre). This would allow us to check attendance and attainment levels of young carers. (If implemented, there would need to be a process to continually update this information and the service provider would need to be registered as data controllers with the Information Commissioners’ Office in their own right).

### Are there differences in localities?

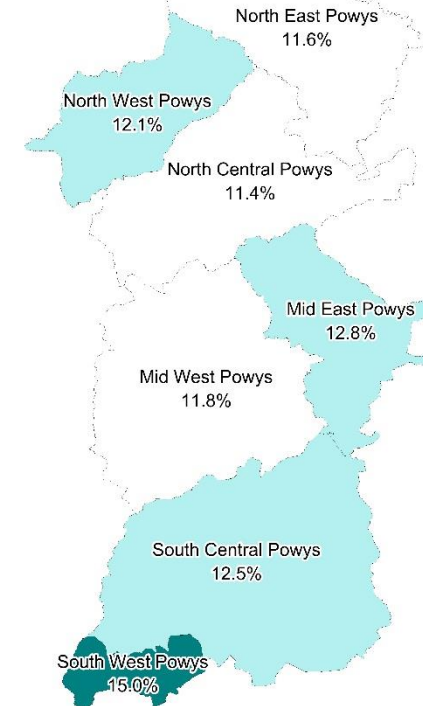
North Central Powys area has the lowest percentage of unpaid carers. South West Powys has the highest number of unpaid carers in the county.

### Are there any preventative measures associated with this data?

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 Ni ddylid gwneud unrhyw gopïau ychwanegol heb ganiatâd y Cyngor.

Unpaid Carers all ages  
 Source: 2011 ONS Census of Population © Crown Copyright

- 13% and over
- 12% to 13%
- under 12%



Powys is working to achieve an Everybody's Business model which means that identifying carers and understanding their support needs is part of everybody's role.

The Powys One Plan in 2014 identified unpaid carers as a priority group for support.

A Programme of work for Adult Health and Social Care was subsequently established and an Accountability Framework to deliver on the carers' thematic area was developed and agreed.

Across Wales, Powys has seen the second largest increase in the percentage of unpaid carers between 2001 and 2011. The county has seen an overall increase of 8.7%, ranking it joint second with Ceredigion, and only slightly behind Monmouthshire, which has seen an increase of 11.2%. In total, Powys has seen an increase of 2,036 new carers during the ten year period.

What might the future impacts be?

There will be an increased demand for services. For carers there is likely to be increasing impacts on carers' health, ability to work, study, or access leisure opportunities and increased social isolation

## Young Carers



What do we know about young carers and how do we support them?

- 352 young carers and 235 young adult carers registered with Credu at 30 September 2016 (CYPP, 2015).
- We have undertaken 19 assessments during the period 01/04/2016 to 30/09/2016 on young carers. 5 of these led to a care and support plan (CYPP, 2015).

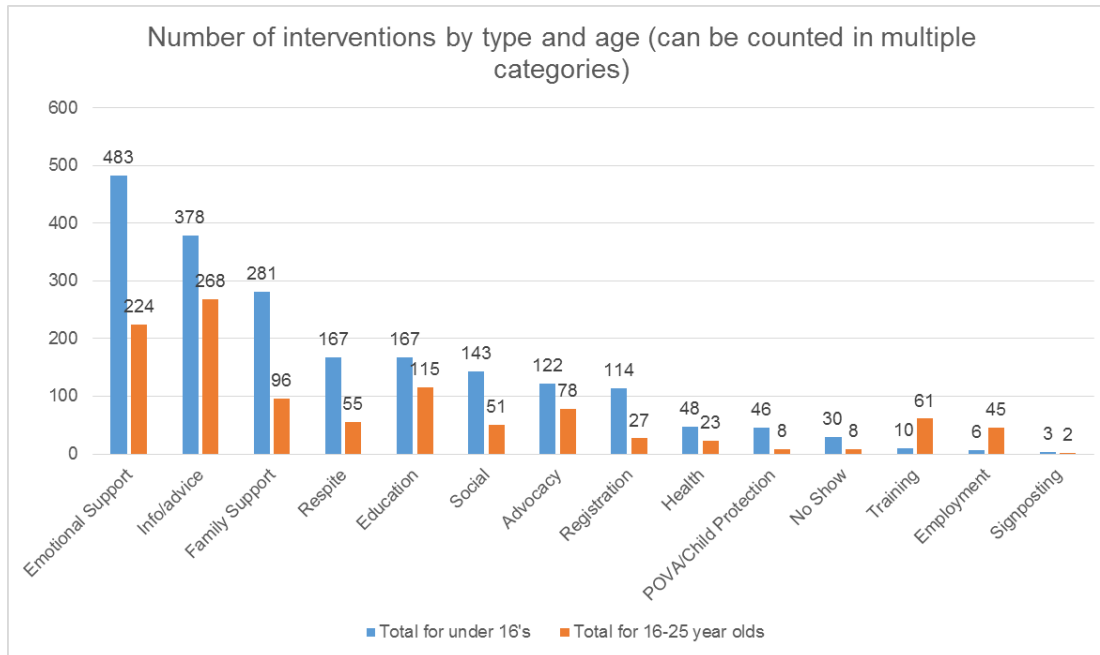
Due to the increase in Powys' elderly population, more and more young people are becoming carers.

- 80% (860) of young carers are providing up to 19 hours of care per week;
- 12% (123) provided 20-49 hours per week; and
- 8% (83) provided 50+ hours of unpaid care each week.

This has a knock on effect of some young carers missing school due to their responsibilities.

Only 576 young carers were known to Credu service in 2016 (CYPP, 2015). Around 1 in 20 young carers miss school due to their responsibilities. In turn, this affects their education and chances of long term employment. Young carers have a significantly lower attainment level at GCSE and are much more likely to be NEET, which further reduces their life chances. In spite of their need for extra support, young carers are no more likely than their peers to be in contact with Social Services or Educational Welfare Services, both of which were designed to offer them support.

The chart below shows that most young carers require emotional support and information and advice, particularly those aged 16 years and under.



Most young carers we are in contact with have responsibilities to provide physical care to their loved ones, closely followed by providing mental and emotional health support.

How do we compare with other local authorities?



While Powys has seen a reduction since 2014/15 in the number of young carers identified by Social Services, the overall trend reveals an increase since 2009/10 in the number of young people acting as carers.

### What do citizens say?

*Carers Advisory Support Service Youth Group ('CASSY' Group):* the group are concentrating on raising awareness in schools. Many young carers are helped to explore options and prioritise goals in terms of educational aspirations and employment opportunities. One young carer had put in order of priority her mother's need for her support to care for her sister, her desire to continue to learn to drive, her desire to complete the NVQ hair level 3 and the Welsh baccalaureate and her desire to work part time to bring in additional money. However, with the help of outreach workers

*"B's previous aspirations were to stay at home and care for her mother, she now wants to develop those skills and take them elsewhere into a career."* (Outreach worker)

After school groups for both younger and older young carers are thriving and have been enjoyed by 126 Young Carers. Each group has its own character and programme because they respond to the needs and wishes of its particular cohort. Young Carers are really able to relax and be themselves. They are supportive and accepting of everyone and new members quickly feel part of the group.

*"We had a fun food challenge night with the YAC group that involved being creative, letting go of inhibitions and being playful as a group."*(One member of the group)

*"The YACs have enjoyed a relaxed atmosphere at clubs with continuation of relaxation and meditation workshops. Feelings of tiredness have been expressed by many this term during exam times and controlled assessments in schools for the younger YACs."* (Llandrindod Group)

Feedback from Young Carers on Outreach Workers coaching support;

*"Martine will always ask me what I want to talk about and take the time to listen. She always smiles and is very approachable and helps me to think of options to overcome certain situations"*

### What do staff say?

Credu assist carers to feel recognised and feel valued, making the most of their lives, and providing them with a strong voice. In particular, they help young carers to have a positive sense of identity, have aspirations and success in learning, plus a positive childhood experience.

Some carers have said they would like to help other carers to help support them. Our Young carer's forum is thriving, however we need to support them to enable them to become leaders in their own areas.

The work with numerous stakeholders and our listening campaign with Young Carers, identified three key themes in our work. These were for our Young Carers and Young Adult Carers to be;

- Valued, taken seriously and have a positive sense of identity.
- Population Assessment Staff Questionnaire: "Some survey respondents identified the need for continued independence, self-sufficiency, and control over one's own life as the key outcomes desired by service users. This was most prominent in areas dealing with Powys' ageing population"
- The service users want to be able to remain in their own homes with adequate support. With this support the service user would like to be treated like a human being and not just a job. So a certain level of social interaction is required.' – Contracts and Commissioning"
- "Local provision within the community – i.e. good residential and nursing care. Safe from risks in the home. Medication management. Nutrition Hygiene'. – Adult Services"
- "There are an ever increasing numbers in people requiring home support and with the new legislation there will be more emphasis on people staying at home. This will in turn have an increase in home care request as families do not live close together any more. The population are also working longer hours so they are unable to support their family members in day to day activities."
- "Complexity of health conditions. Increased demand due to people retiring into Powys. Continued strategic direction from institutional to home setting. Technology advances will change the need for the way in which services are delivered. More specialist Community support model with develop."
- "The aging population require more support and to know that as they grow older they will be looked after."
- "There is a lack of care providers within the area, so people are unable to get the care packages they request."
- Around half of carers provide between 1-19 hours of care per week. The majority of these identified caring as being a major contributing factor to their poorer health.
- "Unable to recruit: paid carers, volunteers, skilled professionals e.g. social workers Market capacity – e.g. domiciliary care providers Access to specialist and complex provision Critical mass to locate services Transport Supporting more people to remain in their own home."

- "Increased gatekeeping around financial spend. Increased signposting to other therapeutic interventions services. Specialist domiciliary care e.g. Mental Health DToC due to availability of home of choice, waiting for housing adaptations"
- Able to grow up with positive childhood experiences, broad horizons and emotional resilience.

The young carers are planning and shaping the services we offer them. Their voices are the loudest ones we want to hear. The regular groups are shaped by the Young Carers wishes, with regular opportunities to discuss activity and trip ideas. Young Carers are also given opportunities in planning and organising the trips where they wish to be involved.

It can be the first time in many of their lives that Young Carers 16+, have choices and big decisions to make and they can be overwhelmed, especially with the complication of their caring responsibilities to consider. Support varies with each individual. As well as face to face work in various settings, Outreach Workers use Text and Facebook as a way of keeping in touch and supporting this age group with things they want to achieve. The focus of support is always to encourage and develop Young Carers own self-belief, independence, confidence and resourcefulness.

Outreach Workers in Schools use their skills as trained Advocates to help our Young Carers voice their thoughts and feelings in a variety of settings.

*"A Yr 11 Young Carer was struggling with emotions and had been relying on a school teacher for ongoing emotional support. The school teacher, Young Carer and I met to form a plan of support over her exams." - Outreach Worker*

## What do our regulators say?

The Care and Social Services Inspectorate Wales (CSSIW) Performance Evaluation Report 2014–15/

<http://cssiw.org.uk/docs/cssiw/report/150810-powysen.pdf>

*The assessment documentation used by Powys County Council supported an outcome focussed approach. Carers were identified and offered an assessment but the take up appeared to be low. One of the challenges for Powys is that many of the family carers lived at some distance from the person they cared for."*

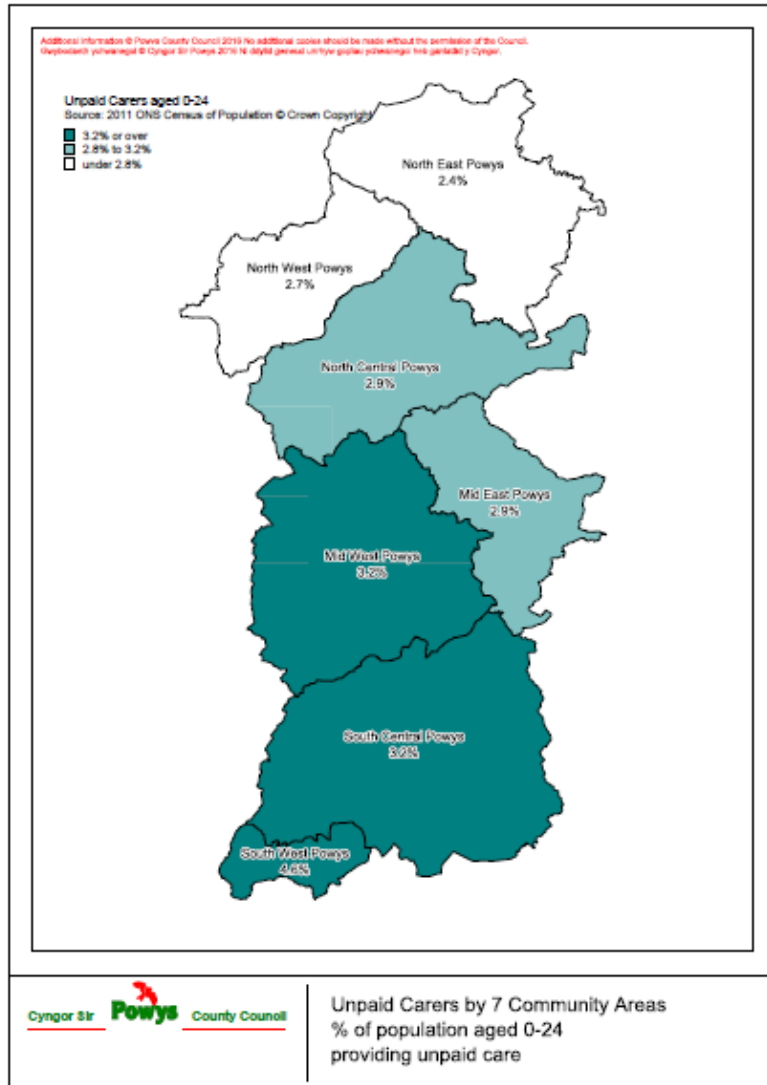
*"The low uptake in carers' assessments is also a concern in this context as it puts additional strain on family and friends in this role."*

Care and Social Service Inspectorate Wales (CSSIW) report March/May 2015:

## What we don't know

The number of young carers in each schools and whether schools are aware of the number of young carers within their school (A survey by The (Former) Princess Royal Trust for Carers (2010), found that for over 39% of young carers, school staff were not aware that they were young carers and 68% said they had been bullied in school) - we're working with colleagues in Schools Service about this.

Are there differences in localities?



Are there any preventative measures associated with this data?

Powys is working to achieve an Everybody's Business model which means that identifying carers and understanding their support needs is part of everybody's role.

Team around the Carer approach once a Wellbeing Assessment has been completed.

What might the future impacts be?

There will be an increased demand for services. For carers there is likely to be increasing impacts on carers' health, ability to work, study, or access leisure opportunities and increased social isolation

**964**

**Reports of Domestic Violence reported  
from January 2016 to August 2016.**

**1/3**

**Of all Child Protection cases refer to  
Domestic Violence for the reason for  
opening the case.**

What do we know about violence against women, domestic violence, and sexual violence?

January 2016 to August 2016, a total of 964 incidents of domestic violence have been reported to the police (Dyfed Powys Police Service, 2016). It should be noted that this figure may not reflect the true number of incidents as many occurrences of domestic violence continue to go unreported. During the same period there were 533 domestic violence crimes reported to the police (Dyfed Powys Police, 2016), a 9% rise on the previous year. The long-term trend is a continual rise of some 75% since 2010

MARAC (Multi Agency Risk Assessment Conference), which handles those domestic violence cases where the victim is believed to be at the highest level of risk, also suggests a sharp rise in the number of domestic violence

incidents when compared with neighbouring local authorities. While this may well be attributed to a lack of pre-screening of cases referred to MARAC, this has not been researched and cannot be verified. MARAC data shows an increase rate of between 28-36% (PCC, 2016). It is not yet clear why this ongoing trend has occurred, and further research, in greater detail would be required.

The figures below are reported by Dyfed Powys Police (2015/16)

- Number of people aged 18-64 who were alleged victims of physical abuse: 816
- Number of people aged 65 or over who were alleged victims of physical abuse: 32
- Number of people aged 18-64 who were alleged victims of sexual abuse: 63
- Number of people aged 65 or over who were alleged victims of sexual abuse: 2
- Number of people aged 18-64 years who were alleged victims of emotional psychological abuse: 219
- Number of people aged 65 or over who were alleged victims of emotional psychological abuse: 5

- Number of people aged 18-64 years who were alleged victims of financial abuse: 162
- Number of people aged 65 or over who were alleged victims of financial abuse: 72
- Number of people aged 18-64 years who were alleged victims of racial abuse: 28
- Number of people aged 65 or over who were alleged victims of racial abuse: 5
- Number of people aged 18-64 years who were alleged victims of domestic abuse: 639
- Number of people aged 65 or over who were alleged victims of domestic abuse: 27
- Incidence of domestic abuse: 909
- Incidence of sexual crime: 278
- Predicted number of people aged 18-64 who will be survivors of childhood sexual abuse – unable to quantify.

*Caveat: There may be a number of crime reports that do not document the victim's age and therefore the figure above may be slightly under estimated.*

Funding from supporting people, and from children's services main budget, funds domestic abuse services in the North and South of Powys. Currently these services are being re-commissioned against a new Domestic Abuse strategy. The Council has 15 refuge bed spaces in total. Funding is also given for the IDVA service provided by Hafan Cymru, though this particular funding stream is matched with Home Office funding which will be end in April. By comparison with other Councils, Powys has a reasonable network of refuges and provision for domestic abuse. However the rurality of Powys means that some victims will find themselves a long way from providers.

Powys does not have provision of wider VAWDASV services to respond to issues such as forced marriage, FGM or sexual harassment and stalking. The extent of the provision needed and the best means of meeting this service will be considered as part of the work being undertaken to develop a local VAWDASV strategy.

The existing domestic abuse services are operating at capacity and there is a high-risk that if wider publicity of this issue, and the services available, is given they would be quickly over-whelmed. Part of the strategy for responding to this is to build better capacity and resilience within local communities through the Ask Me project currently being piloted with Women's Aid.

Powys does not have any funding to enable referrals to be made to an accredited perpetrator programme and this is a very significant impediment to the prevention of VAWDASV. The Council is required to produce a training plan by March 2017 identifying which employee falls within the six designated groupings of staff in the National Training Framework. Group 1 of this framework includes every single employee and the statutory requirement is that 50% must be trained by March 2017 and the remainder by March 2018. Group 2 is "Ask and Act" training for professionals who work with persons affected by abuse, the Group 3 are the champions who will provide the training for group 2 and lead within each team. Group 6 is the senior management team within the authority.



## How do we compare with other local authorities?

Women's aid collected data from all providers of support services across Wales.

An analysis of this data for the 17 Councils who provided it in Quarters one and two of 2016/17, expressed as a population rate:

- Powys has the fourth highest level of supported units.
- Powys has 6<sup>th</sup> and 7<sup>th</sup> highest rate of referrals
- Powys has the 6<sup>th</sup> and 8<sup>th</sup> highest rate of supported persons

## What do citizens say?

As the vast majority of abuse is unreported we have no local data on the views of citizens.

The latest national crime surveys show that 30% of women and 16% of men report having been the victims of domestic abuse, the methodology used in this survey restricts the number of incidents a person can report and it is argued that this lead to an under-representation of domestic violence to women.

## What do staff say?

Staff from Children and Adult Social Services and Housing are aware of the data for the first quarter of this year shows that 49.5% of cases registered had DA as a significant parental factor making it the largest of all the parental factors.

## What do our regulators say?

Voluntary providers like Calan, Hafan Cymru and MFCC feel they are at capacity coping with the current level of referrals, they are concerned about their ability to cope with an increase in demand as more victims feel able to come forward during the implementation of the VAWDASV (Violence against Women Domestic and Sexual Violence Act 2015) Act.

## What we don't know

- Understanding our high rate of MARAC referrals and understanding unmet needs for all VAWDASV issues.
- There is some evidence form Women's Aid that referral rates for domestic abuse may be higher in rural areas.
- Number of people aged 18-64 who were alleged victims of abuse

- Number of people aged 65 or over who were alleged victims of abuse
- Number of people aged 18-64 years who were alleged victims of neglect
- Number of people aged 65 or over who were alleged victims of neglect

### Are there differences in localities?

Powys MARAC data is split North and South. In the North there appears to be a higher than expected incidence of referrals involving BME (Black and Minority Ethnic) and LGBT (Lesbian, Gay, Bisexual and Transgender) communities but the numbers are small and this could be a statistical anomaly, more research into the data is needed.

### Are there any preventative measures associated with this data?

We have not identified any information will now look to strengthen the evidence base on this topic

### What might the future impacts be?

It is highly likely that reported domestic violence incidents and crimes will continue to rise in accordance with long term trends. As population changes continue we can also expect to see an increase in the risk of FGM and other such issues in Powys. Prospects will depend on the extent to which Powys establishes effective arrangements for VAWDASV. If good progress is not made then there is a very high risk that services to victims and survivors will be overwhelmed and costs to the Council's Childrens and Adult services teams escalate. Looking longer term, if progress has not been achieved in reducing VAWDASV then the health and economic impact on the community of Powys will be very considerable.

## I. Advocacy services

Advocacy is about speaking up for people, empowering them to make sure their rights are respected and their views, wishes and feelings are heard at all times, representing their views, wishes and feelings to decision-makers, and helping them to navigate the system.

We provide:

**Self-advocacy** (where individuals represent and speak up for themselves),

**Informal advocacy** (where family, friends or neighbours support an individual in having their wishes and feelings heard, which may include speaking on their behalf)

**Collective advocacy** (involves groups of individuals with common experiences)

**Peer advocacy** (where one individual acts as an advocate for another who shares a common experience or background)

**Citizen advocacy** (a one-to-one long-term partnership between a trained or supported volunteer citizen advocate and an individual)

**Independent volunteer advocacy** (involving an independent and unpaid advocate who works on a short term, or issue led basis, with one or more individuals)

**Formal advocacy** (may refer to the advocacy role of staff in health, social care and other settings where professionals are required as part of their role to consider the wishes and feelings of the individual and to help ensure that they are addressed properly)

**Independent professional advocacy** (a one-to-one partnership between an independent professional advocate who is trained and paid to undertake their professional role as an advocate)

**Advocacy and mental capacity** - The Mental Capacity Act 2005 introduced Independent Mental Capacity Advocates (IMCAs). An IMCA supports people who can't make or understand decisions by stating their views and wishes or securing their rights. This is a statutory advocacy service, which means in certain situations people who lack capacity must be referred to an advocate. An IMCA is not the decision-maker (such as the person's doctor or care manager), but the decision-maker has a duty to take into account the information given by the IMCA

## Children and young people

Powys commissions its advocacy services as part of the Mid and West Wales region alongside Powys Teaching Health Board, Hywel Dda Health Board and Carmarthenshire, Ceredigion, and Pembrokeshire local authorities. Powys County Council plan to support 100 children with an advocacy service. Powys teaching Health Board also purchase an additional 25 places as part of the contract. Powys Children's Services have recently led and completed a re-commissioning exercise in respect of advocacy, with the award of a new contract being awarded to Tros Gynnal Plant to provide Independent Professional Advocacy to all children and young people 0-25 years accessing service from Children's Service.

Independent Advocacy Services available in Powys, provide independent professional advocacy support for Children and Young People that is person centred, issues based and outcome focused. The service is provided to Looked After Children (LAC) and Former LAC,

children on the child protection register and children with a care and support plan. We also provide support to children 11+ making a complaint in respect of schools exclusions.

## Mental Health

Statutory Independent Mental Health Advocacy (IMHA) is commissioned on an all Wales basis. Access to an IMHA is a statutory right for people detained under most sections of the Mental Health Act, subject to Guardianship or on a community treatment order (CTO). IMHAs are independent of mental health services and can help people get their opinions heard and make sure they know their rights under the law. IMHA can make a significant difference to people's experience of detention and are highly valued by people who use services. People eligible for IMHA support include, inpatients in hospital and being assessed or receiving treatment for a mental health problem, those detained in hospital under the Mental Health Act, informal patients, those being considered for neurosurgery for mental disorder or ECT for under eighteen years, people subject to a Community Treatment Order and those conditionally discharged or subject to guardianship.

## Older People:

Age Cymru provide general and crisis advocacy.

## Carers

Information, Advice and Support services for carers of all ages provided by Credu. Credu supports carers and their families in Powys.

## Learning Disability

In north Powys 'A voice for you' provides a service specialising in the support of people with learning disabilities. They recruit, train and support volunteers to act as Advocates and Crisis Advocates for people with Learning Disabilities in Brecknockshire and Radnorshire and ensure the voice of the person with Learning Disabilities is heard. In south Powys, Brecon Citizen Advocacy provides a service specialising in the support of people with learning disabilities. They recruit, train and support volunteers to act as Advocates and Crisis Advocates for people with Learning Disabilities in Brecknockshire and Radnorshire and ensure the voice of the person with Learning Disabilities is heard. Across the county Powys People First support people to advocate for themselves.

## Other adults

Citizen Advice Bureau are commissioned by Adult Social Care to support people in maintaining and/or recovering their independence by enabling them to understand their rights and to help themselves in dealing with their civil legal, financial and other problems by advising them of their legal rights and responsibilities.

## 4. Assessment of Welsh Language

New Welsh Language Standards have been introduced, under the Welsh Language (Wales) Measure 2011, and issued by the Welsh Language Commissioner, which list ways in which the Council is expected to provide services through the medium of Welsh and provide opportunities to use the language, to assess the impact of policies and decisions on the Welsh language, and state how it will promote the Welsh language in order to increase the number of Welsh speakers and its use within the county. The Council must also operate according to the requirements of 'More Than Just Words', the Welsh Government's Strategic Framework for providing Welsh language services in health and social care.

According to the 2011 census, 19% of citizens (23,990 people) said they could speak Welsh. Promotion of the Welsh language has continued, with an increase in the number of young Welsh speakers since 1991. There is a large difference in the percentage of Welsh speakers within the different localities in Powys, ranging from 53.8% in the Machynlleth locality and 39% in the Ystradgynlais locality to 8.6% and 9.8% in the Knighton and Presteigne, and Hay and Talgarth localities respectively. But it is also important to recognise that there are Welsh speakers and that the language is used within every community and locality in Powys. According to our Population assessment questionnaire (2016), 84% of users feel that they can communicate in their preferred language. Other consultation exercises have highlighted that some people are not being communicated with in a language of their choice.

The Council contributes towards the work of two language initiatives (Mentrau Iaith) in north and south Powys, which promote and provide opportunities to use the language socially, and work with other Welsh language organisations working within the area. Our recent well-being survey with young people was available in English and Welsh so that young people can respond in their preferred language. Service provision, including quality Welsh medium education, opportunities to use the Welsh language, both with the Council and in a social capacity, for them and their families, and opportunities to develop careers through the medium of Welsh are key to keeping Welsh speaking staff within the area. This is essential for the authority, and partner organisations, to be able to provide services according to the requirements of the Welsh Language Standards and More Than Just Words, the Welsh Government's Strategic Framework for providing Welsh language services in health and social care, and according to the expectations of the Welsh speaking public. Day time activities consultation was carried out in the language of Welsh if that was the preferred language. 95% of those we spoke to identified that their main language was English with 5% as Welsh speaking. The Council's Public website and the Information, Advice and Support Service provider for Carers provides information through the medium of Welsh and English.

What are the gaps in Welsh language provision?

There are gaps in the provision across many services. The Council currently does not hold data for the Welsh language skills of all its staff (it currently holds data for 56.45% of the workforce). This data is required to measure the ability of service areas to provide services according to the requirement of the Welsh Language Standards, and therefore according to the needs of the community.

## 5. What are the challenges for Powys and how does this impact on the population?

Drawing together the information that we have used to analyse across the 8 core themes of the assessment (see section 2) we are currently identifying whether the current situation in Powys was having a negative or positive impact on each of the Social Services National Outcomes Framework under the Social Services Well-being Act. The tables below illustrate the results of discussions so far regarding how different areas currently impact on the outcomes of an individual's life.

National Outcomes Framework: <http://gov.wales/docs/dhss/publications/160610frameworken.pdf>

Key	
	Negative – Critical
	Negative - Substantial
	Negative - Moderate
	No current impact on well-being
	Positive - Moderate
	Positive - Substantial
	Positive - Critical

Situations	8 Wellbeing Outcomes							
	Physical and Mental Health and Emotional wellbeing	Protection from Abuse and Neglect	Education, Training and Recreation	Domestic, family and personal relationships	Contribution made to society	Securing rights and entitlements	Social and economic wellbeing	Suitability of living accommodation
Children and Young People								
Older People	Light Red	Light Red	Grey	Light Red	Light Green	Light Red	Light Green	Red
Health and Physical Disabilities	Light Green	Grey	Light Green	Light Green	Light Red	Light Red	Light Green	Light Green
Learning disability & Autism								
Mental Health								
Sensory Impairment								
Violence against women, domestic abuse and sexual violence	Red	Red	Light Red	Dark Red	Light Red	Dark Red	Light Red	Red
Carers	Red	Grey	Light Red	Light Red	Light Green	Red	Light Red	Light Green

The population of Powys is changing. People are living longer, the older population is increasing and the child population is in decline. Whilst the elderly population in Powys is predicted to increase significantly over the next 20 years, more young people are likely to become carers. This number is steadily increasing, in spite of the decreasing child population. This can have impacts on their education and long term employment prospects. In addition young carers can find their role impacting on their own health and social well-being. There is also an increasing number of young people identified as having mental health problems in Powys, including anxiety, stress and self-harm, and mental health is known to impact on many aspects of young people's lives and well-being.

People have told us that they want to live independently in their own homes and communities for as long as possible. As the elderly population increases, it is likely that greater pressure will be placed on supporting people in this way. This will need to include increasing the resilience of communities to enable them to support people, increasing the use of assistive technology (including the opportunities provided by new technologies) and ensuring that suitable accommodation options are available, particularly for older people in the county.

Whilst life expectancy in Powys is good there is a widening gap between genders and socio-economic circumstances. Our assessment of adults with learning disabilities has not allowed us to form a conclusion about the outcomes for clients now or in the future and our findings were therefore not scored against the 8 outcomes. Although incidents of violence against women, domestic abuse and sexual violence affect a relatively small proportion of the population, there are negative impacts on many aspects of wellbeing and on all population assessment outcomes and we know that the issue is under-reported.

Across multiple areas of the population, people want to be able to access the right service in the right place at the right time. This will need to be addressed within the challenging context of austerity, the affordability and sustainability of current services and the need to recruit a skilled workforce which is currently in decline.



## 6. How have we produced our population assessment?

In order to develop this assessment we began by collating and analysing relevant data sets from a variety of sources, including:

- Current service user data
- External/ secondary data sets (e.g. Office for National Statistics census data (ONS))
- National indicators and national trends report
- Qualitative data from service user surveys and consultation/engagement work e.g. Residents Satisfaction Survey, consultation feedback
- National Surveys e.g. Welsh Health Survey and indicators

To assess the population at a lower geographical area than the whole of Powys, we divided the county into seven community areas in order to better understand the populations at a local level. These reflect the ONS super-output areas used to analyse data drawn from the census and other national sources. Although the 13 localities do not necessarily match the boundaries or terminology of all partner

organisations or service area borders, they are a best-fit for the purposes of analysis.

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In order to engage broader stakeholders in the process and to get their views on the findings that had been identified, two challenge events were held in November 2016, one with internal staff and another with partner organisations and community representatives. Below is a full list of stakeholders and partners invited to the challenge events.

- Action for Children
- Age Cymru
- All Wales Forum
- Care Forum Wales
- Community Councillors
- Credu
- Disability Powys
- Dyfed Powys Police
- Neath Port Talbot College
- Powys Association of Voluntary Organisations
- Powys County Councillors
- Powys Community Health Council
- Powys Teaching Health Board
- Public Health Wales
- Visual Impairment Breconshire
- Welsh Government

## 7. How have we engaged with our communities?

Before publishing this assessment, the Regional Partnership Board (made up of Powys County Council, Powys Teaching Health Board, Public Health Wales, Powys Association of Voluntary Organisations, voluntary sector body (Action on Hearing Loss), Care Forum Wales and citizens representing people with needs for care and support and carers) has consulted with a number of groups including:

- Current service users
- Partner organisations
- Relevant voluntary sector organisations
- Staff members

Alongside analysing key data sets held by all the partner organisations, the process of producing the population assessment has involved collating and analysing resident/stakeholder insights gathered by and from a multitude of different consultation and engagement exercises conducted over the past 18 months – primarily by Powys County Council but not solely so.

These consultations covered a diverse range of issues and sought views from interested and affected residents, service users, professionals and other stakeholders. All of the views received have fed into the process and have provided both a mix of quantitative and qualitative insights into why and how residents have responded in the way they have.

Powys County Council incorporated some very specific questions based on some known data gaps around well-being in both its Residents Attitude Survey and its Residents Satisfaction Survey. The two pieces of work provided robust and representative views on data gaps around fuel poverty, the Powys pound and how people spend their disposal income, what resident's priorities are currently and would be in ten years' time.

Members of the Powys Youth Forum as future custodians of the county have also played a key role in providing the organisations with their views about current and future services. The forum also created an exercise for all schools, youth clubs and Young Farmers to take part in and this will inform the response analysis phase of the work going forward.

In order to gather the views of the public, including those not necessarily reached through the methods described above we have published regular posts on social media (Facebook and Twitter), asking for people to comment on some of the findings that have emerged from our analysis.

## 8. Equalities

To help us determine whether this population assessment and resulting plan will assist or inhibit our ability to eliminate discrimination; advance equality; and foster good relations an Equality Impact Assessment (EIA) was carried out. The outcome is to ensure that Powys County Council and Powys Teaching Health Board services are delivered equitably.

Carrying out an EIA involves systematically assessing the likely (or actual) effects of a policy or practice on people in respect of the 9 protected characteristics: Disability, Gender, Gender Identity, Race, Age, Religion and Belief, Sexual Orientation and Marriage/Civil Partnership. Also when assessing impact we have tried to look at diversity within, as well as between the groups e.g. disabled people with different impairments.

For each of the 8 core themes we have summarised how we have:-

- Engaged with the 9 protected characteristics and any gaps
- Made sure we've taken these groups into account in the population assessment itself
- Reflected their needs in the data collected.
- Identified if there any groups of people we don't know enough about and set an action to resolve.

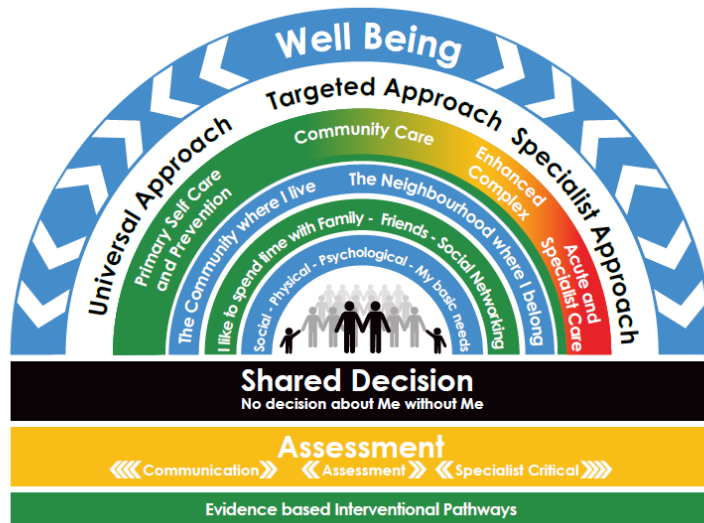
Please see [Powys Population Assessment – Protected Characteristics Impact Assessment](#) for our results of this assessment.

A full EIA will be carried out on our local area plans.

## 9. Next Steps

The evidence in this assessment will allow us to identify and prioritise the issues that are most important locally and begin to examine how they can be addressed. We will use the information and insight this assessment provides to plan our care and support and ensure we focus to make a positive impact on the outcomes for the population of Powys. The assessment will ensure that Powys County Council and Powys Teaching Health Board have a joint, clear and specific evidence base in relation to care and support needs and carers' needs to underpin the delivery of our statutory functions and to inform planning and operational decisions. This will ensure services are planned and developed in an efficient and effective way to promote the well-being of people with care and support needs. The assessment will be a source of information that will contribute to the development of a wide range of strategic plans relating to health and social services and will inform various planning and operational decisions to help develop services and ensure that services are appropriately procured to meet identified need.

The population assessment will be used to inform our area plans going forward. Our local area plans are due to be produced by March 2018 and our next steps include looking at how we can respond by working through an integrated approach between Council and Health Board Services to have a maximum positive impact. An example of this is shown in the diagram below which shows Health and Adult Social Care future integrated approach to promote independence.



Our local area plans will be developed in line with the four principles of the Social Services and Well-being (Wales) Act 2014 which are:

- Voice and control (putting the individual and their needs at the centre of their care, and giving them a voice in, and control over reaching the outcomes that help them achieve well-being)
- Prevention and early intervention (increasing preventative services within the community to minimise the escalation of critical need)
- Well-being (supporting people to achieve their own well-being and measuring the success of care and support)
- Co-production (encouraging individuals to become more involved in the design and delivery of services)

These plans will consider social enterprise, co-operative organisations, co-operative arrangements, user led and third sector options as part of any decision to plan, promote and deliver care and support and preventative services.

## Find out more and stay involved

If you would like any further information or have any questions about this population assessment, there are many ways you can get in touch with us:



By phone: 01597 826 000



By email: [business\\_intelligence@powys.gov.uk](mailto:business_intelligence@powys.gov.uk)



By post: Powys Regional Partnership Board, Powys County Council, County Hall, Llandrindod Wells, Powys, LD1 5LG

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## Powys Population Assessment – Protected Characteristics Impact Assessment

The tables below illustrates how we have engaged with and taken account of the 9 protected characteristics, and identified any groups of people we don't know enough about.

### Children and young People

Characteristic	How have we <b>engaged</b> people sharing this characteristic?	How have we taken this characteristic into account in the <b>population assessment</b> ?	How are their <b>needs</b> reflected in the data?	Are there any groups of people we <b>don't know</b> enough about and how will we resolve this gap?
Age	We have engaged with young people known to Children's Services. The ages ranged from 8 years to 22 years old.	Children and young people's issues have been considered alongside that of the general population where appropriate. There is a dedicated section within the Population Assessment where there are particular issues which solely affect children and young people.	Their needs have been considered as part of the wider population where appropriate. Where there are particular issues which solely affect children and young people, their needs have been considered in a dedicated section.	We did not consult with children aged under 8, however their needs will have been incorporated in our analysis where data has been available to us.
Disability	Feedback from parents and carers of children with disabilities have been fed into the relevant sections of the population assessment. Consultation has also taken place for short breaks commissioning, Transition review and Integrated Disability Service Development Project.	There are dedicated sections in relation to disabilities within the population assessment. There has been analysis of views from consultations, needs analysis of characteristics profiles from data.	There are dedicated sections in relation to disabilities within the population assessment where their needs have been considered. Identification of people with conditions with known needs. Needs identified from consultations collated.	Sensory impairment, identification of children with sensory impairments. Data from Schools service to inform Population Assessment. We recognise that there are some data gaps within our current intelligence and we will seek to resolve these.

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<p><b>Gender reassignment</b></p>	<p>We have engaged with young people known to Children's Services. The ages ranged from 8 years to 22 years old.</p>			
<p><b>Marriage and Partnership</b></p>	<p>Young people under the age of 18 can legally marry / enter into a civil partnership with their parents' consent.</p>			
<p><b>Pregnancy and Maternity</b></p>	<p>We have engaged with young people known to Children's Services. The ages ranged from 8 years to 22 years old.</p>			
<p><b>Race</b></p>	<p>We have engaged with young people known to Children's Services – 6% of these young people identified as non-white British.</p>			
<p><b>Religion or Belief</b></p>	<p>We have engaged with young people known to Children's Services. The ages ranged from 8 years to 22 years old.</p>			

<b>Sex</b>	We have engaged with young people known to Children's Services – 59% of those who were sent the consultation were male, 40% were female and 1% identified as agender.	Where data has been available, we have considered whether different genders have different needs.	Where data has been available, we have considered whether different genders have different needs.	
<b>Sexual Orientation</b>	We have engaged with young people known to Children's Services. The ages ranged from 8 years to 22 years old.			We do have limited data provided by young people about their sexual orientation, however, due to the nature of the services that young people are accessing, they may not wish to provide this information.
<b>Welsh Language</b>	Our survey with young people has been available in English and Welsh so that young people can respond in their preferred language.			

## Older People

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Characteristic	How have we <b>engaged</b> people sharing this characteristic?	How have we taken this characteristic into account in the <b>population assessment</b> ?	How are their <b>needs</b> reflected in the data?	Are there any groups of people we <b>don't know</b> enough about and set an action to resolve?
Age	<ul style="list-style-type: none"> <li>Listen and Learn pre consultation exercise with Day Time Activity user and their family and / or carers.</li> <li>Formal consultation for Review of Day Time Activities for Older People.</li> <li>Consultation and engagement for the Older People's Accommodation Strategy</li> <li>The majority of people who responded were over 55 years of age.</li> </ul>	Older people have been central to both review processes due to demographic changes in Powys.	<ul style="list-style-type: none"> <li>Demographics (average age, spread, and gender)</li> <li>Isolation and loneliness</li> <li>Access</li> <li>Levels of need / health conditions</li> <li>Target geographical areas / issues</li> <li>Service availability / gaps</li> </ul>	It has been difficult to identify and / or engage with minority groups such as gender reassignment and sexual orientation.
Disability	<ul style="list-style-type: none"> <li>Disabled people were included in the above consultation and engagement processes, for example:-</li> </ul>	Disability was taken in to account to ensure access and types of provision can accommodate a wide range of needs	For the Day Time Activities Review we identified the percentage break down of levels of dependency to ascertain the transfer of costs if	It has been difficult to identify and / or engage with minority groups such as gender reassignment and sexual orientation.

	<ul style="list-style-type: none"> <li>○ People with dementia and other neurological conditions</li> <li>○ People with sight and hearing impairment</li> <li>○ People with mobility and physical disabilities</li> <li>● Only 21% of respondents identified themselves as having no disability at all.</li> <li>● 32% felt they had a lot of conditions that prevented them doing day to day tasks – mobility was stated as the biggest issue.</li> </ul>		<p>services were to close or change for example:</p> <ul style="list-style-type: none"> <li>● 45% have mobility issues,</li> <li>● 15% are wheelchair users</li> </ul> <p>We also identified the projection increases for those who may have dementia to help us identify respite / carer need (see section of Dementia)</p>	
<p><b>Gender reassignment</b></p>	<p>We invited representatives from protective groups to attend a consultation workshop to assess whether there were gaps in issues identified</p>	<p>At this point in time we have no specific evidence to suggest we need to additional account of this group.</p>	<p>No specific needs identified</p>	<p>It has been difficult to identify and / or engage with minority groups such as gender reassignment and sexual orientation indicating there may be a data gap.</p>

<b>Marriage and Civil Partnership,</b>	Partners were consulted as part of the Review of Day Services for Older People in particular the impact on their caring responsibilities. 76% of respondents identified themselves as married with 10% stating that they were single. No other status was acknowledged.	Growth in the numbers of people living alone	No data other than the views of partners / carers shared as part of the consultation process which focused on the need for respite.	No
<b>Pregnancy and maternity</b>	We invited the general public to comment via the consultation process and required people who completed the questionnaire to identify themselves against the characteristics. No one identified themselves within this category.	At this point in time we have no specific evidence to suggest we need to additional account of this group.	No specific needs identified	No
<b>Race</b>	We invited representatives from protective groups to attend a consultation workshop to assess whether there were gaps in issues identified and invited the general public to comment via the consultation process and which required people to complete the	At this point in time we have no specific evidence to suggest we need to additional account of this group.	No specific needs identified	It has been difficult to identify and / or engage with minority groups such as gender reassignment and sexual orientation to understand their specific needs.

	questionnaire to identify themselves against the characteristics. Only 1% identified themselves as other than White British.			
<b>Religion or belief</b>	We invited representatives from protective groups to attend a consultation workshop to assess whether there were gaps in issues identified. The majority of respondents identified themselves as Christian, 28% stated no religion and only 1% as Jewish.	At this point in time we have no specific evidence to suggest we need to additional account of this group.	No specific needs identified	It has been difficult to identify and / or engage with minority groups such as gender reassignment and sexual orientation to understand their specific needs.
<b>Sex</b>	Both male and females were consulted as part of the two key review processes outlined above. The majority of respondents were female 67% against 33% male.	At this point in time we have no specific evidence to suggest we need to additional account of this group.	<ul style="list-style-type: none"> <li>• Gender split in residential care is 69% of residents are female, 31% male</li> <li>• Gender split using day time activities is 76% female and 24% male.</li> </ul>	It has been difficult to identify and / or engage with minority groups such as gender reassignment and sexual orientation to understand their specific needs.
<b>Sexual Orientation</b>	We invited representatives from protective groups to attend a consultation workshop to assess whether there were gaps in issues identified. People were asked to	At this point in time we have no specific evidence to suggest we need to additional account of this group.	No specific needs identified at this stage.	It has been difficult to identify and / or engage with minority groups such as gender reassignment and sexual orientation to understand their specific needs.

	complete a questionnaire as part of an on line survey to identify themselves against the protective characteristics. Only 3% identified themselves as gay or bisexual with 4% preferring not to say and 92% stating that they were heterosexual.			
<b>Welsh Language</b>	Consultation was carried out in the language of Welsh if that was the preferred language. 95% identified that their main language was English with 5% as Welsh speaking.	There are currently services available for those who do speak Welsh, particularly in areas where Welsh is the predominant language.	No specific needs identified	This is a gap that needs to be addressed in any future outcomes framework



Characteristic	How have we <b>engaged</b> people sharing this characteristic?	How have we taken this characteristic into account in the <b>population assessment</b> ?	How are their <b>needs</b> reflected in the data?	Are there any groups of people we <b>don't know</b> enough about and set an action to resolve?
Age	<ul style="list-style-type: none"> <li>Meeting with Carers to discuss the Joint Carers Commissioning Strategy (Adult Carers)</li> <li>Carers Rights Day Events (facilitated by Credu) (Adult Carers).</li> <li>Young Carer/Young Adult/Adult Carers groups.</li> <li>Carers Engagement Forum</li> </ul>	<p>Demographics (all ages and gender).</p> <p>Carers are regarded as being 'associated' with someone who is protected by the law because of their age or disability.</p>	<ul style="list-style-type: none"> <li>Demographics (all ages, spread, and gender)</li> <li>Highest levels of Caring</li> </ul>	
Disability	<ul style="list-style-type: none"> <li>Disabled people were included in the above discussion (engagement process) (e.g. neurological condition.)</li> </ul>	<p>Carers are regarded as being 'associated' with someone who is protected by the law because of their age or disability.</p>	<p>Health conditions/disability is recorded during an individual's assessment process.</p>	
Gender reassignment		<p>Carers are regarded as being 'associated' with someone who is protected by the law because of their age or disability.</p>	<p>Not specifically reflected</p>	<p>It is difficult to identify and / or engage with minority groups such as gender reassignment. Recognition that individuals change over time and respond accordingly</p>

<b>Marriage and Civil Partnership,</b>	Partners were consulted in respect of services to carers in Powys.	Demographics of all ages and gender. Carers are regarded as being 'associated' with someone who is protected by the law because of their age or disability.	Not specifically reflected	
<b>Pregnancy and maternity</b>		Carers are regarded as being 'associated' with someone who is protected by the law because of their age or disability.	Not specifically reflected	
<b>Race</b>	<ul style="list-style-type: none"> <li>• Meeting with Carers to discuss the Joint Carers Commissioning Strategy (Adult Carers)</li> <li>• Carers Rights Day Events (facilitated by Credu) (Adult Carers).</li> <li>• Young Carer/Young Adult/Adult Carers groups.</li> <li>• Carers Engagement Forum</li> </ul>	Not specifically reflected Carers are regarded as being 'associated' with someone who is protected by the law because of their age or disability.	Not specifically reflected	The 2001 population census reported 1.62% (2,149) non-white ethnic group out of a total population of 132,976. Of the total population, 16,154 identified themselves as carers (12.15% of the population).
<b>Religion or belief</b>		Carers are regarded as being 'associated' with someone who is protected by the law because of their age or disability.	Not specifically reflected	

<b>Sex</b>	Both male and females (of all ages) are regularly engaged with through outreach work (Young Carers/Young Adult Carers); support groups and activities.	Gender of Carers registered with the Information, Advice and Support Service in Powys.	Gender of Carers registered with the Information, Advice and Support Service in Powys.	
<b>Sexual Orientation</b>	Carers (of all ages) are regularly engaged with through outreach work (Young Carers/Young Adult Carers); support groups and activities.	Carers are regarded as being 'associated' with someone who is protected by the law because of their age or disability.	Not specifically reflected	It is difficult to identify and / or engage with some minority groups
<b>Welsh Language</b>	The Council's Public website and the Information, Advice and Support Service provider for Carers provides information through the medium of Welsh and English. The Joint Carers Commissioning Strategy is available in Welsh and English	We have no robust user information on those attending services who want to access services in Welsh.	Summative Analysis (Well being Assessment)  "More than Just Words" framework and Welsh Language Standards.	Where an individual Service User has identified that they prefer (as part of the initial needs assessment process), or where it is known that an individual prefers to be communicated with through the medium of Welsh, we should ensure that communication is provided in Welsh. If (currently) unable to provide communication in Welsh, reasonable steps should be taken to improve the ability to meet Service Users' request in this regard

### Violence against women, domestic abuse and sexual violence

<b>Characteristic</b>	How have we <b>engaged</b> people sharing this Characteristic?	How have we taken this characteristic into account in the <b>population Assessment</b> ?	How are their <b>needs</b> Reflected in the	Are there any groups of people we <b>don't know</b> enough about and how will we Resolve this gap?
<b>Age</b>	We have no data on the impact of VAWDASV on residents of Powys by age, however we are aware of national research which infers that older persons may under-report domestic abuse and feel there is a lack of appropriate provision for victims and survivors.	The lack of data means that we have not been able to take account of this in the assessment	The latest Home Office data indicates that 28 older people (aged 60+) in England and Wales were killed by a family member. This represented 24% of all victims. However, the reporting of domestic abuse incidents involving older people represented less than 4% of all reported incidences.	National research infers there are significant problems faced by older persons in disclosing domestic abuse. Evidence from staff in Childrens Services and from agencies suggests there may also be barriers faced by young people who may not be aware of the services and support available to them in their relationships.
<b>Disability</b>	We have no data on the impact of VAWDASV on residents of Powys by disability.	The lack of data means that we have not been able to take account of this in the assessment	According to the national strategy for VAWDASV Disabled people experience disproportionately higher rates of domestic abuse and also experience domestic abuse for longer periods of time, and more severe and frequent abuse than	In re-commissioning domestic abuse services we will seek to ensure that there is provision for physically disabled persons

			non-disabled people. Disabled women are twice as likely to experience domestic violence as non-disabled women and they are likely to experience abuse over a longer period of time and to suffer more abuse and injuries as result of abuse than disabled men.	
<b>Gender Reassignment</b>	We have no data on the impact of VAWDASV on residents of Powys by gender reassignment.	The lack of data means that we have not been able to take account of this in the assessment	The lack of data means that we have not been able to take account of this in the assessment	By talking to specialist organisations such as the Beaumont society and Gender Trust.
<b>Marriage and Civil Partnership,</b>	We have no data on the impact of VAWDASV on residents of Powys by this protected characteristic.	The lack of data means that we have not been able to take account of this in the assessment.	The lack of data means that we have not been able to take account of this in the assessment	This is a particular issue for honour based crimes, we need to develop appropriate services in consultation with the communities affected by these issues
<b>Pregnancy and Maternity</b>	We have no data on the impact of VAWDASV on residents of Powys by pregnancy and maternity.	The lack of data means that we have not been able to take account of this in the assessment	The lack of data means that we have not been able to take account of this in the assessment	Pregnancy and maternity are known from research to be risk factors for domestic abuse and are reflected in our

				specification for DA services.
<b>Race</b>	We have no data on the impact of VAWDASV on residents of Powys of race.	The lack of data means that we have not been able to take account of this in the assessment.	Research has found that Black and Minority Ethnic women are disproportionately affected by different forms of abuse e.g. forced marriage, “honour based” violence, Female Genital Mutilation, sexual exploitation in the form of commercial sex work, trafficking etc. the multiple vulnerabilities from these overlapping contexts makes it harder for women to flee violence. According to the national strategy on VAWDASV a major concern to service providers is their ability to assist migrant, refugee and asylum seeking women who have suffered, or are suffering violence against women and who have no recourse to public funds. This group	Certain issues such as Female Genital Mutilation, are affected by race. Training is being given to Social Workers to ensure they understand both the law and the cultural context for this abuse

			can often be subject to issues such as Female Genital Mutilation, so called 'honour' based violence and forced marriage, as well as the already complex issues of domestic abuse and sexual violence. Visa issues, cultural, language and communication barriers can further complicate and isolate these women.	
<b>Religion or Belief</b>	We have no data on the impact of VAWDASV on residents of Powys by religion or belief	The lack of data means that we have not been able to take account of this in the assessment	The lack of data means that we have not been able to take account of this in the assessment	Religion can be cited as an excuse for certain forms of violence against women, we need to be mindful of this when dealing with clients
<b>Sex</b>	We have some data on the use of DA services by gender. The extent to which men can suffer abuse is contested and the legislation makes it clear that women are disproportionately affected by abuse.	Powys is unusual in Wales in being able to offer a male only refuge	Consultations with women survivors over the last decade repeatedly and consistently provide commissioners and policy-makers with the same information: women want timely, holistic responses to their multiple needs, and for many women it is	

			important that this is delivered in safe separate provision from men, by specialist support workers with significant understanding/knowledge and skills in violence against women, domestic abuse and sexual violence, that are accessible for the most vulnerable groups, that are available out of hours, and that provide a safe space to engage with other women to reduce isolation, regain confidence, provide respite and recovery, share experiences and knowledge, and gain mutual support.	
<b>Sexual Orientation</b>	There is some data from Marac (Multi Agency Risk Assessment Conference) cases that abuse in same sex relationships may be a significant issue	We do not have sufficient data to take account of this.	The Welsh Government funded research in 2014 which highlighted the barriers faced by lesbian, gay, bisexual and trans people when accessing domestic abuse and sexual violence services. The report highlighted individual, interpersonal	



			and structural and cultural barriers and made a series of recommendations to improve accessibility to services, including flexibility, confidential access and inclusivity.	
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Health and physical disabilities

Characteristic	How have we <b>engaged</b> people sharing this characteristic?	How have we taken this characteristic into account in the <b>population assessment</b> ?	How are their <b>needs</b> reflected in the data?	Are there any groups of people we <b>don't know</b> enough about and how will we resolve this gap?
Age	Through national surveys.	Figures are included for both adults and children.	Figures are included for both adults and children.	There is a lack of data included about health and wellbeing in older age. Currently, there is no ability to resolve this gap locally as intelligence on health and wellbeing is derived mainly from national datasets, e.g. the Wales Health Survey. This would require changes to be implemented at national level.
Disability	Gap in the assessment.  Children with Disabilities - Consultation for short breaks commissioning, Transition review and IDS Development Project.	Gap in the assessment.  Children with Disabilities - Analysis of views from consultations, needs analysis of characteristics profiles from data. Identified groups in the population assessment.	Gap in the assessment.  Children with Disabilities - By identification of people with conditions with known needs. Needs identified from consultations collated	Currently, there is no ability to resolve this gap locally as intelligence on health and wellbeing is derived mainly from national datasets, e.g. the Wales Health Survey. This would require changes to be implemented at national level. Children with Disabilities - Sensory impairment, identification of children with sensory

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				impairments. Data from Schools service to inform Population Assessment.
<b>Gender Reassignment</b>	Gap in the assessment	Gap in the assessment	Gap in the assessment	Currently, there is no ability to resolve this gap locally as intelligence on health and wellbeing is derived mainly from national datasets, e.g. the Wales Health Survey. This would require changes to be implemented at national level.
<b>Marriage and Civil Partnership,</b>	Gap in the assessment	Gap in the assessment	Gap in the assessment	Currently, there is no ability to resolve this gap locally as intelligence on health and wellbeing is derived mainly from national datasets, e.g. the Wales Health Survey. This would require changes to be implemented at national level.
<b>Pregnancy and Maternity</b>	Gap in the assessment	Gap in the assessment	Gap in the assessment	Data on healthy behaviours among pregnant women is available and will be included in the next iteration.

<b>Race</b>	Gap in the assessment	Gap in the assessment	Gap in the assessment	Currently, there is no ability to resolve this gap locally as intelligence on health and wellbeing is derived mainly from national datasets, e.g. the Wales Health Survey. This would require changes to be implemented at national level.
<b>Religion or Belief</b>	Gap in the assessment	Gap in the assessment	Gap in the assessment	Currently, there is no ability to resolve this gap locally as intelligence on health and wellbeing is derived mainly from national datasets, e.g. the Wales Health Survey. This would require changes to be implemented at national level.
<b>Sex</b>	Through national surveys and data sources.	Figures are shown by gender in some instances.	Figures are shown by gender in some instances.	Gender specific information is available for a lot of health and wellbeing measures and will be included in the next iteration.
<b>Sexual Orientation</b>	Gap in the assessment	Gap in the assessment	Gap in the assessment	Currently, there is no ability to resolve this gap locally as intelligence on health and wellbeing is derived mainly from national datasets, e.g. the Wales Health Survey. This would require changes to

				be implemented at national level.
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Mae'r dudalen hon wedi'i gadael yn wag yn fwiadol

# CC38- 2017

CYNGOR SIR POWYS COUNTY COUNCIL.

County Council

7 March 2017

**REPORT AUTHOR: Chief Executive and Head of Paid Service**

**SUBJECT: Pay Policy Statement 2017-18**

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**REPORT FOR: Decision**

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## **1. Background and Purpose**

All English and Welsh Local Authorities are required under local government legislation to produce and publish a Pay Policy Statement each financial year.

This Pay Policy Statement sets out the Council's approach to pay policy in accordance with the requirements of Section 38 of the Localism Act 2011. It takes account of the Revised Guidance relating to Pay Policy statements issued by the Welsh Government on 25th February 2014, on Pay Accountability in Local Government in Wales.

The purpose of the statement is to provide transparency with regard to the Council's approach to setting the pay of its employees (excluding those working in local authority schools) by identifying the methods by which salaries of all employees are determined. This requires English and Welsh Local Authorities to produce and publish a Pay Policy Statement for each financial year detailing:

- The Council's policies towards all aspects and elements of the remuneration of Chief Officers;
- The approach to the publication of, and access to, information relating to all aspects of the remuneration of Chief Officers;
- The Council's policy on the remuneration of its lowest paid employees (including the definition adopted and reasons for it);
- The relationship between the remuneration of its Chief Officers and other employees.

## **2. Legislative Framework**

In determining the pay and remuneration of all of its employees, the Council will comply with all relevant employment legislation. The Council will aim to ensure there is no pay discrimination within its pay structures by complying with Equal Pay requirements and that all pay differentials can be objectively justified through the use of equality proofed Job Evaluation mechanisms which directly relate salaries to the requirements, demands and responsibilities of the role.

## **3. Proposal**

The attached Pay Policy Statement sets out the Council's arrangements for the pay and remuneration of its employees, in-line with National pay agreements, for financial year 2017-18.

It is proposed that the Council approves the Pay Policy Statement to ensure compliance with Section 38 (1) of the Localism Act 2011.

## **4. Statutory Officers**

The views of the Strategic Director Resources (Section 151 Officer) are:

*"The attached statement ensures we comply with the relevant legislative requirements."*

The views of the Solicitor to the Council (Monitoring Officer) are:

*"The Council is required by the Localism Act 2011 to have a Pay Policy Statement."*



## 5. Members' Interests

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
To approve the attached pay policy statement.	Ensure compliance with section 38 (1) of the Localism Act 2011.

<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	Y	<b>Within Budget:</b>	Y

<b>Relevant Local Member(s):</b>	Cllr Wynne Jones
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<b>Person(s) To Implement Decision:</b>	Graham Evans – Professional Lead, Employment Services
<b>Date By When Decision To Be Implemented:</b>	1 <sup>st</sup> April 2017

<b>Contact Officer Name:</b>	<b>Tel:</b>	<b>Fax:</b>	<b>Email:</b>
Graham Evans – Professional Lead, Employment Services	01597 826609		graham.evans@powys.gov.uk

### Background Papers used to prepare Report:

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# **POWYS COUNTY COUNCIL**

## **Pay Policy Statement 2017/18**

# **POWYS COUNTY COUNCIL**

## **Pay Policy Statement 2017/18**

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# **POWYS COUNTY COUNCIL**

## **Pay Policy Statement 2017/18**

### **1. Introduction and Purpose**

- 1.1 This Pay Policy statement sets out the Council's approach to pay policy in accordance with the requirements of Section 38 (1) of the Localism Act 2011. The Act requires English and Welsh local authorities to produce and publish a pay policy statement each financial year, detailing:
- The authority's policies towards all aspects and elements of the remuneration of chief officers
  - Their approach to the publication of and access to information relating to all aspects of the remuneration of chief officers
  - The authority's policies towards the remuneration of its lowest paid employees (including the definition adopted and reasons for it)
  - The relationship between the remuneration of its chief officers and other employees.
- 1.2 Local authorities are large complex organisations with multi-million pound budgets. They have a very wide range of functions and provide and/or commission a wide range of essential services. The general approach to remuneration levels may therefore differ from one group of employees to another to reflect specific circumstances at a local, Welsh or UK national level. It will also need to be flexible when required to address a variety of changing circumstances whether foreseeable or not.
- 1.3 The Council will continue to develop a Pay Policy and Strategy in this context and will seek to align rewards systems with business objectives. Once approved by the full Council, as required by the legislation prior to 31 March 2017, this pay policy statement will come into effect from 1 April 2017, and will be subject to review on a minimum of an annual basis in accordance with the relevant legislation prevailing at that time.

### **2. Legislative Framework**

- 2.1 In determining the pay and remuneration of all of its employees, the Council will comply with all relevant employment legislation. This includes:
- Equality Act 2010
  - Part Time Employment (Prevention of Less Favourable Treatment) Regulations 2000
  - The Agency Workers Regulations 2010
  - Transfer of Undertakings (Protection of Earnings) Regulations.
- 2.2 With regard to the Equal Pay requirements contained within the Equality Act, the Council will ensure there is no pay discrimination within its pay structures and that all pay differentials can be objectively justified through the use of equality proofed Job Evaluation mechanisms which directly relate salaries to the requirements, demands and responsibilities of the role.

### **3. Scope of the Pay Policy**

- 3.1 The Localism Act 2011 requires authorities to develop and make public their pay policy on all aspects of Chief Officer Remuneration (including on ceasing to hold office), and that pertaining to the 'lowest paid' in the authority, explaining their policy on the relationship between remuneration for Chief Officers and other groups.
- 3.2 Nothing within the provisions of the Localism Act 2011 detracts from the Council's autonomy in making decisions on pay that are appropriate to local circumstances and which deliver value for money for local tax payers.

### **4. Development of Pay and Reward Strategy**

- 4.1 The primary aim of a reward strategy is to attract, retain and motivate suitably skilled staff so that the organisation can perform at its best. The biggest challenge for the council in the current circumstances is to maximise productivity and efficiency within current resources. The pay policy then is a matter of striking a sometimes difficult balance between setting remuneration levels at appropriate levels to facilitate a sufficient supply of appropriately skilled individuals to fill the authority's very wide range of posts, and ensuring that the burden on the taxpayer does not become greater than can be fully and objectively justified.
- 4.2 In this context it does need to be recognised that at the more senior grades in particular, remuneration levels need to enable the attraction of a suitably wide pool of talent (which will ideally include people from the private as well as public sector and from outside as well as within Wales), and the retention of suitably skilled and qualified individuals once in post. It must be recognised that the council will often be seeking to recruit in competition with other good public and private sector employers.
- 4.3 In addition the council is a major employer in the area. As such we must have regard to our role in improving the economic well-being of the people of the County. The availability of good quality employment on reasonable terms and conditions and fair rates of pay has a beneficial impact on the quality of life in the community as well as on the local economy.
- 4.4 In designing, developing and reviewing Pay and Reward strategy the council will seek to balance these factors appropriately to maximise outcomes for the organisation and the community it serves, while managing pay costs appropriately and maintaining sufficient flexibility to meet future needs.

## **5. Specific Local Factors Affecting Pay Policy**

### **5.1 Local Labour Market Factors**

Data from the 2011 Census and other statistics relating to Powys population trends and labour market information indicates a low birth rate and a large outward migration of young people coupled with a large inward migration of older people. Powys is seen as an attractive place to retire and there are limited opportunities for higher education and employment opportunities for young people. Currently the Council employs very few young people under the age of 21 and opportunities for school leavers and graduates have been limited, mainly due to the economic climate and the constraints on budgets. The Council's workforce reflects the community which is steadily getting older and it is recognised that the Council will need to react to this trend by introducing employment and training opportunities for young people if we are to have sufficient skills to sustain services in the future.

### **5.2 Current Recruitment and Retention Issues**

Traditionally Powys County Council has difficulties attracting large numbers of candidates for 'hard to fill' posts. These have tended to be in the areas of Social Care, in particular for Social Workers and Children's Residential Care Workers. This difficulty also exists with Chief Officer roles and to a lesser degree in other professionally qualified areas such as Planning, Engineering, Legal and Finance. The Council also has an ageing population in comparison to other Local Authorities in Wales and this, combined with the rural nature of the county, means that the Council can experience difficulties with recruitment and retention.

## **6. Pay Structure**

### **6.1 Current Position**

The Council applies the NJC nationally negotiated pay spine as the basis for its grading structure. This determines the salaries of the larger majority of the workforce (with the exception of teachers). The 2016-2018 national pay award was effective from 1<sup>st</sup> April 2016 with employees within the scale point range 18 – 49 receiving a 1% increase. Employees in the scale point range 6 – 17 received an increase ranging from 6.6% to 1.18%.

As part of the same pay agreement, effective from 1<sup>st</sup> April 2017, employees within the scale point range 6 – 18 are to receive an increase ranging from 3.45% to 1.28%. Employees within the scale point range 19 – 49 are to receive a 1% increase.

Please see section 6.4 regarding the impact of the Living Wage Foundation rate on spinal column points 6 – 12 inclusive. The pay spine is attached at Appendix A.

### **6.2 Job Evaluation**

The Council's systematic approach to determining the value and worth of posts that are currently subject to the NJC nationally agreed pay spine was

implemented from the 1<sup>st</sup> April 2013. This revised pay and grading structure was subject to an equal pay audit. Payment protection paid to staff suffering a detriment was agreed for a 12 month period and ended on the on 31<sup>st</sup> March 2014.

### **6.3 Terms and Conditions**

In conjunction with the job evaluation process a review of associated terms and conditions has been undertaken which has consolidated the range of nationally and locally negotiated terms which have been agreed through previous collective bargaining. The objective is to apply a single status approach across the authority which is fair for all staff and which also complies with the equality impact assessment.

### **6.4 Living Wage**

With effect from 1 April 2015, the Cabinet agreed to adopt the principles of the non-statutory Living Wage Foundation. The Living Wage Foundation rate is announced in November of each year, and the Council took the decision not to be fully accredited, and therefore reserves the right not to automatically apply any changes to the annually announced rate.

Employees have subsequently been remunerated at the Living Wage Foundation rate of pay where the substantive grade for their post currently falls below that level. This is paid as a Living Wage Supplement, through uplift to the salary points, as outlined in Appendix A.

Following the Cabinet meeting on 7 February 2017, the decision was to apply the current Living Wage Foundation rate effective from 1 April 2017. The rate is an increase of 20p per hour, from £8.25 per hour (£15,917 FTE per annum) to £8.45 per hour (£16,303 FTE per annum).

### **6.5 Acting Up/Honoraria**

On occasions when employees undertake additional responsibilities for a limited period of time, the Head of Service will have the discretion to award an honorarium or acting up payment. This will be applied in line with the Guidance attached at Appendix B.

### **6.6 Pay and Performance**

From April 2015, a new Individual Performance Review (IPR) process was introduced, replacing all previous methods. The Authority expects high levels of performance from all its' employees. Individual performance is managed and supported by line managers, and the relationship between line manager and staff member is key to having engaged, motivated staff, who are enabled in their work and can utilise their ideas to improve service. There are no bonus related pay incentives in place.



## **7. Accountability and Decision Making**

- 7.1 In accordance with statutory requirements and the Constitution of the Council policies relating to the recruitment, pay, terms and conditions, and severance arrangements of all employees of the Council is the responsibility of the Council.

## **8. Chief Officer Remuneration**

### **8.1 Definition of Chief Officer:**

For the purposes of this statement, 'chief officers' are as defined within S43 of the Localism Act. The posts falling within the statutory definition are set out below:

- Chief Executive
- Strategic Directors
- Director
- Heads of Service

The above posts are governed by JNC terms and conditions of employment. The 2016-2018 nationally agreed pay award applies a 1% uplift to salaries from 1<sup>st</sup> April 2017.

The Council also has a category of employees employed on Senior Manager (SM) grades. These grades fall between the top of the NJC pay spine and the bottom of the Head of Service range. These posts are governed by NJC terms and conditions of employment, with national pay awards applied accordingly.

The grades ranges for all the above posts are agreed locally and are attached at Appendix C.

The Council has a number of posts within the Schools Service and Youth Service that are employed under Soulbury or Youth & Community terms and conditions. The Soulbury grades are attached at Appendix D, with Youth & Community attached at Appendix E. The last pay award agreed for both bodies was 1% effective from 1<sup>st</sup> September 2016, with a further 1% to be applied from 1<sup>st</sup> September 2017.

### **8.2 Recruitment of Chief Officers**

The Council's policy and procedures with regard to the recruitment of Chief Officers is set out within Part 4 of the Constitution. When recruiting to all posts the Council will take full and proper account of its Equal Opportunities, Recruitment and Redeployment policies. The determination of the remuneration to be offered to any newly appointed Chief Officer will be in accordance with the pay structure and relevant policies in place at the time of recruitment.

### **8.3 Policy on the Payment of Chief Officers on ceasing to hold office or to be employed by the Council**

Should a Chief Officer be in a redundancy situation and no alternative employment can be found they will, like all other employees, be entitled to compensation in line with the Council's Redundancy Compensation Scheme.

The Council's approach to statutory and discretionary payments on termination of employment of chief officers (and all other employees), prior to reaching normal retirement age, is set out within its Early Retirement and Redundancy Policy, in accordance with Regulations 5 and 6 of the Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006. This is in respect of a redundancy payment being based on actual weekly earnings (Regulation 5) and when an enhanced redundancy payment of up to 45 weeks would be granted (Regulation 6). Regulations 12 and 13 of the Local Government Pension Scheme (Benefits, Membership and Contribution) Regulations 2007 do not apply as the Authority does not increase the total membership of active members (Regulation 12) or award additional pension (Regulation 13).

Decisions relating to any other payments falling outside the provisions or the relevant periods of contractual notice will be taken by those officers and members authorized to do so by the Constitution.

## **9. Re-employment of Staff**

- 9.1 The Council has a Re-employment of Former Employees Policy which came in to effect from 1 September 2014.
- 9.2 The purpose of the policy is to set out the Council's approach to the re-employment of certain categories of ex-employees.
- 9.3 Ex-employees who have left the Council's employment on the grounds of redundancy or efficiency and received redundancy / severance payments and/or early retirement benefits, the Council will not engage such ex-employees on a contract of employment, or through an employment agency, nor engage them in a contract for services, for a period of 12 months from the date of termination of their employment.
- 9.4 Ex-employees who have been dismissed on the grounds of misconduct or lack of capability, or have resigned in circumstances where sufficient evidence existed to convene a formal hearing to consider dismissal on those grounds, will not be re-employed by the Council. The Council will not engage with their services through an employment agency nor under a contract for services, and there is no qualifying period applicable.
- 9.5 The Council recognises that there may be a compelling case for re-employment or re-engagement in some exceptional circumstances, which may be driven by the needs of the Council. Appointments are not made without express permission of the Head of Professional Services and relevant Director, with advice sought from the Section 151 Officer and the Monitoring Officer in respect of financial or legal implications.

## **10. Remuneration at the Lowest Grades**

- 10.1 The lowest paid employees employed under a contract of employment with the Council, are remunerated on full time equivalent salaries in accordance with the minimum NJC spinal column point currently in use within the Council's grading structure. From 1<sup>st</sup> April 2017 this is spinal column point 6, £15,014 FTE per annum, (previously £14,514 FTE from 1<sup>st</sup> April 2016) however as outlined in 6.4, the Living Wage rate is applied which increases this minimum scale point value to £16,303 FTE per annum from 1<sup>st</sup> April 2017, (previously £15,917 FTE per annum).
- 10.2 The Council does run an apprenticeship scheme where individuals are engaged under a fixed term contract for a period of three years. During this time their rates of pay comply with the nationally applied rates for an apprentice and therefore they do not fall into the category of lowest grade or lowest paid in the council.
- 10.3 The relationship between the rate of pay for the lowest paid and chief officers is determined by the processes used for determining pay and grading structures as set out earlier in this policy statement

## **11. Pay Relativities within the Authority**

- 11.1 The statutory guidance under the Localism Act recommends the use of pay multiples as a means of measuring the relationship between pay rates across the workforce and that of senior managers, as included within the Hutton 'Review of Fair Pay in the Public Sector' (2010). The Hutton Report was asked by Government to explore the case for a fixed limit on dispersion of pay through a requirement that no public sector manager can earn more than 20 times the lowest paid person in the organisation. The report concluded that the relationship to median earnings was a more relevant measure and the Government's Code of Recommended Practice on Data Transparency recommends the publication of the ratio between highest paid salary and the median average salary of the whole of the Authority's workforce.
- 11.2 The multiples of pay for Powys County Council are as follows:
1. The multiple between the lowest paid full time equivalent employee and the chief executive is 1:8.41 (*Previous year 1:8.77*)
  2. The multiple between the lowest paid employee and mean average chief officer is 1:5.23 (*Previous year 1:5.70*)
  3. The multiple between the median (average) full time equivalent earnings (excluding schools) and the chief executive is 1:6.70 (*Previous year 1:6.97*)
  4. The multiple between the median (average) full time equivalent earnings (excluding schools) and mean average chief officer is 1:4.10 (*Previous year 1:4.53*)

*(information based on Payroll data February 2017)*

## **12. Publication**

- 12.1 Upon approval by the full Council, this statement will be published on the Council's website.

## **13. Partnership with Trade Unions**

- 13.1 The Council will endeavour to maintain the constructive partnership approach that it has developed with the recognised Trade Unions and will continue to work closely with them on pay related matters. Collective bargaining will be followed as appropriate for any proposed changes to pay and /or allowances.

## **14. Reviewing the Policy**

- 14.1 This Policy outlines the current position in respect of pay and reward within the Council and it will be reviewed over the next year to ensure that it meets the principles of fairness, equality, accountability and value for money for the citizens of Powys. The Policy will be reviewed annually and reported to Council.

**Pay Scales for NJC Employees – applicable from 1 April 2017**

Grade	Scale Point (SCP)	FTE Salary (£)	1/12th Monthly FTE (£)	Hourly Rate (365*7/37) (£)
Grade 1 (0-234)	6*	15,014	1,251.17	7.7822
Grade 2 (235-279)	7*	15,115	1,259.58	7.8345
	8*	15,246	1,270.50	7.9024
	9*	15,375	1,281.25	7.9693
Grade 3 (280-324)	10*	15,613	1,301.08	8.0926
	11*	15,807	1,317.25	8.1932
	12*	16,123	1,343.58	8.3570
	13	16,491	1,374.25	8.5477
Grade 4 (325-369)	14	16,781	1,398.42	8.6980
	15	17,072	1,422.67	8.8489
	16	17,419	1,451.58	9.0287
	17	17,772	1,481.00	9.2117
Grade 5 (370-414)	18	18,070	1,505.83	9.3662
	19	18,746	1,562.17	9.7165
	20	19,430	1,619.17	10.0711
Grade 6 (415-459)	21	20,138	1,678.17	10.4381
	22	20,661	1,721.75	10.7091
	23	21,268	1,772.33	11.0238
Grade 7 (460-499)	24	21,962	1,830.17	11.3835
	25	22,658	1,888.17	11.7442
	26	23,398	1,949.83	12.1278
Grade 8 (500-539)	26	23,398	1,949.83	12.1278
	27	24,174	2,014.50	12.5300
	28	24,964	2,080.33	12.9395
Grade 9 (540-579)	29	25,951	2,162.58	13.4511
	30	26,822	2,235.17	13.9026
	31	27,668	2,305.67	14.3411
Grade 10 (580-619)	33	29,323	2,443.58	15.1989
	34	30,153	2,512.75	15.6291
	35	30,785	2,565.42	15.9567
Grade 11 (620-649)	36	31,601	2,633.42	16.3796
	37	32,486	2,707.17	16.8384
	38	33,437	2,786.42	17.3313
Grade 12 (650-679)	39	34,538	2,878.17	17.9020
	40	35,444	2,953.67	18.3716
	41	36,379	3,031.58	18.8562
Grade 13 (680-719)	43	38,237	3,186.42	19.8193
	44	39,177	3,264.75	20.3065
	45	40,057	3,338.08	20.7626
Grade 14 (720+)	47	41,967	3,497.25	21.7526
	48	42,899	3,574.92	22.2357
	49	43,821	3,651.75	22.7136

\* Please see Living Wage Foundation Supplement values on next page

## Living Wage Foundation Rates applicable from 1 April 2017:

Powys County Council applies a discretionary Living Wage supplement to all employees earning less than £8.45 per hour from 1 April 2017. The Living Wage supplement is not guaranteed and is subject to regular review by the Council, is non contractual and can be removed at any time.

The following Grades and Scale points (6 to 12 inclusive) are uplifted through a salary value of £16,303 FTE per annum, £8.45 per hour from 1 April 2017:

Grade	Scale Point (SCP)	FTE Salary (£)	1/12th Monthly FTE (£)	Hourly Rate (365*7/37) (£)
Grade 1 (0-234)	6*	16,303	1,358.58	8.45
Grade 2 (235-279)	7*	16,303	1,358.58	8.45
	8*	16,303	1,358.58	8.45
	9*	16,303	1,358.58	8.45
Grade 3 (280-324)	10*	16,303	1,358.58	8.45
	11*	16,303	1,358.58	8.45
	12*	16,303	1,358.58	8.45
	13	16,491	1,374.25	8.5477

**Acting Up / Honoraria and Relief Arrangements****Cover for Managers /Supervisors**

Acting up allowances will be paid in the event of a temporary and unforeseen absence of a manager or supervisor where an employee is required to cover the duties of the post for more than one calendar month. Cover provided for absences less than this will not be paid.

Where an absence is likely to be lengthy, e.g Maternity Leave, managers must consider making an appointment to the temporary vacancy through advertisement to a wider field of potential applicants.

Once cover extends beyond one month then employees will be paid the difference between their own rate and the job evaluated rate for the job being covered, backdated to the beginning of the period of cover. A minimum of one spinal column point higher will be paid. A percentage of the difference in rate may be made to reflect a lesser range of responsibilities being covered. Percentage acting up allowances may be paid to more than one member of a team if responsibilities are being shared. Where full duties are shared the acting allowances should be equal to the full difference in salary.

**Honoraria**

On occasion when employees undertake additional responsibilities for a limited period of time the Head of Service will have the discretion to award an honorarium. This will not be a full job evaluated rate given the time limits on the responsibilities however the job evaluation scheme can be used to help establish a reasonable honoraria rate. If the additional duties are outside the usual knowledge and skill requirements it maybe necessary to use market information (in accordance with the market supplement policy) to establish a payment level. Honoraria should cease after 12 months. If the additional duties continue then an evaluated rate must be established, if necessary with a market premium, in accordance with the market Supplement Policy.

**Relief / Casual Arrangements**

Where there is a business requirement for a relief duty officer e.g as part of a duty roster a single fixed job evaluated rate for the relief role should be established and paid as a change of rate for the period during which the employee covers the duty requirements.

Casual workers are entitled to the evaluated rate for the job unless they are not required to cover the full duties of the job. If this is the case then a casual worker job evaluated rate must be established. The casual worker is entitled to any allowances arising from non-standard working in the same circumstances as an established employee.

**Chief Officer & Senior Manager Pay Scales**  
**National Pay Rates applicable from 1 April 2017**

Type	Description	Grade	SCP	New Salary	New Monthly Salary 1/12th
Senior Manager	Senior Manager 2	SM2	003	£48,988.00	£4,082.33
			004	£50,849.00	£4,237.42
			005	£51,409.00	£4,284.08
			006	£52,714.00	£4,392.83
	Senior Manager 1	SM1	009	£55,880.00	£4,656.67
			010	£57,370.00	£4,780.83
			011	£58,861.00	£4,905.08
			012	£60,352.00	£5,029.33
Heads of Service	Heads of Service 3	HS3	013	£60,307.00	£5,025.58
			014	£61,784.00	£5,148.67
			015	£63,248.00	£5,270.67
			016	£64,723.00	£5,393.58
	Heads of Service 2	HS2	017	£65,543.00	£5,461.92
			018	£67,729.00	£5,644.08
			019	£69,912.00	£5,826.00
			020	£72,098.00	£6,008.17
	Heads of Service 1	HS1	021	£74,281.00	£6,190.08
			022	£76,467.00	£6,372.25
			023	£78,652.00	£6,554.33
			024	£80,836.00	£6,736.33
Director	Director 2	D2	025	£82,180.00	£6,848.33
			026	£84,437.00	£7,036.42
			027	£86,694.00	£7,224.50
			028	£88,953.00	£7,412.75
	Director 1	D1	029	£93,221.00	£7,768.42
			030	£95,477.00	£7,956.42
			031	£97,735.00	£8,144.58
			032	£99,992.00	£8,332.67
Strategic Directors **		SD1	033	£100,319.00	£8,359.92
			034	£102,578.00	£8,548.17
			035	£102,779.00	£8,564.92
			036	£104,992.00	£8,749.33
Chief Executive *		CE1	037	£126,908.00	£10,575.67
			038	£129,763.00	£10,813.58
			039	£132,618.00	£11,051.50
			040	£135,473.00	£11,289.42

The Chief Executive is also the Returning Officer and payment for these duties for each electoral division or community ward is made as follows:

Contested Election	£110
Uncontested Election	£ 55

Returning Officer fees for national elections and referenda are paid by central government.



**Soulbury Pay Agreement**

National Pay Rates applicable from 1 September 2016 &amp; 1 September 2017

**Educational Improvement Professionals (EIPs)**

SCP	01/09/2016	01/09/2017
1	33,730	34,067
2	34,938	35,287
3	36,078	36,439
4	37,234	37,606
5	38,383	38,767
6	39,533	39,928
7	40,741	41,148
8	41,902	42,321
9	43,256	43,689
10	44,463	44,908
11	45,655	46,112
12	46,809	47,277
13	48,116	48,597
14	49,280	49,773
15	50,567	51,073
16	51,731	52,248
17	52,897	53,426
18	54,042	54,582
19	55,223	55,775
20	55,833	56,391
21	57,005	57,575
22	58,027	58,607
23	59,152	59,744
24	60,160	60,762
25	61,239	61,851
26	62,291	62,914
27	63,367	64,001
28	64,457	65,102
29	65,551	66,207
30	66,643	67,309
31	67,725	68,402
32	68,824	69,512
33	69,924	70,623
34	71,050	71,761
35	72,173	72,895
36	73,329	74,062
37	74,465	75,210
38	75,615	76,371
39	76,748	77,515
40	77,880	78,659
41	79,019	79,809
42	80,156	80,958
43	81,293	82,106
44	82,435	83,259
45	83,574	84,410
46	84,715	85,562
47	85,860	86,719
48	86,995	87,865
49	88,135	89,016
50	89,275	90,168

## Educational Psychologists

### SCALE A

SCP	01/09/2016	01/09/2017
1	35,377	35,731
2	37,173	37,545
3	38,969	39,359
4	40,764	41,171
5	42,558	42,984
6	44,353	44,797
7	46,044	46,504
8	47,734	48,211
9	49,317	49,810
10	50,902	51,411
11	52,380	52,903

### SCALE B

SCP	01/09/2016	01/09/2017
1	44,353	44,797
2	46,044	46,504
3	47,734	48,211
4	49,317	49,810
5	50,902	51,411
6	52,380	52,903
7	52,987	53,516
8	54,120	54,661
9	55,243	55,795
10	56,386	56,950
11	57,506	58,081
12	58,649	59,235
13	59,811	60,409
14	60,933	61,543
15	62,110	62,731
16	63,275	63,908
17	64,448	65,093
18	65,620	66,276

## Young People's / Community Service Managers Spine

SCP	01/09/2016	01/09/2017
1	34,983	35,333
2	36,128	36,489
3	37,272	37,645
4	38,440	38,824
5	39,626	40,023
6	40,784	41,192
7	41,969	42,388
8	43,314	43,747
9	44,056	44,497
10	45,202	45,654
11	46,342	46,805
12	47,483	47,958
13	48,616	49,103
14	49,762	50,259
15	50,908	51,417
16	52,057	52,578
17	53,213	53,745
18	54,360	54,904
19	55,502	56,057
20	56,668	57,235
21	57,857	58,435
22	59,072	59,663
23	60,312	60,915
24	61,579	62,194

**JNC for Youth & Community Workers  
National Pay Rates applicable from 1 September 2016 & 1 September 2017**

**Support Worker Range**

Youth & Community Support Worker Range				Living Wage Foundation Impact		
SCP	01/09/2016	01/09/2017		SCP	01/09/2016	01/09/2017
1	-	-		1	-	-
2	15,507	15,807	**	2	15,917	16,303
3	16,117	16,417		3	16,117	16,417
4	16,681	16,931		4	16,681	16,931
5	17,241	17,491		5	17,241	17,491
6	17,828	18,006		6	17,828	18,006
7	18,450	18,636		7	18,450	18,636
8	19,069	19,260		8	19,069	19,260
9	19,856	20,055		9	19,856	20,055
10	20,472	20,677		10	20,472	20,677
11	21,467	21,682		11	21,467	21,682
12	22,441	22,665		12	22,441	22,665
13	23,445	23,679		13	23,445	23,679
14	24,485	24,730		14	24,485	24,730
15	25,194	25,446		15	25,194	25,446
16	25,935	26,194		16	25,935	26,194
17	26,662	26,929		17	26,662	26,929

**\*\* SCP 2 uplifted in line with Living Wage Foundation rate**

**Professional Range**

Youth & Community Professional Range		
SCP	01/09/2016	01/09/2017
13	23,445	23,679
14	24,485	24,730
15	25,194	25,446
16	25,935	26,194
17	26,662	26,929
18	27,396	27,670
19	28,123	28,404
20	28,852	29,141
21	29,672	29,969
22	30,601	30,907
23	31,505	31,820
24	32,413	32,737
25	33,329	33,662
26	34,243	34,585
27	35,159	35,511
28	36,085	36,446
29	37,005	37,375
30	37,924	38,304
31*	38,545	38,930
32*	39,565	39,961

\* discretionary points

## CYNGOR SIR POWYS COUNTY COUNCIL.

Council  
7<sup>th</sup> March 2017

**REPORT AUTHOR: STRATEGIC DIRECTOR OF RESOURCES  
SOLICITOR TO THE COUNCIL**

**SUBJECT: WALES INVESTMENT POOL  
INTER AUTHORITY AGREEMENT AND JOINT  
GOVERNANCE COMMITTEE**

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**REPORT FOR: Decision**

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### 1. Purpose:

1.1 This report sets out the background to the proposed investment pooling arrangements across the eight Welsh Local Authority Pension Funds and the requirement to formally enter into an agreement between the funds to establish administrative and governance arrangements to manage the pooling arrangements in accordance with the Council's Financial Governance and Pension Fund Administering Authority responsibilities.

### 2 Background

2.1 Powys County Council is the administering authority for the Powys Pension Fund ('the Fund') which is part of the Local Government Pension Scheme (LGPS) for England and Wales. The Council's decision making functions relating to Pensions are delegated in the Council's Constitution to the Pensions and Investment Committee and Full Council. The Fund currently comprises 23 contributing employing bodies and provides services to 16,000 employees, pensioners and deferred beneficiaries. The fund manages assets of approximately £580m. The objective of the fund is to meet current and future pension liabilities of its members i.e. to pay members' accrued pensions when they fall due in accordance with LGPS Regulations.

2.2 There are currently 8 LGPS funds in Wales:

- Cardiff & the Vale
- City & County of Swansea
- Clwyd
- Dyfed
- Greater Gwent
- Gwynedd
- Powys
- Rhondda Cynon Taff

In total, the value of the assets of the above funds is approximately £15bn.

- 2.3 The 8 LGPS funds in Wales have a long tradition of working in a collaborative manner overseen by the Pensions Sub Group of The Society of Welsh Treasurers (SWT). To develop further efficiencies and benefits of collaboration, the Subgroup published a report “Welsh Local Government Pension Funds: Working Together” in 2013 which identified investment management costs as the area where collaboration might yield the most significant savings. The Subgroup then commissioned Mercers Ltd to identify options for collaborative investing and in May 2015 their report recommending a Common Investment Vehicle (CIV) was published.
- 2.4 In the July Budget 2015, the Chancellor announced the Government’s intention to work with Local Government Pension Scheme (the Scheme) administering authorities to ensure that they pool investments to significantly reduce costs while maintaining overall investment performance. Authorities were then invited to submit proposals for pooling which the Government would assess against the criteria in this document. The Chancellor announced that the pools should take the form of up to six British Wealth Funds, each with assets of at least £25bn, which were able to invest in infrastructure and drive local growth.
- 2.5 In December 2015, the Government issued its criteria and guidance for what it expected to see addressed in its received proposals from LGPS funds in respect of their pooling proposals. This was considered by the Pensions and Investment Committee at its meeting on 11<sup>th</sup> February 2016.
- 2.6 Following extensive work by the SWT Pensions Sub Group and their appointed advisors, Hymans Robertson, a joint submission was formulated in respect of the 8 Welsh Pension Funds. The Pensions and Investment Committee Chair attended meetings of the joint chairs of the 8 pension funds to agree the submission and the Pensions and Investment Committee received a formal presentation of the final submission on the 11<sup>th</sup> July 2016. The Final submission was submitted to HM Government on 15<sup>th</sup> July 2016 and is attached at Appendix A.

### **3 Submission in respect of the 8 Welsh Pension Funds**

- 3.1 The submission in respect of the 8 Welsh funds although not satisfying minimum criteria in size ( £25bn) made a compelling submission in respect of its linguistic, cultural, and regulatory differences which alongside the already fruitful collaborative work undertaken by the SWT Pension Sub Group convinced HM Government to approve the submission in Nov 2016.

- 3.2 The Welsh joint submission proposes the engagement of a Financial Conduct Authority (FCA) regulated Third Party Pool Operator (“ Pool Operator”) to provide the Regulatory framework and mechanism with which to manage and reduce investment management expenses for the funds.

#### **4 The Inter Authority Agreement & Governance**

- 4.1 It should be emphasised that the proposals contained in the joint submission do not amend the statutory responsibility of each Administering Authority in respect of its ability to set its own asset allocation, funding and investment strategy.
- 4.2 In developing the proposals and taking the work forward to date, the 8 Welsh Pension funds have operated under a Memorandum of Understanding which is not legally binding.
- 4.3 As the project moves into the next stage of engagement with an appointed Pool Operator, there is a necessity to formalise the joint governance and decision making framework in which the 8 Pension funds shall work going forward to ensure the long term success and robustness of the work of the Pool.
- 4.4 The Inter Authority Agreement (IAA), which is attached to this report as Appendix B, has been developed as the legal framework for establishing a Joint Governance Committee (JGC) for the Wales Investment Pool. The IAA sets out the governance arrangements for the Pool, the rights and obligations of the eight participating authorities and the powers and responsibilities delegated to the JGC.
- 4.5 The responsibilities of the JGC are listed in Schedule 4 of the IAA and include:
- Monitoring of the performance of the Pool Operator;
  - Making decisions on asset class sub-funds to be made available by the Operator to implement the individual investment strategies of the eight funds;
  - Providing accountability to the participating funds on the management of the Pool;
  - Having responsibility for reporting on the Pool to the UK Government and other stakeholders;
  - Having oversight of the Officer Working Group.
- 4.6 The JGC will operate on a ‘One Fund, One Vote’ basis. The IAA sets out the terms of reference for the Officer Working Group which will act as advisors to the JGC.
- 4.7 Under the new arrangements administering authorities will continue to retain control over setting their investment strategy and detailed asset allocation. This continues to allow the broad risk and return characteristics of the investment strategy to be set in conjunction with

each pension fund's overall funding strategy. Funds will then invest in asset sub-funds which will be made available by the Operator of the Welsh Pool.

- 4.8 The IAA (once approved by all eight authorities) can only be amended or terminated with the agreement of all eight constituent authorities.

## **5 Host Authority ( Accountable Body)**

- 5.1 The IAA provides for one of the eight authorities to act as Host Authority and Accountable Body for the JGC. The Host Authority will provide administrative and secretarial support to the JGC and will implement decisions made by the JGC. The Host Authority will liaise with the Operator on behalf of the participating authorities and will also be responsible for arranging training for members of the JGC.
- 5.2 It is proposed that Carmarthenshire County Council (administering authority of the Dyfed Pension Fund) act as Host Authority and Accountable Body for the Wales Investment Pool.

## **6 Project Timetable**

- 6.1 The tender documentation for the procurement of an Pool Operator is being finalised in readiness for issue with a view to the JCG making an appointment in the Summer of 2017 with planned initial assets being held within the ACS from April 2018.
- 6.2. In order to achieve the above timetable, it will be necessary for all eight Local Authorities to approve and sign off the IAA before the Pre-Election Period commences on 17<sup>th</sup> March 2017. As such a report in similar terms to the this report will be presented to all eight Authorities prior to 17<sup>th</sup> March 2017. The City and County Of Swansea were the first to approve the IAA at its meeting on 23<sup>rd</sup> February 2017.

## **7 Legal Implications**

- 7.1 Legal implications are outlined in the IAA.

## **8 Financial Implications**

- 8.1 Financial implications are outlined in the IAA.

## **9 Equality Impact Assessment Implications**

- 9.1 None.

## **10. Comment from Chair of Pensions and Investment Committee**

- 10.1 I fully support the recommendations contained in the report.



**11. Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)**

- 10.1 Legal – The recommendations can be supported from a legal point of view.
- 10.2 Finance - costs associated with the establishment of the Pool will be shared equally between the 8 Welsh LGPS Funds. All fees, charges and costs associated with the Pool will be chargeable to the Pension Fund therefore, there will be no revenue cost to the County Council.
- 10.3 Business Services – The Pension Fund Manager will be the point of contact for the Powys Pension Fund with the Pool and will be a member of the Officer Working Group

**11.1 Statutory Officers**

- 11.1 The Solicitor to the Council (Monitoring Officer) has commented as follows: “ I note the legal comment and have nothing to add to the report
- 11.2 The Strategic Director Resources (S151 Officer) notes the comments made by Finance and confirms any cost associated with the establishment and management of the Pool will have to be met by the Pension Fund.

**12. Members’ Interests**

- 12.1 The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

Recommendation:	Reason for Recommendation:
<p><b>1. To note the content of the draft Inter Authority Agreement attached at Appendix B and delegates authority to the Section 151 Officer and/or Solicitor to the Council (in consultation with the Chair of the Pensions Committee) to approve and sign the final version of the IAA.</b></p> <p><b>2. To approve the establishment of a joint committee (hereinafter referred to as the Joint Governance Committee) on conclusion of the IAA referred to in recommendation 1 above</b></p>	<p><b>(a) To ensure compliance with the Submission</b></p>

<p>and on the basis of the terms of reference attached.</p> <p>3. To delegate the exercise of certain functions to the Joint Governance Committee as set out in the terms of reference of the IAA and to note those functions that are reserved to Council.</p> <p>4. To approve the appointment of the Chair of the Pensions and Investment Committee or his/her nominated Deputy to the Joint Governance Committee as the Powys County Council representative on the JGC.</p> <p>5. To delegate to the nominated representative of the Powys County Council authority to act within the terms of reference of the Joint Governance Committee to enable the exercise of any delegated function.</p> <p>6. To approve that Carmarthenshire County Council (Dyfed Pension Fund) acts as Host Council with the responsibilities set out in the Inter Authority Agreement.</p> <p>7. To delegate authority to the Section 151 Officer in consultation with the Solicitor to the Council to agree any further minor amendments to the IAA.</p>	<p>by the Wales Pool to the Department for Communities and Local Government (DCLG) in response to the publication in November 2015: LGPS: Investment Reform Criteria and Guidance.</p> <p>(b) To establish administrative and governance arrangements to manage the pooling arrangements in accordance with the Council's Financial Governance and Pension Fund Administering Authority responsibilities</p>
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<b>Relevant Policy (ies):</b>			
<b>Within Policy:</b>	<b>Y</b>	<b>Within Budget:</b>	<b>Y</b>

<b>Relevant Local Member(s):</b>	<b>N/A</b>
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<b>Person(s) To Implement Decision:</b>	Section 151 Officer
<b>Date By When Decision To Be Implemented:</b>	Immediately

<b>Contact Officer Name:</b>	<b>Tel:</b>	<b>Fax:</b>	<b>Email:</b>
Clive Pinney	01597 826746		clive.pinney@powys.gov.uk

**Background Papers:**

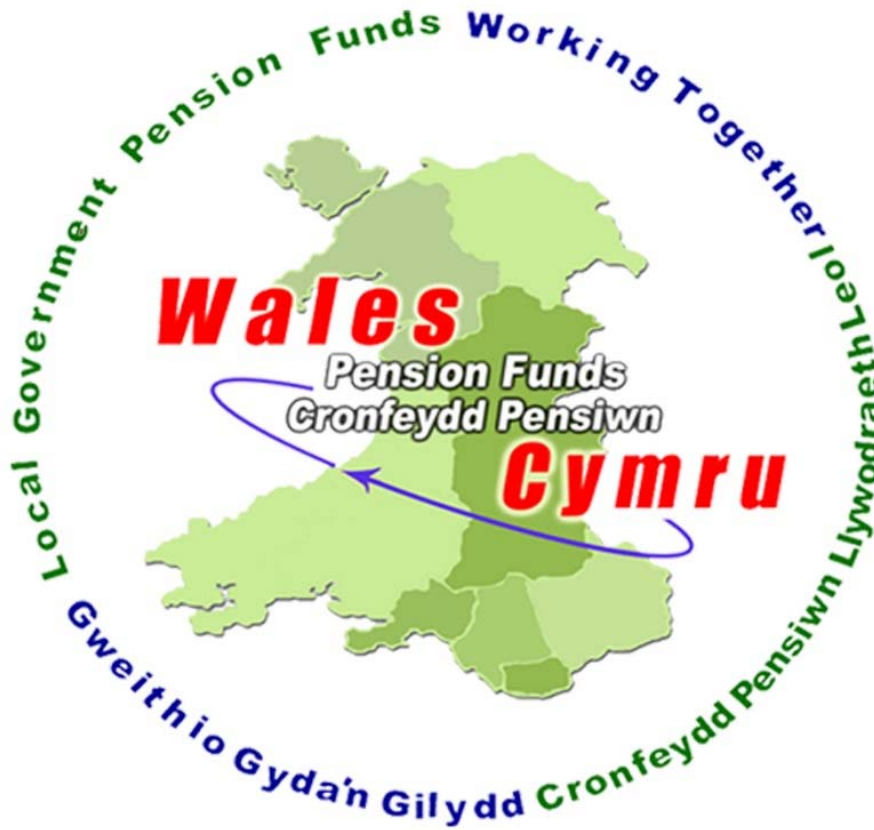
Local Government Pension Scheme: Investment Reform Criteria and Guidance.

## **APPENDICES**

Appendix A - Submission by the Wales Pool to the Department for Communities and Local Government (DCLG) in response to the publication in November 2015: LGPS: Investment Reform Criteria and Guidance.

Appendix B- Draft Inter Authority Agreement

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



Submission by the Wales Pool to the Department for Communities and Local Government (DCLG)

In response to the publication in November 2015:

LGPS: Investment Reform Criteria and Guidance

## Introduction

As Chairs of the pension committees for the eight Welsh local government pension funds, we are delighted to submit this proposal comprising details of the establishment of the Wales Pool.

Within Wales, our work on identifying the opportunity for achieving efficiencies through the pooling of investments predates the announcement of the LGPS wide agenda last year. Prior to the publication of the guidance to the LGPS in November 2015, we had already developed and agreed a detailed business plan which included joint procurement of a single provider for passive management and establishment of a pooling vehicle for collective investment. We have recently implemented the appointment of a single passive manager and are benefiting as a result from significant cost savings effective from April 2016.

In this document, we have confirmed our commitment to appoint a regulated third party operator to provide a series of collective vehicles in order to benefit from economies of scale from the management of Welsh pension fund assets. The arrangements will be provided through a robust governance structure providing clear accountability back to individual funds.

Discussions are continuing on the precise arrangements to be put in place for the different types of investments held by the funds but we are estimating that annual savings – net of all running costs – in the region of £10m p.a. could be achieved.

We are a cohesive group of funds with a long experience of collaborating across a number of policy areas, reflecting the specific economic, social, regulatory and political context within Wales. There is a strong desire within Wales to continue the direction of travel we have adopted to date and to capture fully the benefits which we outline in this proposal.

Cllr. Graham Hinchey, Chair, Investment Advisory Panel, Cardiff and Vale of Glamorgan Pension Fund

Cllr. Rob Stewart, Chair, Pension Fund Committee, City and County of Swansea Pension Fund

Cllr. Alan Diskin, Chair, Pension Fund Committee, Clwyd Pension Fund

Cllr. Wyn Evans, Chair, Pension Fund Panel, Dyfed Pension Fund

Cllr. Mary Barnett, Chair, Pensions Committee, Greater Gwent (Torfaen) Pension Fund

Cllr. Stephen Churchman, Chair, Pensions Committee, Gwynedd Pension Fund

Cllr. A G Thomas, Chair, Powys Pension Fund

Cllr. Mark Norris, Chair, Pension Fund Committee, Rhondda Cynon Taff Pension Fund

## Proposal for asset pooling in the LGPS – 15 July 2016

Name of pool	<b>Wales Pool</b>
Participating funds	<p>Cardiff and Vale of Glamorgan Pension Fund</p> <p>City and County of Swansea Pension Fund</p> <p>Clwyd Pension Fund</p> <p>Dyfed Pension Fund</p> <p>Greater Gwent (Torfaen) Pension Fund</p> <p>Gwynedd Pension Fund</p> <p>Powys Pension Fund</p> <p>Rhondda Cynon Taff Pension Fund</p>

Any enquiries in relation to this submission should be addressed to:-

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## Criterion A: Asset pools that achieve the benefits of scale

### 1. The size of the pool once fully operational.

(a) Please state the total value of assets (£b) to be invested via the pool once transition is complete (based on asset values as at 31.3.2015).

The total assets of the eight funds participating in the Wales Pool are shown in the table below.

Fund	Assets (£m)
Cardiff and Vale of Glamorgan Pension Fund	1,653
City and County of Swansea Pension Fund	1,528
Clwyd Pension Fund	1,377
Dyfed Pension Fund	1,908
Greater Gwent (Torfaen) Pension Fund	2,184
Gwynedd Pension Fund	1,408
Powys Pension Fund	512
Rhondda Cynon Taff Pension Fund	2,228
<b>Total</b>	<b>12,798</b>

Asset values are shown as at March 2015.

Our ambition for the Pool is to create appropriate vehicles for collective investment for all participating funds across all asset classes in time.

Assets which are currently held as life policies will be regarded as being within the Pool's governance arrangements but it will be necessary for them to be held outside of the pooled investment vehicles managed by the appointed operator such that the individual funds remain beneficiaries of the relevant policies. However, the investments are regarded as being an integral component of the Pool on the basis that a single manager has been appointed through a collective procurement exercise, and the ongoing monitoring and reporting of the investments will be incorporated into the Pool and fall within the responsibility of the Pool's Joint Governance Committee.



Where funds hold illiquid investments with fixed term lives, it could be very costly to exit from such investments before the realisation of the underlying assets. For that reason, it is proposed that holdings in such funds are retained outside of the Pool until expiry. However, new investments in such assets will be made within the Pool.

Depending on the precise nature of the services available from the appointed operator, it may be possible that one of the participating funds may wish to hold a proportion of their assets outside of the pool. More details are provided in the section below.

<b>2. Assets which are proposed to be held outside the pool and the rationale for doing so.</b>	
<p>(a) Please provide a summary of the total amount and type of assets which are proposed to be held outside of the pool (once transition is complete, based on asset values at 31.3.2015).</p>	
<p>The funds will aim to include all of their assets within the pooling arrangements unless there are technical barriers preventing them from doing so for specific investments.</p>	
<p>(b) Please attach an ANNEX for each authority that proposes to hold assets outside of the pool detailing the amount, type, how long they will be held outside the pool, reason and how it demonstrates value for money.</p>	<p>See Annex 1.</p>

The funds will aim to include all of their assets within the pooling arrangements unless there are technical barriers preventing them from doing so. Annex 1 supplied by Clwyd Pension Fund highlights a couple of mandates where there are some uncertainties on this point.

Funds will hold a small level of operational cash outside of the Pool to help with the efficient management of the fund. Such balances are expected to be modest and will be reviewed on a regular basis.

Funds may also wish to have the flexibility to make limited local investments within their own investment strategy should an appropriate opportunity arise, subject to discussions with the other funds within the Pool.

### 3. The type of pool including the legal structure.

(a) Please set out the type of pool, including legal structure, and confirm that it has been formally signed off by all participating authorities:

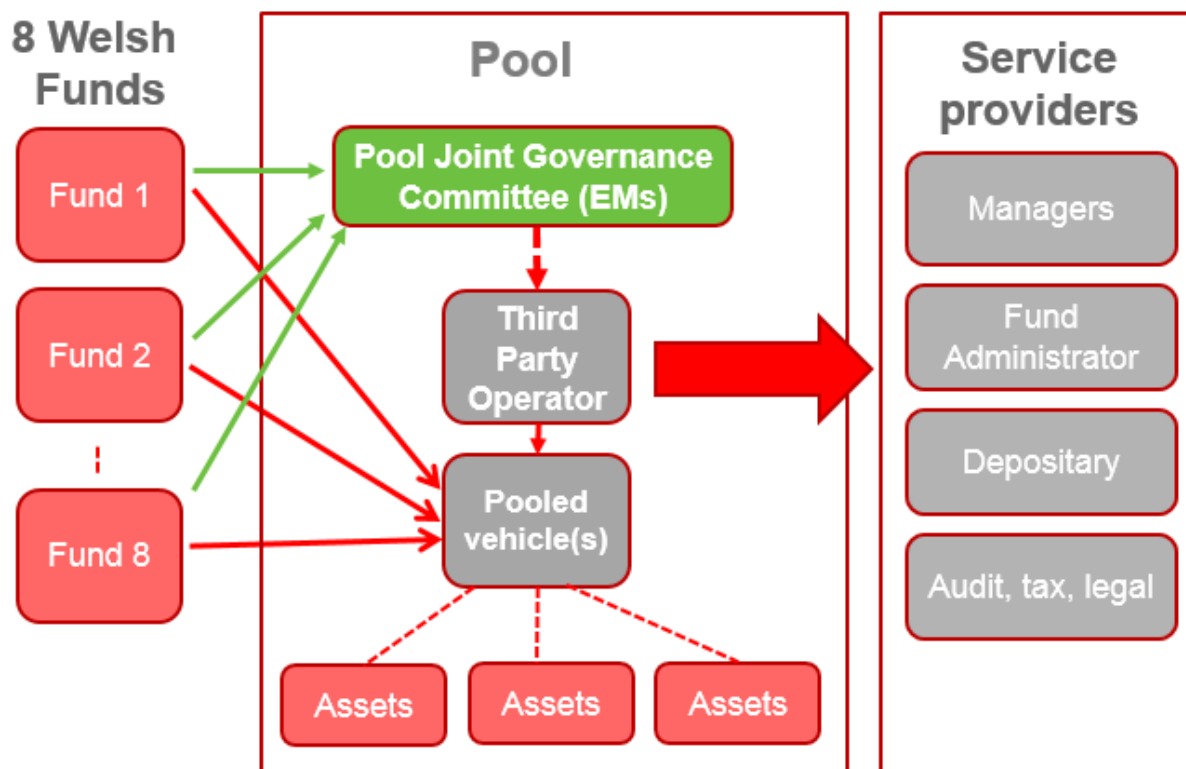
- Details of the FCA authorised structure that will be put in place, and has been signed off by the participating authorities.
- Outline of tax treatment and legal position, including legal and beneficial ownership of assets.
- The composition of the supervisory body.

Please confirm that all participating authorities in the pool have signed up to the above. If not, please provide in an Annex the timeline when sign-off is expected and the reason for this to have occurred post July submission date.

All administering authorities for the participating funds have formally agreed to the nature of the pooling arrangements as described in this section.

We believe that clear and robust governance arrangements are critical in terms of ensuring that the desired objectives of the Pool are achieved.

It is proposed that the Pool appoints a third party operator authorised by the FCA to provide a series of investment sub-funds in which the assets of the participating funds will be invested.



The formal decision to appoint a third party operator of collective vehicles was taken originally by all of the Welsh funds in September 2015 following a detailed report and business plan commissioned from external advisers. In light of the publication of the criteria for LGPS pooling published in November 2015 - and the formation of a number of other LGPS pools within England since that date - that decision has been revisited and re-confirmed by the Wales Pool earlier this year. This does not preclude consideration in future of the option of designing and building our own regulated operator.

A Joint Governance Committee (JGC) will be established to oversee the operator. The Committee will comprise elected members – one from each of the eight participating funds. It is anticipated that this is likely to be the Chairs of the respective Pensions Committees though administering authorities may choose to nominate alternative members if appropriate. This arrangement will provide accountability for the operator back to individual administering authorities.

The remit of the JGC is discussed in more detail in section B3.

The operator will be responsible for selecting and contracting with investment managers for each of the sub-funds as well as appointing other service providers such as depositary asset servicer, and (possibly) an external valuer administrators as necessary.

We anticipate at this stage that listed bonds and equities are likely to be invested through a UK based Authorised Contractual Scheme (ACS) in order to benefit from the tax transparent nature of the vehicle, though we will discuss this issue with the appointed operator. It may be that alternative vehicles are more appropriate for some other asset classes. As well as considering the options with the operator, we will also take external advice on the final proposed approach from a tax efficiency and legal compliance basis.

Under the proposed structure, the depositary will hold legal title to the assets of the Pool. The operator will be responsible for managing and operating the Pool, including entering into the legal contracts with the investment managers.

**4. How the pool will operate, the work to be carried out internally and services to be hired from outside.**

Please provide a brief description of each service the pool intends to provide and the anticipated timing of provision.

(a) To operate in-house :

(a) To procure externally :

The Pool proposes to appoint a third party operator through a detailed procurement process in the second half of 2016. The funds have already discussed the range of services which are likely to be available from different service providers and the differing levels of service provision which might be considered. The detail of those services to be carried out internally and those which will be sourced through the operator will be discussed further and decided finally as part of the selection process.

To operate in-house

- The Pool will be responsible for the design of the initial structure of the ACS and its sub-funds in close cooperation with its chosen operator. The Pool anticipates that it and its chosen operator would work closely together on subsequent changes to existing sub-funds and on the launch of additional sub-funds. The pool recognises that this is subject to the operator having ultimate responsibility for operating and managing the ACS. Decisions on asset allocation will continue to be taken by the individual administering authorities.
- The Pool will be responsible for providing public reporting on the investment performance of the Pool assets and also on the wider area of achieved cost savings.

To procure externally

- The appointed operator will provide and operate a range of investment vehicles to allow collective investment by the participating funds.
- The operator will be responsible for selecting and contracting with investment managers for the management of the underlying assets. They will also be responsible for administration in relation to the vehicles in terms of unit pricing, valuation, handling cash flows in and out of the various sub-funds, trade processing and reporting on performance.
- They will be responsible for due diligence from an audit, legal and tax perspective for the respective sub-funds and also for electing a depositary to the Pool.
- The Pool will also procure independent external legal and tax advice as necessary to support them in their relationship with the operator.

**5. The timetable for establishing the pool and moving assets into the pool. Authorities should explain how they will transparently report progress against that timetable and demonstrate that this will enable progress to be monitored.**

(a) Please provide assurance that the structure summarised in 3 above will be in place by 01.04.2018 assuming: x, y and z (add caveats).

YES - We expect the pooling structure to be in place ahead of April 2018 assuming that there are no delays encountered with the procurement process and that the appropriate regulated vehicles can be established by the operator within the expected timescales.

(b) Please provide as an ANNEX a high level timetable for the establishment of the structure and transition of assets as well as the proposed methodology for reporting progress against this timetable.

[Attached as ANNEX number 2](#)

(c) Please provide as an ANNEX an outline of how you will approach transition over the years and where possible by asset class (any values given should be as at 31.3.2015.)

[Attached as ANNEX number 3](#)

(d) Based on the asset transition plan, please provide a summary of the estimated value of assets (in £b and based on values as at 31.3.2015 and assuming no change in asset mix) to be held within the pool at the end of each 3 year period starting from 01.4.2018.

Total value of assets estimated to be held in pool as at

[31.3.2021: £12.2bn](#)

[31.3.2024: £12.4bn](#)

[31.3.2027: £12.6bn](#)

[31.3.2030: £12.8bn](#)

[31.3.2033: £12.8bn](#)

[We anticipate that 95% of assets will be within the Pool by April 2021.](#)

**Criterion B: Strong governance and decision making**

<b>1. The governance structure for their pool, including the accountability between the pool and elected councillors and how external scrutiny will be used.</b>
a) Please briefly describe the mechanisms within the pool structure for ensuring that individual authorities' views can be expressed and taken account of, including voting rights.
b) Please list and briefly describe the role of those bodies and/or suppliers that will be used to provide external scrutiny of the pool (including the Pensions Committee and local Pension Board).

The Joint Governance Committee (JGC) will be set up formally as a Joint Committee between the participating administering authorities. Each fund will have one elected member on the Committee. It will operate on the basis of 'One Fund, One Vote', though the intention is that any decisions are reached by consensus wherever possible. A formal Terms of Reference for the Committee will be drawn up.

The Committee will be responsible for ensuring where practical that there are an appropriate range of sub-funds available to allow administering authorities to implement their own desired asset allocation. The JGC will be in regular discussions with the operator as to the specific sub-funds which should be set up within the Pool, both at the outset and on an ongoing basis.

Officers from each administering authority will attend JGC meetings (in a non-voting capacity). The officers already work together as the Pensions Sub Group of the SWT (Society of Welsh Treasurers). The formal terms of reference of this officer group will be revised in light of the new pooling arrangements. The officers will advise the JGC on the establishment and monitoring of the various sub-funds as well as liaise directly with the operator on any day-to-day investment matters.

In the first instance, it is anticipated that the fund representatives on the JGC will report back to their respective individual funds' Pensions committees who will be responsible for satisfying themselves as to the effectiveness of the pooling arrangements overall and the operation of the JGC. However, the local Pensions Boards may also seek reassurance on aspects of the management of the funds' investments.

External scrutiny and formal due diligence of the operator and depositary will also be carried out by the FCA in their role as regulator.

**2. The mechanisms by which authorities can hold the pool to account and secure assurance that their investment strategy is being implemented effectively and that their investments are being well managed in the long term interests of their members.**

(a) Please describe briefly the type, purpose and extent of any formal agreement that is intended to be put in place between the authorities, pool and any supervisory body.

(b) If available please include a draft of the agreement between any supervisory body and the pool as an ANNEX.

(c) Please describe briefly how that agreement will ensure that the supervisory body can hold the pool to account and in particular the provisions for reporting back to authorities on the implementation and performance of their investment strategy.

(a) A contractual sponsor agreement will be drawn up between the appointed third party operator and the eight administering authorities. External legal advice will be taken by the Pool on the content and format of the contract.

A formal Terms of Reference will be drawn up for the Joint Governance Committee. This will form the basis for the relationship between the Committee and the individual administering authorities.

(b) The draft will be finalised as part of the procurement process. NOTE: Advice on the procurement process to be used will need to be considered further.

(c) The operator will be appointed on a fixed term contract – with an ability for the JGC to terminate the service early in the event of unacceptable performance by the operator. The work involved in changing operator has been discussed already by the Pool and will be considered in more detail as part of the selection exercise.

Comprehensive reporting requirements for the operator will be agreed as part of the service definition.

**3. Decision making procedures at all stages of investment, and the rationale underpinning this. Confirm that manager selection and the implementation of investment strategy will be carried out at the pool level.**

(a) Please list the decisions that will be made by the authorities and the rationale underpinning this.

(b) Please list the decisions to be made at the pool level and the rationale underpinning this.

(c) Please list the decisions to be made by the supervisory body and the rationale underpinning this.

#### Administering authorities

Individual administering authorities will be responsible for:-

- Setting their fund's investment strategy and asset allocation, as each fund will have a different pattern of liabilities, a different mix of participating employers and varying attitudes to risk. The investment strategy is a core component of each individual fund's overall funding strategy.
- Any issues relating to the setting of employer contribution rates and the overall administration of the fund's benefits.
- Nominating an elected member to sit on the JGC.

#### Joint Governance Committee (JGC)

The Committee will be responsible for:

- Recommending the appointment of and monitoring the performance of, the third party operator.
- Interacting with the operator on the design and structure of the investment sub-funds which should be made available by the operator. The objective will be to make available a sufficient range of funds to allow funds to implement their respective investment strategies whilst also being mindful of the benefits of aggregating assets.
- Reporting on the activities of the Pool as required – to administering authorities and Government as well as public reporting.
- Ensuring compliance of the operator with the terms of the sponsor agreement.

#### Third Party Operator

The Operator will:

- Establish investment sub-funds in cooperation with the JGC, recognising that the operator has ultimate legal and regulatory responsibility for this function.
- Select and contract with the investment managers for each of the sub-funds, as is required in their role as the regulated investment decision-making body.
- Carry out appropriate due diligence on those investment managers, as well as other service providers.
- Provide an appropriate level of detailed reporting on the performance of the investment sub-funds.
- Provide administration in relation to the underlying sub-funds.
- Meet all relevant regulatory requirements.

#### **4. The shared objectives for the pool and any policies that are to be agreed between participants.**

(a) Please set out below the shared objectives for the pool.

(b) Please list and briefly describe any policies that will or have been agreed between the participating authorities.



(c) If available please attach as an ANNEX any draft or agreed policies already in place.	
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(a) The objectives of the Pool have been agreed as follows:

- To provide pooling arrangements which allow individual funds to implement their own investment strategies (where practical).
- To achieve material cost savings for participating funds while improving or maintaining investment performance after fees.
- To put in place robust governance arrangements to oversee the Pool’s activities.
- To work closely with other pools in order to explore the benefits that all stakeholders in Wales might obtain from wider pooling solutions or potential direct investments.

(b) The participating authorities will agree specific policies as required. These will include, but not be restricted to, the following:-

- The allocation of implementation and ongoing costs between participants.
- The allocation of transition costs incurred from transferring fund assets into aggregated Pool vehicles.
- The criteria applied and agreed with the operator, to establishing new sub-funds for specific asset classes or investment types.
- The approach to Environmental, Social and Governance (ESG) factors within investment and wider issues relating to Responsible Investment.

**5. The resources allocated to the running of the pool, including the governance budget, the number of staff needed and the skills and expertise required.**

(a) Please provide an estimate of the operating costs of the pool (including governance and regulatory capital), split between implementation and ongoing. Please list any assumptions made to arrive at that estimate. <u>Please include details of where new costs are offset by reduced existing costs.</u>	
(b) Please provide an estimate of the staff numbers and the skills/expertise required, split between implementation and ongoing. Please state any assumptions made to arrive at that estimate.	

(a) Estimates at this stage are difficult as the precise scope of services to be provided by the third party operator has not been defined.

However, we have provisionally estimated the following:-

- Implementation costs – circa £0.5m-£1m
- Ongoing costs - circa £.....

#### Implementation costs

The estimate of Implementation Costs excludes transaction costs in relation to transferring investment assets.

Regulatory capital will be provided by the operator (and therefore reflected in operator's charges.)

The estimate comprises the costs of carrying out a procurement exercise for a third party operator and subsequent liaison with the operator regarding the setting up of investment sub-funds. It includes an estimate of the input of internal officer resources across the funds as well as external advice in relation to taxation and legal issues, project management and investment advice on potential fund options, etc.

#### Ongoing costs

We assume that the running costs of the Pool will predominantly comprise the fees payable to the operator, though there will be additional governance costs relating to officer and Committee time.

The fees payable to the operator will depend on the level of services agreed though we have assumed at this stage a broad range of 1-3 bps (or £1.3m-£3.5m).

Fund officers will also be spending time on additional areas such as managing the operator contract (SLAs etc.), monitoring operator performance (KPIs), overseeing reporting, and providing support and advice to the Pool's Joint Governance Committee.

We expect there to be limited scope to offset current costs though some explicit costs will reduce including work in relation to selecting and contracting with managers and day to day queries on individual mandates. We have estimated that additional officer and governance costs should be less than £0.5m per annum.

Depository and custody costs will transfer from being a direct fund expense to being incurred by the ACS. Other costs and expenses will be incurred at the level of the ACS, including those assets services, investment managers, lawyers, auditor and (possibly) valuer. Efficiencies are likely given the larger scale of assets.

(b) The funds have discussed the potential use of internal fund officers to assist with Pool business.

Estimates of the likely workload at this stage are difficult as the precise scope of services to be provided by the operator has not been defined.

The funds are open to the formal allocation of officer time to the Pool should that be seen as advantageous.

**6. How any environmental, social and corporate governance policies will be handled by the pool. How the authorities will act as responsible, long term investors through the pool, including how the pool will determine and enact stewardship responsibilities.**

(a) Please confirm there will be a written responsible investment policy at the pool level in place by 01.4.2018.

YES - the Pool will have an agreed policy in place by April 2018.

**7. How the net performance of each asset class will be reported publicly by the pool, to encourage the sharing of data and best practice.**

(a) Please confirm that the pool will publish annual net performance in each asset class on a publicly accessible website, and that all participating authorities will publish net performance of their assets on their own websites, including fees and net performance in each listed asset class compared to a passive index.

YES – the Pool is committed to publishing the above information. We feel there is benefit in there being collaboration between pools in agreeing on the best format for reporting such information as this will allow for greater consistency of overall data.

**8. The extent to which benchmarking is used by the authority to assess their own governance and performance and that of the pool.**

(a) Please list the benchmarking indicators and analysis that the participating authorities intend to implement to assess their own governance and performance and that of the pool.

The funds have requested and received detailed analysis on their investment costs from independent benchmarking company, CEM Benchmarking.

Once formally established, the Joint Governance Committee will explore the potential for using third party evaluation services to provide independent assessment of different aspects of the Pool's governance and performance.

## Criterion C: Reduced costs and excellent value for money

1. A fully transparent assessment of investment costs and fees as at 31 March 2013.	
(a) Please state the total investment costs and fees for each of the authorities in the pool as reported in the Annual Report and Accounts for that year ending 31.03.2013.	
(b) Please state the total investment costs and fees for each of the authorities in the pool as at 31.03.2013 on a fully transparent basis.	
(c) Please list below the assumptions made for the purposes of calculating the transparent costs quoted.	

Total investment costs and fees reported by the eight funds in their Annual Reports and Accounts for March 2013 were £34.385m.

In order to calculate costs on a fully transparent and consistent basis, the funds supplied data to a third party company, CEM Benchmarking. Reports have been produced at an individual fund level and at an aggregate pool level.

The cost information supplied by CEM is as follows:

	March 2013 (bps)	March 2013 (£)
Investment management costs	44.6	£47.6m
Oversight, custody and other costs	2.7	£2.9m
Total costs	47.3	£50.5m

The calculated investment costs include performance related fees for the public market asset classes but exclude carry/performance fees for infrastructure, property and private equity. They exclude non-investment costs, such as pension administration.

Where there have been underlying fees paid within fund-of-funds arrangements and specific data has not been available, CEM have estimated the costs incurred based on their global database of similar arrangements.

**2. A fully transparent assessment of current investment costs and fees, prepared on the same basis as 2013 for comparison, and how these will be reduced over time.**

(a) Please state the total investment costs and fees for each of the authorities in the pool as reported in the Annual Report and Accounts for that year ending 31.03.2015.	£m
(b) Please state the total investment costs and fees for each of the authorities in the pool as at 31.03.2015 on a fully transparent basis.	£m
(c) Please list below any assumptions made for the purposes of calculating the transparent costs quoted that differ from those listed in 1(c) above.	

Total investment costs and fees reported by the eight funds in their Annual Reports and Accounts for March 2015 were £56.489m.

In order to calculate costs on a fully transparent and consistent basis, the funds supplied data to a third party company, CEM Benchmarking. Reports have been produced at an individual fund level and at an aggregate pool level.

The cost information supplied by CEM is as follows:

	March 2015 (bps)	March 2015 (£)
Investment management costs	45.6	£58.3m
Oversight, custody and other costs	2.9	£3.7m
Total costs	48.5	£62.0m

Costs have been calculated on the same basis as those in section C1.

**3. A detailed estimate of savings over the next 15 years.**

(a) Please provide a summary of the estimated savings (per annum) to be achieved by each of the authorities in the pool at the end of each 3 year period starting from 01.04.2018.

Total value of savings (per annum) estimated to be achieved by each of the authorities in the pool as at

31.3.2021: £

31.3.2024: £

31.3.2027: £

31.3.2030: £

31.3.2033: £

(b) Please list below the assumptions made in estimating the savings stated above (for example if you have used a standard assumption for fee savings in asset class please state the assumption and the rationale behind it).

(c) Alternatively you may attach an ANNEX showing the assumptions and rationale made in estimating the savings shown.

[Attached as ANNEX number 4.](#)

**4. A detailed estimate of implementation costs and when they will arise, including transition costs as assets are migrated into the pool, and an explanation of how these costs will be met.**

(a) Please provide a summary of estimated implementation costs, including but not limited to legal, project management, financial advice, structure set-up and transition costs. Please represent these costs in a table, showing when these costs will be incurred, with each type of cost shown separately. Please estimate (using information in Criteria C Section 3) the year in which the pool will break even (i.e. the benefits will exceed additional costs of pooling).

(b) Please list below the assumptions made in estimating the implementation costs stated above (for example if you have assumed a standard cost for each asset class please state the assumption and the rationale behind it).	
(c) Alternatively you may attach an ANNEX showing the assumptions and rationale made in estimating the implementation costs shown.	
(d) Please explain how the implementation costs will be met by the participating authorities.	

Attached as ANNEX number 5.

<b>5. A proposal for reporting transparently against forecast transition costs and savings, as well as for reporting fees and net performance.</b>	
(a) Please explain the format and forum in which the pool and participating authorities will transparently report actual implementation (including transition) costs compared to the forecasts above.	
(b) Please explain the format and forum in which the pool and participating authorities will transparently report actual investment costs and fees as well as net performance.	
(c) Please explain the format and forum in which the pool and participating authorities will transparently report actual savings compared to the forecasts above.	

The Pool is committed to publishing the above information. We anticipate there being collaboration between pools in agreeing on the best format for reporting such data as this will allow for greater consistency overall.

The main cost of implementing pooling will arise from the cost of asset transitions. The Pool is likely to use specialist transition managers for this purpose and will receive detailed reports both before and after each transition providing a breakdown of expected costs and then the actual costs incurred. These will be monitored against the original estimates made in this document of the likely level of costs incurred from asset transfers.

Detailed cost analysis by asset class will also be carried out by participating funds in order to measure the actual level of cost savings achieved against the provisional estimates included at this point.



**Criterion D: An improved capacity to invest in infrastructure**

<b>1. The proportion of the total pool asset allocation currently allocated to / committed to infrastructure, both directly and through funds, or “funds of funds”</b>	
(a) Please state the pool’s committed allocation to infrastructure, both directly and indirectly, as at 31.3.2015.	
(b) Please state the pool’s target asset allocation to infrastructure, both directly and indirectly, as at 31.3.2015.	
Please use the definition of infrastructure agreed by the Cross Pool Collaboration Group Infrastructure Sub-Group.	

- (a) Current investments in infrastructure account for 0.3% of Pool assets.
- (b) The aggregate target allocation to infrastructure across funds within the Pool is 1% of assets.

<b>2. How the pool might develop or acquire the capacity and capability to assess infrastructure projects, and reduce costs by managing any subsequent investments through the combined pool, rather than existing fund, or “fund of funds” arrangements.</b>	
(a) Please confirm that the pool is committed to developing a collaborative infrastructure platform that offers opportunities through the utilisation of combined scale, to build capability and capacity in order to offer authorities (through their Pools) the ability to access infrastructure opportunities appropriate to their risk appetite and return requirements more efficiently and effectively.	
(b) Please confirm that the pool is committed to continuing to work with all the other Pools (through the Cross Pool Collaboration Infrastructure Group) to progress the development of a collaborative infrastructure initiative that will be available to all Pools and include a timescale for implementation of the initiative.	

The Pool has a representative on the Cross Pool Collaboration Infrastructure Group. The officers representing the Pools have agreed that they are committed to working together, to determine current capacity and capability, share and develop experience and skills in infrastructure development, and explore options for a more formal National Initiative on Infrastructure Investing.

In common with most other funds, the infrastructure investments of the Wales funds are managed by external investment managers and are varied across geographies, managers and most significantly risk / return budgets.

The funds within the Pool acknowledge that they currently have less invested in infrastructure than a number of the other pools and are very supportive of the interim conclusions of the Cross Pool Group, namely that:-

- All Pools would at the very least benefit from sharing knowledge and would explicitly seek not to compete against each other.
- Collaboration will be greatly facilitated through working as a small number of Pools rather than 89 funds.
- There will be considerable scope to achieve significant cost savings through collaboration, and this should be an early priority for the National Initiative.
- There will be considerable opportunity to improve governance rights, negotiate better/more appropriate structures (e.g. longer term vehicles, greater UK investments) and gain priority access to co-investment opportunities.
- Given the level of interest in infrastructure, adding to the number of primary market participants and increasing competition would not be advantageous. Thus, working actively with other investors and investing directly as a co investor, is regarded as the appropriate mechanism for the LGPS to make direct infrastructure investments.
- Overall we expect a “hybrid” model to emerge across the Pools, with some investment in funds and some direct investment through co-investments and other bespoke structures, with widespread collaboration to reduce costs and increase capacity.
- It is important that appropriate delegations are in place to ensure decisions can be made quickly when opportunities arise. Individual funds may have specific investment criteria but typically will be managed by the Pools in association with the National Initiative.
- It is anticipated that the National initiative will need to procure the services of a number of market participants rather than just one in order to access all relevant areas of the asset class to satisfy the risk/return requirements of individual funds and Pools.

The Wales Pool is very supportive of the work of the Cross Pool group and looks forward to the group continuing to develop collaboration and work towards a national initiative in the next stage.

3. The proportion the pool could invest in infrastructure, and their ambition in this area going forward, as well as how they have arrived at this position.	
(a) Please state the estimated total target allocation to infrastructure, or provide a statement of potential strategic investment, once the capacity and capability referred to in 2 above is in full operation and mature.	
(b) Please describe the conditions in which this allocation could be realised.	

- (a) Our ambition in the short to medium term is to have at least 5% of assets (up from the current 0.3%) invested in infrastructure investments with a longer term aspiration set at 10% - subject to satisfactory investments being available.

However, it is recognised by the Pool that allocations to infrastructure represent asset allocation decisions and are therefore the responsibility of individual funds.

- (b) We acknowledge that infrastructure in principle is an attractive investment given the nature of the funds' liabilities.

We anticipate that larger scale will allow the asset class to be accessed at lower cost than at present. Other things being equal, this improves the risk / return characteristics of the asset class to participating funds. National vehicles will also allow for easier access from a governance perspective.

Investments need to be available offering an appropriate level of diversification – global infrastructure rather than purely UK - and suitable access to preferred stages of development (green-field / brown-field etc.). However, the Pool is encouraged by the focus of the Cross Pool group in identifying ways of accessing a wide range of potential investments.

Prospective returns also need to be satisfactory. It is claimed that there is currently a lot of capital chasing opportunities to purchase infrastructure assets in many regions and overpaying for such long term assets would seriously impinge on long term returns to investors.

## **Annex 1 – section A2**

Please attach an ANNEX for each authority that proposes to hold assets outside of the pool detailing the amount, type, how long they will be held outside the pool, reason and how it demonstrates value for money.

### **Submitted by Clwyd Pension Fund**

The Fund will aim to include all of its assets within the pooling arrangements unless there are technical barriers preventing them from doing so. The ability to transfer the assets detailed below will depend on the capabilities of the appointed operator.

### **Liability Matching Mandate- Flight-path- £329m as at March 2015 – Clwyd Fund**

This is a specific strategy to manage the Clwyd Fund's individual liability risks using liability driven investment (LDI). It is a fundamental part of the Clwyd Fund's investment and funding strategy and its implementation is key to the Actuary when determining financial assumptions during the Actuarial Valuation process.

The Clwyd Fund has put in place a strategy based upon long-term management of asset and liability risk, namely volatility on interest rates and inflation. This "flight-path" approach aims to add interest rate and inflation protection on an incremental basis to manage more effectively the move back to 100% funding via a trigger based implementation mechanism

Given the investment and governance complexities involved in implementing a Fund specific LDI portfolio and 'flight-path', this may not be viable under the Wales pooling arrangement. However, the Clwyd Fund remains open-minded to consider a different vehicle or structure provided by the Wales Pool, or a cross pool solution, should a more cost-effective approach become available in the future.

The costs of 'undoing' the arrangements in place would be significant. As a broad rule of thumb, this is likely to be in the order of £2-3m (or 1% of assets in the mandate) and would also require significant officer time and involvement from advisors.

### **Managed Account Platform – £139m as at March 2016 – Clwyd Fund**

The Clwyd Fund's managed futures and hedge fund allocations are managed tactically by a specialist fund manager through a vehicle that has been specifically created for the LGPS and allows individual LGPS Funds or Pools to design and build their own bespoke strategic allocations.

This replaced the previous (traditional) hedge fund of fund approach **from August 2015**, which had higher fees and less transparency, and did not allow the Clwyd Fund to manage specific investment risks on a bespoke and tactical basis.

Although there are only two LGPS funds currently invested, this new vehicle is being actively marketed across other LGPS funds and pools (with significant engagement to date) and it is anticipated that others will adopt this approach which will trigger further fee breaks for all LGPS investors.

Dependent of the operator and model selected by the Wales Pool this vehicle could be added as a sub-fund to a Wales ACS (or other vehicles established for other asset classes). The provider of the Managed Account Platform has promised the LGPS significant flexibility to enable those LGPS funds that have allocated assets to the vehicle the flexibility to retain their exposure post the creation and implementation of the various Asset Pools. Therefore, we will be asking for engagement from the All Wales Pool with the provider to

further understand this flexibility and how it can be used for the benefit of the Clwyd Fund (and other LGPS funds within the vehicle) within the Pooling environment.

However, the Clwyd Fund would also consider any solutions from the Wales Pool which provided the same exposures, transparency and flexibility at a similar cost.

## **Annex 2 – section A5**

Please provide as an ANNEX a high level timetable for the establishment of the structure and transition of assets as well as the proposed methodology for reporting progress against this timetable.

The participating funds will initiate a procurement exercise in the second half of 2016 in order to appoint a third party operator. An Information Day has already been held to consider the range of services which could be available from providers – and wider discussions have been held between the funds on the relative merits of taking particular services. NOTE: Advice on the procurement process to be used will need to be considered further.

The Joint Governance Committee for the Pool will be formally constituted in time to make the formal recommendation in relation to appointment of the operator.

Discussions will then be held with the appointed operator in order to agree the investment sub-funds and the proposed timescale for transferring assets.

The proposed timetable is summarised below.

Establish Shadow Joint Governance Committee	By 30 Sep. 2016
Complete procurement exercise for third party operator Establish formal Governance Committee	By 31 Dec. 2016
Detailed specification of requirements agreed with operator including phasing of asset transition	By 30 June 2017
First transitions of listed assets	By 31 Dec. 2017

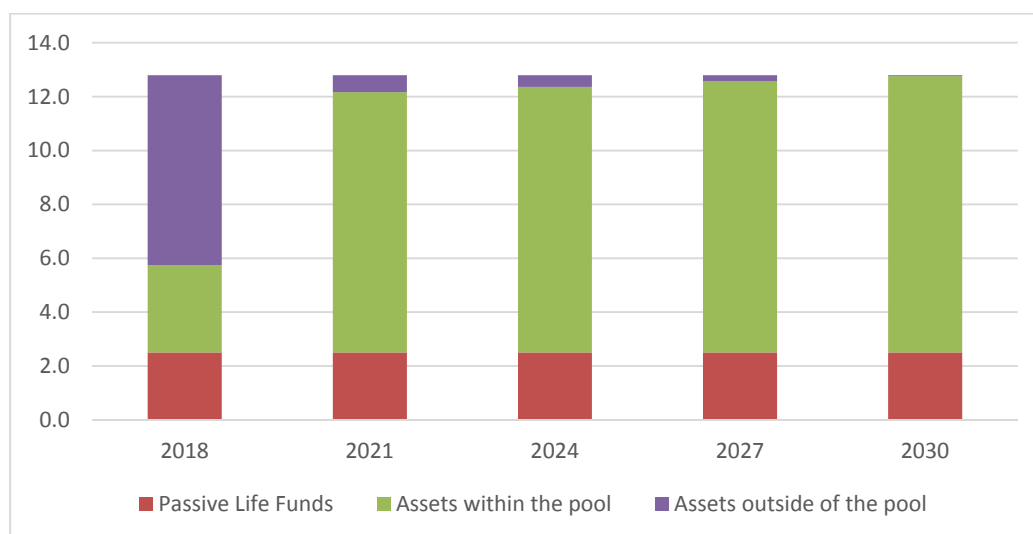
### **Annex 3 – section A5**

Please provide as an ANNEX an outline of how you will approach transition over the years and where possible by asset class (any values given should be as at 31.3.2015.)

The intention is that the implementation of asset pooling will be addressed by the Pool on a phased basis, considering the detailed approach to each of the major asset classes in turn.

However, we anticipate that over 95% of assets will form part of the Pool by April 2021.

We have shown below the estimated movement of assets in aggregate between now and April 2030. This timetable is indicative and will be subject to confirmation following discussions with the appointed operator.



The assumptions underlying the chart above are set out in the table below.

<b>Assets</b>	<b>Rate of transition into Pool</b>
Passive assets	100% by April 2018
Active equities	50% by April 2018 Remainder by April 2021
Active Fixed Income	100% within period April 2018-21
Property	70% by April 2021 (units in liquid funds) Remainder to transfer gradually to 2030 (maturing of fixed life funds)
Liquid alternatives	100% within period 2018-21
Illiquid Alternatives	Gradual transfer over period 2018-2030 as fixed life funds mature

## **Annex 4 – section C3**

Please provide a summary of the estimated savings (per annum) to be achieved by each of the authorities in the pool at the end of each 3 year period starting from 01.04.2018.

By necessity, any forecasts of future costs savings at this point are extremely tentative. Although we are confident that the aggregation of assets will lead to lower management costs, it is difficult to predict the levels of fees which can be obtained until investment managers are obliged to conduct real commercial negotiations about their future business levels.

We have considered possible savings across asset classes as a range of potential outcomes reflecting the uncertainty surrounding the final outcomes. These are shown in the table later in this section. For the purposes of the table below and our projections in Annex 5, we have used the mid-point of those projected ranges.

Actual costs payable will be driven by changes on asset mix, the change in value of assets and the application of performance related fees. The estimated savings below are based on an unchanged asset mix and March 2015 asset values.

Savings will not be achieved on a pro rata basis across participating funds but will depend on the degree of change from their current arrangements and investment costs to the new pooled arrangements.

Total value of savings (per annum) estimated to be achieved as at:

31.3.2021: £8.4m

31.3.2024: £9.8m

31.3.2027: £11.3m

31.3.2030: £12.5m

31.3.2033: £12.5m

The cost savings have been estimated by considering each of the asset classes in which the participating funds currently invest and using the data provided by CEM Benchmarking to find the current level of costs being incurred by investments in these areas. We have then considered the level of savings which might be achievable within each asset class, whilst bearing in mind that we have not yet decided on all of the specific sub-funds which will be put in place.



Asset class	Current cost (bps)	Potential savings (bps)	Total pool assets	Annual estimated potential savings £m	Rationale
Passive (24% of Pool assets)	■	■	£3.1bn	1.8-2.0	New reduced fee scale already agreed with single manager and will apply with effect from April 2016.
Active equity (44% of Pool assets)	43.3	5-10	£5.6bn	2.8-5.6	Assets invested in UK and global equity mandates totalling £1.3bn and £2.8bn respectively will be aggregated into 'core' and 'high alpha' mandates. Savings based on reduced number of mandates and increased manager mandate sizes.
Active fixed income (17% of Pool assets)	22.2	2-4	£2.2bn	0.5-0.8	Current mandates in this area vary widely in scope. A small number of new sub-funds are likely to be established to meet the objectives of each fund. Pool savings based on reduced number of mandates but will depend on the final sub-funds provided.
Property (8% of Pool assets)	108.1	20-30	£0.8bn	1.7-2.5	UK property fund holdings could be pooled initially under a single mandate. The long term potential for establishing a direct property mandate is being explored. Savings assume streamlining of any fund-of-fund arrangements in the short term in favour of a managed account and a transition over the long term to holding more direct assets.
Private Equity (3% of Pool assets)	274.6	50-100	£0.4bn	2.1-4.2	Current investments in closed end funds will be allowed to mature outside of the pool. Savings assume a gradual move from a fund-of-funds model to either a single adviser or alternative cross-pool solution
Infrastructure (<1% of Pool assets)	261.8	50-100	£0.1bn	0.3-0.6	Assumes a gradual move from a fund-of-funds model to a single advisor model or use of a national infrastructure investment
Other asset classes			£0.5bn	0-0.1	Individual allocations are very small. Some modest savings may be possible on an ad-hoc basis.

Source of savings estimates: Analysis from Project POOL, Hymans Robertson research universe.

The estimated savings above provide a range of £9.1m to £15.8m. The mid-point of this range implies a total annual savings rate of circa £12.5m p.a. by 2030.

## **Annex 5 – section C4**

Please provide a summary of estimated implementation costs, including but not limited to legal, project management, financial advice, structure set-up and transition costs. Please represent these costs in a table, showing when these costs will be incurred, with each type of cost shown separately. Please estimate (using information in Criteria C Section 3) the year in which the pool will break even (i.e. the benefits will exceed additional costs of pooling).

By appointing a third party operator, the Pool will avoid costs incurred in setting up a regulated body from outset. We anticipate that the costs incurred will be through the allocation of internal officer resource and advisory fees from external parties for services such as legal services, project management, taxation and legal advice. Estimates of the possible level of transition costs are shown later in this section.

In the table below, we have given an indication of potential costs associated with setting up the Wales Pool arrangements.

<b>Costs</b>	<b>Total - three year period to April 2018 £000s</b>	<b>Total - three year period to April 2021 £000s</b>
Internal officer resource	150-250	50-150
Project management	50-150	-
Legal advice	100-200	0-100
Other advisory fees (taxation, procurement, transition, investment etc.)	200-300	0-100
	500 - 900	50-350

### Transition costs

Transition costs will be a very significant component of the costs of implementing the pooling arrangements. At this stage, the level of trading that will be required is difficult to estimate. We are still to confirm the exact number of new strategies which will be available within the pooling arrangements and therefore the degree of mandate consolidation which will be required.

For illustration, in the tables below, we have shown the range of costs which might be incurred across the four liquid asset classes in two potential scenarios - where respectively 30% and 70% of assets within terminated mandates require to be traded.

Transition costs associated with the consolidation of the passively managed assets will be covered by the investment manager.

Asset class	Active UK Equity	Active Global Equity	Div. Growth Funds	Active Bonds
Value of assets	£1.3bn	£2.8bn	£0.2bn	£2.1bn
Current number of strategies	8	14	3	10
Potential number of new strategies	4	6	2	5
Value of assets requiring transition	£650m	£1.6bn	£60m	£1bn
Explicit trading costs (exc. market impact and opportunity cost) (in basis points)	33	17.6	20	29.6
Costs if 30% of assets within portfolios require to be traded (60% turnover)	£1.3m	£1.7m	£0.1m	£1.9m
Costs if 70% of assets within portfolios require to be traded (140% turnover)	£3.0m	£3.9m	£0.2m	£4.4m

In the above illustrations, the estimated transition costs range from £5.0m to £11.5m. We have used these figures in our projections below.

In terms of the timing of these transaction costs, we assume that these will be incurred at the time that assets are transferred into the Pool. In practice, there may be some timing differences.

Transaction costs within property can be significant though we are assuming that there will be minimal transition activity in the short / medium term. A long term ambition for the property assets has still to be agreed. A move to a fully direct mandate will incur higher initial costs but generate higher long term savings.

Illiquid assets will not incur transaction costs as they will be allowed to mature without forced realisation of investments.

#### Break-even analysis

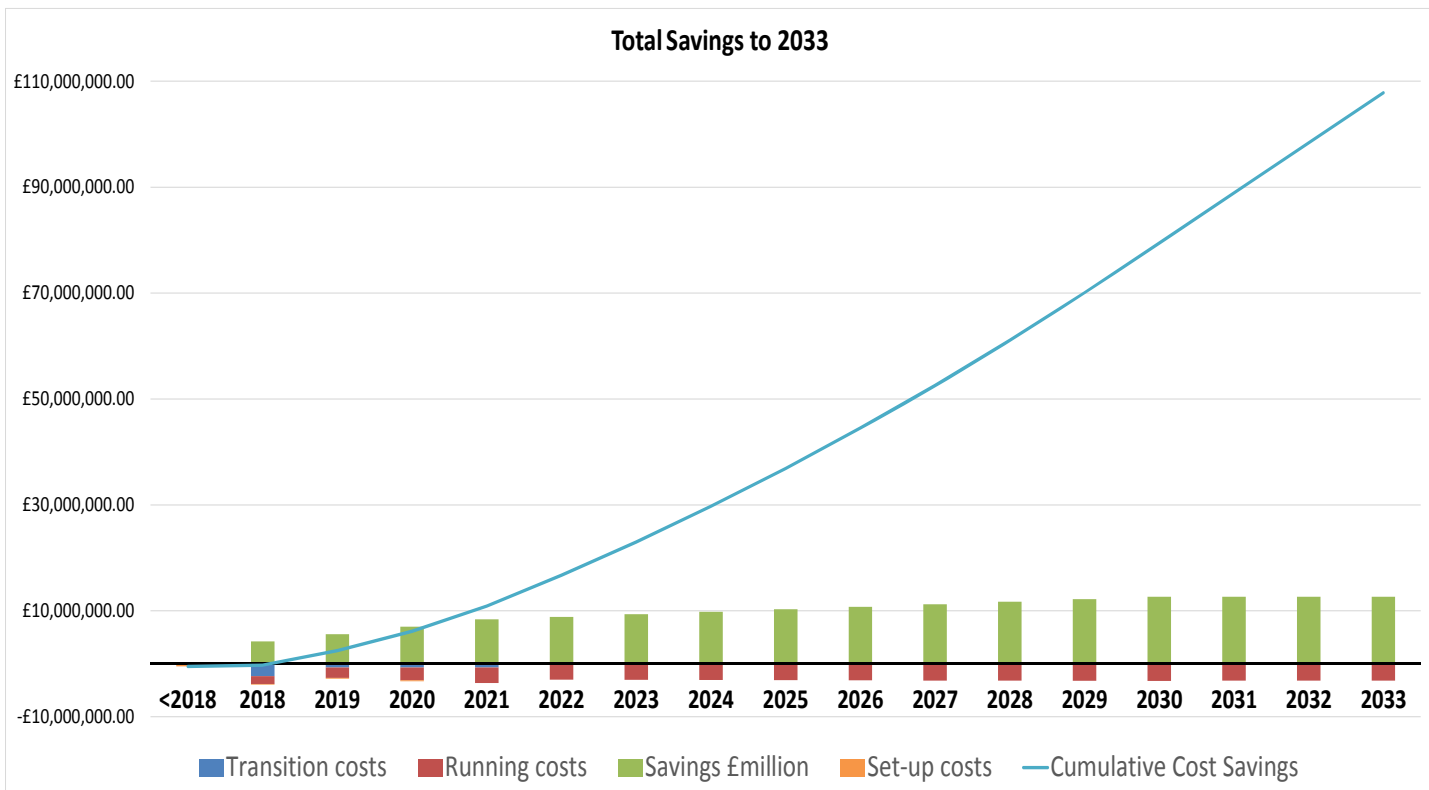
For the purposes of forecasting a break-even point, we have used the following assumptions:-

- The central estimate of cost savings as set out in Annex 4.
- The timing of these cost savings is equivalent to the date of assets entering the Pool - with the exception of property where savings are expected to come through gradually over the 12 year period.
- Running costs of the Pool equivalent to [REDACTED] of the assets in the Pool at any point, reflecting operator fees and internal resource costs.
- Set-up costs of £1m divided between the periods to April 2018 and to April 2021.
- The two estimates of transition costs above.

With total transition costs of £5m

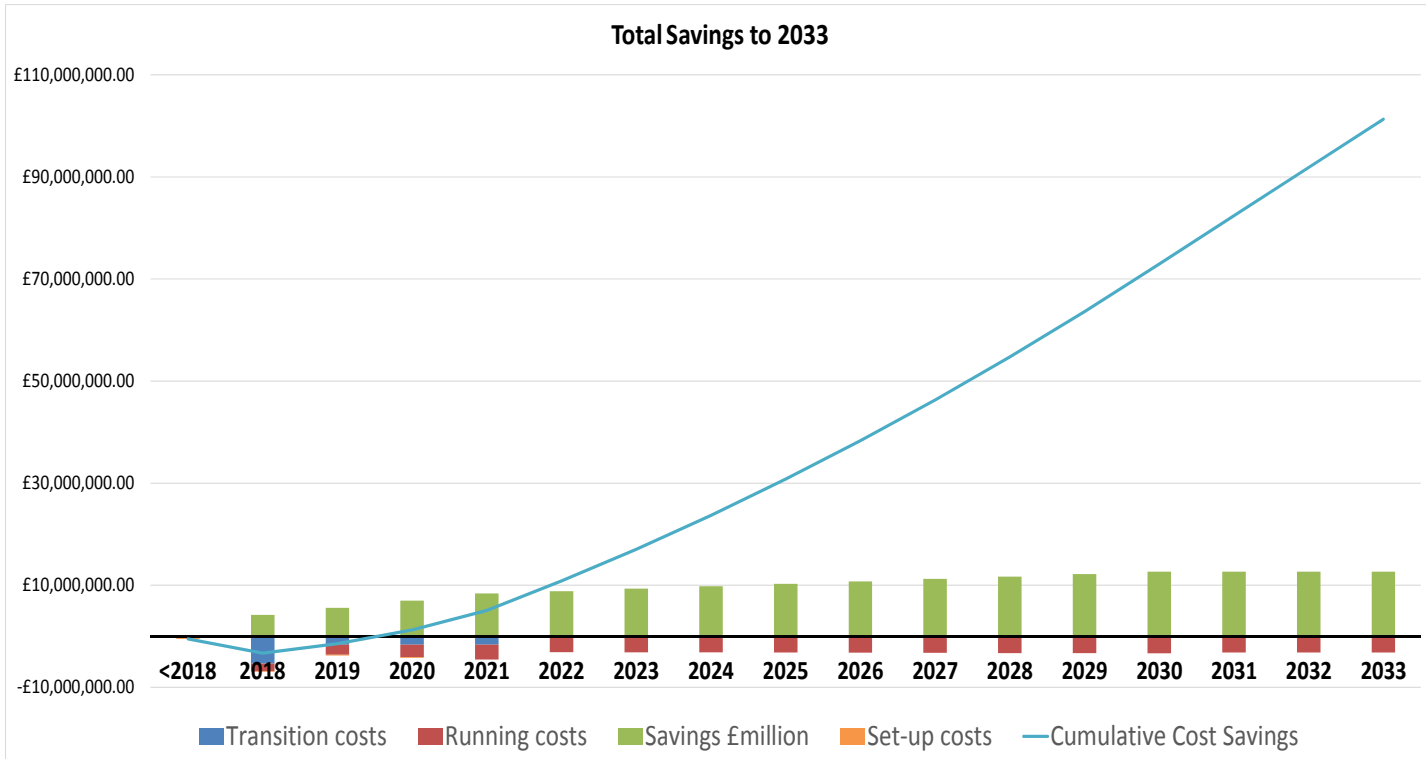
Given the passive fee savings which are already being earned by the Pool with effect from April 2016 and the fact that the Pool will not be incurring the significant costs of setting up its own operator, the benefits of the pooling arrangement flow through quickly – with a break-even point in 2018/19 as shown in the chart below.

By 2033, net annual savings of £9.5m p.a. are being earned with cumulative savings of circa £110m by that date.



With total transition costs of £11.5m

With higher transition costs of £11.5m assumed, the net savings still reach a level of £9.5m p.a. but the break-even date is pushed back to 2019/2020.



Active and passive management

The model above allows the participating funds to consider the impact of changes in assumptions and alternative approaches.

We have been asked to make savings forecasts on the basis of an unchanged asset mix. Each fund will also decide on the extent of its own use of active and passive management.

There are no current plans for individual funds to change their respective allocations to active and passive management. As an indication of the sensitivity of the change in total costs to any such changes, we have shown below the impact of a movement of 5% and 10% of Pool assets respectively moving out of active equity mandates and into passively managed mandates.

- 5% of assets (£638m) – additional cost reduction of ..... before transition costs
- 10% of assets (£1.28bn – additional cost reduction of ..... before transition costs

However, individual funds will also take into account the expected outcomes in terms of returns net of fees.

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

Dated \_\_\_\_\_ 2017

# DRAFT

## Inter-Authority Agreement between

Carmarthenshire County Council	(1)
City & County of Swansea Council	(2)
City of Cardiff Council	(3)
Flintshire County Council	(4)
Gwynedd Council	(5)
Powys County Council	(6)
Rhondda Cynon Taff County Borough Council	(7)
Torfaen County Borough Council	(8)

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**THIS DEED** is made on

2017

**BY**

- (1) **CARMARTHENSHIRE COUNTY COUNCIL** of [ADDRESS] ("**Carmarthenshire Council**")
- (2) **CITY & COUNTY OF SWANSEA COUNCIL** of [ADDRESS] ("**Swansea Council**").
- (3) **CITY OF CARDIFF COUNCIL** of [ADDRESS] ("**Cardiff Council**").
- (4) **FLINTSHIRE COUNTY COUNCIL** of [ADDRESS] ("**Flintshire Council**").
- (5) **GWYNEDD COUNCIL** of [ADDRESS] ("**Gwynedd Council**")
- (6) **POWYS COUNTY COUNCIL** of [ADDRESS] ("**Powys Council**")
- (7) **RHONDDA CYNON TAFF COUNTY BOROUGH COUNCIL** of [ADDRESS] ("**Rhondda Council**")
- (8) **TORFAEN COUNTY BOROUGH COUNCIL** of [ADDRESS] ("**Torfaen Council**")

(together referred to as the "**Constituent Authorities**" and individually as a "**Constituent Authority**")

## **BACKGROUND**

- (A) The Constituent Authorities are committed to the development of a formal joint committee pursuant to section 101 and section 102 of the Local Government Act 1972 to ensure the effective operation of the arrangements for asset pooling within the LGPS under a framework of strong internal governance to achieve economies of scale and improved investment infrastructure.
- (B) The Constituent Authorities are all councils responsible for the administration of local government within their areas as set out in the Local Government Act 1972. The Department for Communities and Local Government in its letter dated 23 November 2016 has confirmed that the Constituent Authorities have been granted permission for each Constituent Authority to continue to collaborate with every other Constituent Authority to form a pool of assets in respect of each of their respective funds under the LGPS.
- (C) The Constituent Authorities shall carry on the Pooling Collaboration (as defined below) under the terms of this Agreement to oversee its governance.

## AGREED TERMS

### 1 INTERPRETATION

1.1 The following definitions and rules of interpretation apply in this Agreement.

**Business Day** a day other than a Saturday, a Sunday or a public holiday in England when banks in London are open for business.

**Business Plan** has the meaning given by clause 6.

**CIPFA Guidance** means the guidance published in October 2016 by the Chartered Institute of Public Finance and Accountancy entitled *investment pooling governance principles for LGPS Administering Authorities*.

**Commencement Date** the date upon which all Constituent Authorities have signed this Agreement.

**Constituent Authorities** the parties to this Agreement, and all other administering authorities within the LGPS who are or become parties to this Agreement at any time.

**Financial Year** means in the case of the first Financial Year, the period from the Commencement Date to (and including) the following 31 March. For subsequent Financial Years the period between 1 April and 31 March (inclusive) and for the last Financial Year any lesser period necessary.

**Host Council** means the Constituent Authority appointed in accordance with clause 7 and whose duties are described within that clause.

**Investment Pool** means the pooled investments (whether held in single funds, multiple sub-funds or held in alternative structures outside of a collective investment vehicle) derived from assets held by the Constituent Authorities in their capacity as administering authorities within the LGPS for the purpose of the Pooling Collaboration described by this Agreement.

**Investment Regulations** means the Local Government Pension Scheme (Management and Investment of Funds) Regulations 2016 (SI 2016/946).

**Joint Governance Committee** means the joint committee formed by this Agreement.

**LGPS** the Local Government Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under section 7 and 12 of the Superannuation Act 1972 and the provisions of the PSPA 2013.

**Member** in this Agreement means a member of the Joint Governance Committee appointed in accordance with clause 3.3 or their deputy appointed in accordance with clause 3.4.

**Monitoring Officer** means the person designated by each Constituent Authority for the purposes of section 5 of the Local Government and Housing Act 1989.

**Operator** means the operator of the pooled investment vehicle being an Authorised Contractual Scheme (as defined by the Operator Contract) pursuant to the Operator Contract.

**Operator Contract** means the agreement between the Constituent Authorities and the Operator.

**OWG** means the Officers Working Group described in clause 4.

**Pension Board** means a local pension board or a joint local pension board within the meaning given to each phrase by regulation 106 of the Local Government Pension Scheme Regulations 2013 (SI 2013/2356) and section 5 of the PSPA 2013.

**Pooling Collaboration** means the arrangements for asset pooling under the Investment Pool within a framework of strong internal governance to achieve economies of scale and improved investment in infrastructure carried on by the Constituent Authorities as described by this Agreement.

**Pooling Contribution** means as defined in clause 10.1.

**PSPA 2013** means the Public Service Pensions Act 2013.

**S151 officer** means the person appointed by each Constituent Authority for the purposes of section 151 of the Local Government Act 1972.

**Secretary of State** means the Department for Communities and Local Government or such replacement department which has responsibility for the LGPS.

**Submission** means the document created by the Constituent Authorities entitled "*Submission by the Wales Pool to the Department for Communities and Local Government (DCLG) In response to the publication in November 2015: LGPS: Investment Reform Criteria and Guidance*" dated 15 July 2016.

**Terms of Reference** means the governing framework document concerning the functions and operations of the Joint Governance Committee.

**TUPE** means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality).
- 1.4 The schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the schedules.
- 1.5 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time and includes any subordinate legislation made from time to time under it.
- 1.9 A reference to **writing** or **written** includes faxes and email.
- 1.10 Documents in **agreed form** are documents in the form agreed by the parties and initialled by them or on their behalf for identification.
- 1.11 References to clauses and schedules are to the clauses and schedules of this Agreement; references to paragraphs are to paragraphs of the relevant schedule.
- 1.12 Any words following the terms **include, including, in particular** or **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding them.
- 1.13 Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.14 Any reference to the title of an officer or any of the Constituent Authorities shall include any person holding such office from time to time by the same or any title substituted thereafter or such other officer of the relevant Constituent Authority as that Constituent Authority may from time to time appoint to carry out the duties of the officer referred to.

## **2 COMMENCEMENT AND CESSATION OF THE MEMORANDUM OF UNDERSTANDING**

2.1 The Agreement shall commence on the Commencement Date. For the avoidance of doubt, this Agreement is only effective when each Constituent Authority has executed it and each Constituent Authority shall be of equal status with equal rights except where expressly stated otherwise and shall continue on the terms of this Agreement until the earlier of the following:

- (a) all Constituent Authorities agree in writing to its termination; or
- (b) there is only one remaining Constituent Authority who has not exited this Agreement in accordance with clauses 21 or 22.

2.2 The Constituent Authorities confirm that the memorandum of understanding between them relating to *The procurement of services by the administering authorities of the local government pension scheme in Wales* shall cease to have effect from the Commencement Date.

## **3 FORMATION OF THE JOINT GOVERNANCE COMMITTEE**

3.1 The Constituent Authorities by this Agreement hereby form the Joint Governance Committee pursuant to section 101(5) and 102(1) of the Local Government Act 1972 for the purposes of overseeing and reporting on the performance of the Investment Pool. The Joint Governance Committee shall not be responsible for formulating or revising the investment strategy described by regulation 7 of the Investment Regulations in respect of each or any of the Constituent Authorities.

3.2 Meetings of the Joint Governance Committee are subject to the provisions of the Local Government Act 1972 including the provisions on access to information and meetings held in public.

3.3 The membership of the Joint Governance Committee shall be one elected member nominated by each of the Constituent Authorities provided that the elected member is a member of that Constituent Authority's pensions committee (or equivalent body) for the purposes of the Local Government Pension Scheme Regulations 2013.

3.4 For the purposes of clause 3.3, each Constituent Authority may appoint a named deputy who must be an elected member of the same Constituent Authority's pension committee (or equivalent body) for the purposes of the Local Government Pension Scheme Regulations 2013 as the Member for whom they are acting as deputy .

3.5 The Joint Governance Committee shall undertake its role and act in accordance with the Terms of Reference set out in Schedule 4 and undertake the matters set out in Schedule

3 and shall seek and have regard to the advice of the OWG and any professional advisors appointed in carrying out its functions under this Agreement.

- 3.6 Every meeting shall be governed by the procedure and requirements set out in Schedule 6.
- 3.7 A programme of training will be provided to Members and their deputies having regard to CIPFA Guidance and the training provided to Members in their roles on their respective Constituent Authority pension committees. In order to be eligible to participate in the Joint Governance Committee Members must attend and complete this training within [6 months] of being appointed to the Joint Governance Committee and must thereafter attend update and refresher sessions provided at intervals deemed appropriate by the Joint Governance Committee. If Members do not attend mandatory training sessions, they may be required to undertake such training at the cost of the Constituent Authority the Member represents. Any failure to undertake necessary training shall be a matter for consideration of the relevant Member's Constituent Authority pension committee who shall determine if the Member has complied with that Constituent Authority's code of conduct and whether they should remain appointed to the Joint Governance Committee.

#### **4 OFFICERS WORKING GROUP**

- 4.1 The Joint Governance Committee shall appoint the OWG on the following terms:
- (a) **Purpose:** the OWG shall support and advise the Joint Governance Committee on such matters as the Joint Governance Committee may reasonably request or any matters relating to the Pooling Collaboration which are raised by any Constituent Authority's Section 151 Officer or Monitoring Officer;
  - (b) **Membership:** each Constituent Authority shall nominate up to [two] officers employed by that Constituent Authority as its representatives on the OWG;
  - (c) **Remit:** the remit of the OWG shall be as set out in Schedule 8;
- 4.2 The OWG shall undertake its role and have regard to the Joint Governance Committee terms of reference set out in Schedule 4
- 4.3 Each Constituent Authority's Section 151 Officer and Monitoring Officer shall, where they are not members of the OWG, have the right to attend meetings of the OWG and receive copies of any papers.

#### **5 DECISION MAKING**

- 5.1 The Constituent Authorities have identified the following two categories of decisions together with the means by which they will be taken:

- (a) **"Joint Governance Committee Matter"**: a matter which is to be decided upon at a quorate meeting of the Joint Governance Committee by those present and entitled to vote and any such decision will be binding on all of the Constituent Authorities and such matters are identified in Schedule 3;
- (b) **"Matters Reserved to the Constituent Authorities"**: a matter which will have to be referred to each Constituent Authority for decision (having regard to any recommendation to be made thereon by the Joint Governance Committee) until the matter has been determined by all of the Constituent Authorities. If the Constituent Authorities fail to reach the same decision in respect of such matter then the matter shall be referred under clause 36 (Dispute Resolution) as a dispute for resolution, and such matters are identified in Schedule 2.

## 6 BUSINESS PLAN

6.1 The Joint Governance Committee shall, with the support of the OWG, produce a draft Business Plan to cover the medium term (being up to five years) having regard to the electoral cycle and the operational requirements of the Constituent Authorities for consultation with the Constituent Authorities. The draft Business Plan shall have regard to:

- (a) the strategic objectives of the Pooling Collaboration over the relevant plan period;
- (b) the financial budget for the relevant Business Plan period and/or any annual budget set;
- (c) the delivery plan produced by the Operator in connection with the Investment Pool including any costs or fees proposed by the Operator or any other supplier;
- (d) the requirements on each of the Constituent Authorities in their individual capacity as an administering authority pursuant to the Investment Regulations;
- (e) the requirements of each Constituent Authority's investment strategy;
- (f) the advice of appropriately qualified and authorised and regulated professional advisors;
- (g) the guidance issued from time to time by the Secretary of State as referred to in regulation 7(1) of the Investment Regulations;
- (h) such other matters that the Constituent Authorities may consider necessary to the furtherance of the Pooling Collaboration including (subject to clause 10.2), the proposal and development of ad hoc projects.



- 6.2 Consultation on the draft Business Plan shall be carried out by the OWG (with the Pension Boards, the Operator (where appropriate) and the Constituent Authorities and such other parties as it may deem necessary) who shall report on the outcome of that consultation. The Joint Governance Committee shall hold a meeting to discuss and, having had due regard to the consultation response report and the advice of the appropriately qualified and regulated professional advisors, agree a final Business Plan which may include such revisions to the draft as the Joint Governance Committee considers appropriate.
- 6.3 Following approval by the Joint Governance Committee the Business Plan shall be sent to all Constituent Authorities for their written approval.
- 6.4 The Business Plan will be reviewed by the Joint Governance Committee and the Constituent Authorities annually. Where any revisions are agreed by the Joint Governance Committee the revised Business Plan shall be sent to all Constituent Authorities for their written approval.
- 6.5 For the avoidance of doubt, final approval of the Business Plan shall be treated as a Matter Reserved to the Constituent Authorities (as defined in clause 5).

## **7 HOST COUNCIL**

- 7.1 The Constituent Authorities have agreed, with effect from the Commencement Date, that *[insert name of Host Council]* will be the Host Council for the Pooling Collaboration which shall be carried out for and on behalf of itself and the Constituent Authorities and *[insert name of Host Council]* agrees to act in that capacity subject to and in accordance with and to the extent provided for by the terms of this Agreement. For the avoidance of doubt the role of Host Council includes:-
- (a) to act as the employing authority for any staff engaged in the discharge of the Pooling Collaboration's functions (appointing, employing or accepting the secondment of staff) in accordance with this Agreement;
  - (b) being the point of contact for the purposes of managing the Pooling Collaboration;
  - (c) providing such administrative resources and facilities that may be necessary for the purpose of discharging the Pooling Collaboration and hold all Pooling Contributions;
  - (d) providing such governance and administrative services that may be necessary for the purpose of supporting the Pooling Collaboration including arranging and clerking of meetings;
  - (e) providing training for Members to support their role on the Joint Governance Committee in line with the training plan and in accordance with clause 3.7.

- (f) provide appropriately qualified and experienced officers who will act as the primary legal and financial advisers to the Pooling Collaboration; **[Note: we would envisage that these functions are retained for management by the Joint Governance Committee, but please provide any views on this]**
  - (g) for the purposes of the Pooling Collaboration require their Section 151 Officer and Monitoring Officer (or their substitutes) to undertake oversight and review of the operation of the Pooling Collaboration and decisions of the Joint Governance Committee on behalf of all of the Constituent Authorities; **[For your consideration]**
  - (h) power to enter into contracts for supplies and services as required for the purposes of the Pooling Collaboration;
  - (i) liaise with the Operator on behalf of the Constituent Authorities in the manner and to the extent set out in the Contract Management, Co-ordination and Liaison with the Operator policy and procedure to be approved in accordance with Schedule 5 and to provide any contract management and co-ordination services for the purposes of the Pooling Collaboration set out in that policy and procedure.
- 7.2 [For the avoidance of doubt the duties and responsibilities of the Host Council pursuant to this Agreement shall only bind the Host Council to the extent that they have been resourced by the Constituent Authorities through this Agreement.]
- 7.3 Save and except where otherwise required by law all staff employed by the Host Council pursuant to this Agreement shall be employed on the Host Council's relevant terms and conditions of employment and related staff policies including salary structures.
- 7.4 A replacement Host Council may be appointed by a majority decision of the Constituent Authorities provided that the [current Host Council and] the replacement Host Council agrees.
- 7.5 If the Host Council withdraws from the Pooling Collaboration pursuant to clause 21 (Voluntary Exit) or clause 22 (Compulsory Exit) then a replacement Host Council will be appointed by a majority decision of the Constituent Authorities provided that the replacement Host Council agrees. The withdrawing Host Council will not have the right to vote in regard to any such appointment.
- 7.6 Where TUPE applies in connection with the appointment of any replacement Host Council, then the Constituent Authorities shall comply with the provisions of Schedule 7.
- 7.7 For the duration of this Agreement, the Host Council shall act diligently and in good faith in all its dealings with the other Constituent Authorities.

7.8 For the duration of this Agreement, the Constituent Authorities shall act diligently and in good faith in all their dealings with the Host Council and shall use their reasonable endeavours to assist the Host Council to support the Pooling Collaboration.

## **8 OPERATOR CONTRACT**

8.1 Each Constituent Authority shall promptly execute the Operator Contract in counterpart and return the executed counterpart to the Host Council as soon as reasonably practicable following execution. The Host Council shall as soon as reasonably practicable confirm that the Operator Contract has been duly executed by all Constituent Authorities and is in force and effect.

8.2 The Constituent Authorities authorise the Host Council to carry out its duties pursuant to clause 7.1(i).

8.3 For the avoidance of doubt, any allocation of liability arising under the Operator Contract shall be apportioned between the Constituent Authorities pursuant to the terms of the Operator Contract.

## **9 LIABILITIES AND INDEMNITIES FOR THE HOST COUNCIL**

9.1 Nothing in this Agreement will make the Host Council liable in respect of anything done or omitted to be done by a Constituent Authority up to the Commencement Date.

9.2 .The Host Council shall be indemnified from and against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential loss, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable costs and expenses) arising from the performance of its functions authorised pursuant to clause 7 save in the case of its wilful default or fraud.

## **10 COMMITMENT OF THE CONSTITUENT AUTHORITIES AND CONTRIBUTIONS**

10.1 Subject to clause 10.2, the Constituent Authorities agree to pay the contributions, which shall be calculated equally, of the estimated governance, procurement and administration costs included within the Business Plan (the "**Pooling Contributions**") except where the Business Plan provides otherwise.

10.2 The Constituent Authorities shall meet the costs of ad hoc projects to which they are a party equally between the Constituent Authorities who are parties only and any non-participating Constituent Authorities shall not be liable for any proportion of such costs.

10.3 The Constituent Authorities agree to pay the Pooling Contributions to the Host Council on such dates, and at such frequency, as is determined by the Business Plan. Any costs

incurred prior to the approval of the Business Plan shall be payable on being invoiced by the Host Council.

- 10.4 All Pooling Contributions shall be made by way of payment to the bank account notified to the Constituent Authorities by the Host Council for the purposes of the Pooling Collaboration. The Host Council shall maintain a separate account or accounts as appropriate for all monies received or expended in connection with the Pooling Collaboration in a manner which complies with their accounting arrangements.
- 10.5 Following the termination of this Agreement, once the costs of the Host Council have been met, the sum standing to the credit of the account or accounts in which Pooling Collaboration funds are held shall be returned to the then remaining Constituent Authorities in the proportions in which they were originally contributed.
- 10.6 Where any further contribution is required, or repayments are to be made, the Constituent Authorities shall decide the following:
- (a) the total amount;
  - (b) the apportionment of such contribution or repayment between the Constituent Authorities; and
  - (c) the form of such contribution or repayment.

In the absence of any agreement to the contrary, such contributions or repayments shall be by or to all of the Constituent Authorities equally.

- 10.7 For the avoidance of doubt, any charges incurred in respect of investment management of the Investment Pool shall be attributed to each Constituent Authority by reference to the assets under management for that Constituent Authority and the investment management charges applicable to each sub-fund (or assets held in any alternative investment structure), are not determined by this Agreement. The liability of each Constituent Authority to meet the fees of the Operator shall be determined by the Operator Contract and not this Agreement.

## **11 ACCOUNTS**

- 11.1 The Host Council shall keep proper books of account (which expression shall include any computerised accounting system for the time being used by the Pooling Collaboration) and shall be responsible for ensuring that full and proper entries of all receipts and payments are promptly recorded in them. The books of account shall be kept at the premises of the Host Council and be made available for inspection by all of the Constituent Authorities (who may also take copies). The Host Council shall make available on reasonable request such information as is required by any Constituent Authority to prepare their own accounts or respond to any internal or external audit.

- 11.2 The Host Council shall ensure that the contributions and payments made by each Constituent Authority shall be held in an account in the name of the Host Council which does not breach regulation 6 of the Investment Regulations.
- 11.3 The Host Council shall be responsible for ensuring that the accounts relating to the Pooling Collaboration are audited where and when required by law or other competent authority and shall make copies of the audited accounts available to all of the Constituent Authorities.
- 11.4 The Host Council shall prepare annual accounts in relation to each Financial Year for the Pooling Collaboration in accordance with the Host Council's accounting policies (or such other accounting policy agreed by the Constituent Authorities) by no later than [31 May] in the following Financial Year.
- 11.5 The Joint Governance Committee may hold a reserve of funds for the purposes of meeting the costs of the Pooling Collaboration. Where the reserve exceeds [40%] of the budget for the forthcoming year then the amount by which the reserve exceeds that sum may be repaid to the Constituent Authorities and such repayment shall be in proportion to the total amount contributed by each.

## **12 INVESTMENT MANAGEMENT COSTS**

- 12.1 In accordance with clause 10.8, each Constituent Authority shall bear its own costs in respect of investment management they incur or expect to incur in the Pooling Collaboration which shall include all transition costs for the investment and disinvestment of assets.

## **13 INTELLECTUAL PROPERTY**

- 13.1 Any intellectual property developed by any Constituent Authority for the purposes of the Pooling Collaboration shall be retained by the Constituent Authorities and each Constituent Authority will grant all of the other Constituent Authorities a non-exclusive, perpetual, non-transferable and royalty free licence to use, modify amend and develop it for the purpose of the Pooling Collaboration whether or not the Constituent Authority granting the licence remains a party to this Agreement. All costs and expenses relating to such intellectual property shall be borne by the Constituent Authorities and the other Constituent Authorities shall indemnify the Constituent Authority or Constituent Authorities in whom such property is vested against all liabilities that may arise directly or indirectly in respect of the use of it.

## **14 REPORTS**

- 14.1 The Joint Governance Committee shall oversee the Pooling Collaboration and ensure that it is provided in accordance with the Business Plan.
- 14.2 To ensure that the Constituent Authorities are kept up-to-date with the performance of the Pooling Collaboration, the Joint Governance Committee shall report quarterly and annually to the Constituent Authorities with progress measured against the Business Plan and the objectives of the Investment Pool.

## **15 INSURANCE**

- 15.1 Where the operation of the Pooling Collaboration is not covered by any existing insurance of the Constituent Authorities, the Host Council shall effect and at all times keep in force (for the benefit of the Members of the Joint Governance Committee and the officers appointed to the OWG) such policies of insurance for such amounts as it shall decide. Such policies shall be maintained at the expense of the Constituent Authorities and shall be an administration cost of this Pooling Collaboration for the purposes of of clause 10.1.

## **16 DUTIES AND POWER**

Each Constituent Authority shall at all times:

- (a) use its reasonable skills and endeavours to promote and carry on the Pooling Collaboration for the benefit of the Constituent Authorities, and conduct itself in a proper and responsible manner;
- (b) devote such time and attention as the Constituent Authorities may decide in writing to be necessary and appropriate to the Pooling Collaboration;
- (c) comply with all legislation, regulations, professional standards and other provisions as may govern the conduct of the Pooling Collaboration, or be determined by the Constituent Authorities as standards to be voluntarily applied to the Pooling Collaboration;
- (d) show the utmost good faith to the other Constituent Authorities in all transactions relating to the Pooling Collaboration and give them a true account of, and full information about, all things affecting the Pooling Collaboration;
- (e) inform the Constituent Authorities without delay on becoming party to any legal proceedings in connection with the Pooling Collaboration;
- (f) punctually pay and discharge its present and future debts and financial obligations;

- (g) shall not do or fail to do anything which shall bring any of the other Constituent Authorities, or itself, into disrepute;
- (h) obtain all necessary consents sufficient to carry on their duties to the Pooling Collaboration.

16.2 No action which would otherwise be a breach of this clause shall constitute a breach where the Constituent Authority was required to carry out that action in compliance with a statutory duty or order of any court, tribunal or ombudsman.

## **17 DELEGATION**

17.1 Prior to the commencement of the Pooling Collaboration the Constituent Authorities shall put in place such authorisations as are required within their internal governance arrangements to:

- (a) delegate the making of the decisions set out in Schedule 3 (Joint Governance Committee Matters) to the Joint Governance Committee and shall authorise their Member and that Member's deputy to exercise the Constituent Authority's vote;
- (b) delegate any other matter which is required to comply with the obligations of this Pooling Collaboration, including delegations to its own officers and to the Host Council where required.

17.2 The Constituent Authorities shall review and where necessary amend their delegations throughout the duration of the Pooling Collaboration to ensure that they can comply with the provisions of this Agreement.

17.3 The Joint Governance Committee shall procure that for any purpose for which it may be given power to appoint agents to carry out its duties, the Joint Governance Committee shall act in good faith and with reasonable skill and care in the selection, use and monitoring of such agents.

## **18 OBLIGATIONS ON CONSTITUENT AUTHORITIES**

18.1 Without prejudice to the terms of this Agreement, the Constituent Authorities, on an individual basis, commit to the implementation of the Pooling Collaboration consistently with the Submission (subject to any variation agreed by the Constituent Authorities) and to use their reasonable endeavours to ensure the success of the Pooling Collaboration.

18.2 Nothing in this Agreement shall fetter the discretion of each Constituent Authority to formulate and revise an investment strategy appropriate for their fund within the LGPS pursuant to regulation 7 of the Investment Regulations.

## **19 INDEMNITY**

- 19.1 Subject to clause 8.3, any Constituent Authority who is in material breach of any of the provisions of this Agreement shall indemnify the other Constituent Authorities from and against all liabilities, costs, expenses, damages and losses, (including but not limited to any direct, indirect or consequential loss, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable costs and expenses) resulting from that breach, without prejudice to any other right or remedy of the other Constituent Authorities howsoever arising.

## **20 POLICIES AND PROCEDURES**

- 20.1 The Joint Governance Committee shall prepare, maintain and adhere to the policies and procedures which are listed in Schedule 5 and any further policies and procedures which the Joint Governance Committee decides are appropriate, in accordance with applicable law and regulation, competent authority, and CIPFA Guidance, and having had regard to applicable guidance specific to local government management of funds or accounting and auditing requirements. The Joint Governance Committee shall provide them to the Constituent Authorities and OWG and provide them to sub-delegates and other necessary parties with the aim of achieving uniformity and efficiency in operating practices.
- 20.2 Where any policy or procedure provided for under this Agreement requires the Constituent Authorities to address or copy any communication or similar to any contract management or co-ordination function the Joint Governance Committee will advise the Constituent Authorities of that requirement in writing. As of the date of receipt of an advisory under this clause the Constituent Authorities shall address or copy any communication as advised.

## **21 VOLUNTARY EXIT**

- 21.1 Any Constituent Authority (the "**VE Authority**") may exit from the Pooling Collaboration by giving not less than 18 (eighteen) months' written notice to the Host Council of its intention to exit the Pooling Collaboration and the date of expiration of that notice is the 31 March which next falls after or is coincident with the end of the 18 (eighteen) month notice period provided that the Constituent Authorities may agree with the VE Authority that a different notice period applies (the "**Exit Date**").
- 21.2 A VE Authority may exit the Pooling Collaboration and be released from its obligations under this Agreement (other than clause 23) provided that:
- (a) it has satisfied all of its obligations up to the Exit Date;



- (b) it has satisfied its share of the costs and expenses up to the Exit Date, as well as any necessary costs and expenses to facilitate the exit whether or not incurred after the Exit Date;
  - (c) subject to clause 21.5 below, it redeems all of its investments from the Investment Pool;
  - (d) its representatives on the Joint Governance Committee and the OWG resign on or before the Exit Date.
- 21.3 With effect from the [date of the notice given by the VE Authority pursuant to clause 21.1][Exit Date] the Member (and any nominated deputy for the purposes of clause 3.4) nominated by the VE Authority for the purposes of clause 3.3 shall cease to have any voting rights for the purposes of the Joint Governance Committee and the VE Authority shall cease to be a Constituent Authority.
- 21.4 For the avoidance of doubt, the VE Authority shall remain liable to make the Pooling Contributions which are due prior to the Exit Date.
- 21.5 The Constituent Authorities recognise that there may be circumstances where the VE Authority may not be able to redeem all of its assets from the Investment Pool due to the nature of a particular investment (for example where an investment is illiquid or redeeming the asset would be in breach of contract) (the "**Retained Asset(s)**") provided that the Constituent Authorities and the VE Authority shall work together in good faith to redeem the Retained Asset(s) as soon as reasonably practicable. In such circumstances the VE Authority shall continue to make Pooling Contributions after the Exit Date until all of the Retained Asset(s) are redeemed from the Investment Pool. The Pooling Contributions shall be determined by the Business Plan which shall have regard to the relative value of the Retained Assets when compared to the assets applicable to the Constituent Authorities in the Investment Pool.

## 22 **COMPULSORY EXIT**

- 22.1 The Constituent Authorities (other than the CE Authority) may compulsorily require any Constituent Authority (the "**CE Authority**") to leave the Pooling Collaboration, by the Host Council giving the CE Authority written notice if the CE Authority:
- (a) commits any serious breach or persistent breaches of this Agreement;
  - (b) fails to pay any money owing by it to the Host Council within [14 (fourteen)] days of a written request for payment from the Host Council;
  - (c) fails to account for, or pay over or refund any money received and belonging to the Constituent Authorities within [14 (fourteen)] days after being so required by notice from the Host Council;

- (d) wilfully neglects, refuses or omits to perform its duties, obligations and responsibilities under this Agreement; or
- (e) is guilty of conduct which, in the reasonable opinion of the other Constituent Authorities, is likely to have a serious adverse effect on the Pooling Collaboration;

provided that in each case the CE Authority is first given [25 Business Days] following receipt of the written notice to remedy the breach or issue described in paragraphs (a) to (e) and the CE Authority has failed to remedy such breach or issue or to take reasonable steps to do so.

22.2 The effective date of the CE Authority being required to leave the Pooling Collaboration is the 31 March which next falls after or is coincident with the period of 18 (eighteen) month after the notice given in clause 22.1 above provided that the other Constituent Authorities may notify the CE Authority that a different notice period applies (the "**Compulsory Exit Date**").

22.3 The CE Authority shall exit the Pooling Collaboration from the Compulsory Exit Date and must prior to the Compulsory Exit Date:

- (a) have satisfied all of its obligations up to the Compulsory Exit Date;
- (b) have satisfied its share of the costs and expenses up to the Compulsory Exit Date, as well as any necessary costs and expenses to facilitate the exit whether or not incurred after the Compulsory Exit Date.
- (c) subject to the same circumstances in clause 21.5, it redeems all of its investments from the Investment Pool;
- (d) its representatives on the Joint Governance Committee and the OWG resign [on or before the Compulsory Exit Date].

22.4 With effect from the date of the notice given by the Host Council to the CE Authority pursuant to clause 22.1 the Member (and any nominated deputy for the purposes of clause 3.4) nominated by the CE Authority for the purposes of clause 3.3 shall cease to have any voting rights for the purposes of the Joint Governance Committee and shall cease to be a Constituent Authority.

22.5 For the avoidance of doubt, the CE Authority shall remain liable to make the Pooling Contributions which are due prior to the Compulsory Exit Date and liable to the continuing liability provisions of clause 23.

22.6 The Constituent Authorities recognise that there may be circumstances where the CE Authority may not be able to redeem the Retained Asset(s) provided that the Constituent Authorities and the CE Authority shall work together in good faith to redeem the Retained

Asset(s) as soon as reasonably practicable. In such circumstances the CE Authority shall continue to make Pooling Contributions after the Compulsory Exit Date until all of the Retained Asset(s) are redeemed from the Investment Pool. The Pooling Contributions shall be determined by the Business Plan which shall have regard to the relative value of the Retained Asset(s) when compared to the assets applicable to the Constituent Authorities in the Investment Pool.

## **23 FURTHER PROVISIONS RELATING TO A VE AUTHORITY OR A CE AUTHORITY**

- 23.1 When any Constituent Authority ceases to be a Constituent Authority by virtue of being a VE Authority or a CE Authority, the continuing Constituent Authorities shall publish notice of the change in the Pooling Collaboration and shall give notice in writing of the change in the Pooling Collaboration to all third parties who have in the last 12 (twelve) months had any dealings with the Pooling Collaboration (as advised by the Host Council and whether as suppliers to the Host Council or as clients or customers of it).
- 23.2 The VE Authority or CE Authority (as applicable) irrevocably agree and undertake to execute and deliver within 5 working days of request all deeds and documents and to do all acts and things necessary to give effect to the terms of this Agreement and for vesting in the continuing Constituent Authorities the full benefit of the assets, rights and benefits to be transferred to the continuing Constituent Authorities under this Agreement.

### **Continuing liability**

- 23.3 Where any Constituent Authority exits from this Agreement in accordance with Clause 21 or 22 they shall remain liable to the extent they would have been were they still party to this Agreement for any acts, omissions, costs and expenses arising from acts taken or decisions made during the period in which that Constituent Authority was a party to this Agreement.
- 23.4 Any Constituent Authority who enters this Agreement after the Commencement Date shall have liability for any acts, omissions, costs and expenses arising from acts taken or decisions made from the date of their entry only.

## **24 NEW CONSTITUENT AUTHORITY**

- 24.1 The Constituent Authorities shall consider applications from other administering authorities of funds within the LGPS to join the Pooling Collaboration (a "**New Member Application**").
- 24.2 A New Member Application will be considered on the merits of its business case and the conditions which the Constituent Authorities consider appropriate from time to time.
- 24.3 A New Member Application will only be approved by the Constituent Authorities at their absolute discretion and, subject to regulation 8 of the Investment Regulations, there shall

be no obligation under the terms of this Agreement for a New Member Application to be accepted.

## **25 CONFIDENTIALITY**

25.1 For the purposes of this Agreement, **Confidential Information** means, any information which has been certified as exempt information in accordance with Section 100I of the Local Government Act 1972 and all confidential information (however recorded or preserved) disclosed by a Constituent Authority or its representatives or advisers to another Constituent Authority and his representatives or advisers (except where by law the information cannot be retained as confidential) concerning:

- (a) any information relating to the prospective business, technical processes, computer software or intellectual property rights of the Pooling Collaboration;
- (b) all documents, papers and property that may have been made or prepared by, or at the request of, any Constituent Authority and which are marked as being exempt information or confidential and which come into any Constituent Authority's possession or under its control in the course of the Pooling Collaboration; and
- (c) compilations of two or more items of such information and all information that has been, or may be, derived or obtained from any such information which, at any time, comes into any Constituent Authority's possession or under its control in the course of the Pooling Collaboration and which the Pooling Collaboration regards or could reasonably be expected to regard as confidential, whether or not such information is, in itself, confidential, marked as "confidential" or reduced to tangible form.

25.2 Save as provided otherwise in this agreement either expressly or by implication, each Constituent Authority undertakes that it shall not, at any time, disclose to any person any Confidential Information of the other Constituent Authorities and shall use its reasonable endeavours to keep all Confidential Information of the other Constituent Authorities confidential (whether it is marked as such or not) except as permitted by clause 25.3.

25.3 Each Constituent Authority may disclose the other Constituent Authority's Confidential Information:

- (a) to its representatives or advisers who need to know such information for the purposes of carrying out the Constituent Authority's obligations under or in connection with this Agreement. Each Constituent Authority shall ensure that its representatives or advisers to whom it discloses the other Constituent Authority's Confidential Information comply with this clause.

- (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority including an ombudsman.

## **26 PENSIONS**

- 26.1 The Constituent Authorities are scheduled employers in the LGPS. The employees employed by the Host Council in the Pooling Collaboration will be active members of the LGPS from and including the Commencement Date or later date of commencement of employment subject to the Local Government Pension Scheme Regulations 2013.

## **27 FREEDOM OF INFORMATION**

- 27.1 Each Constituent Authority acknowledges that the other Constituent Authorities and the Joint Governance Committee are subject to the requirements of the Freedom of Information Act 2000 ("**FoIA**") and each Constituent Authority shall where reasonable assist and co-operate with the other Constituent Authorities [(at their own expense)] to enable the other Constituent Authorities to comply with these information disclosure obligations.

- 27.2 Where a Constituent Authority receives a request for information under the FoIA in relation to information which it is holding on behalf of any of the other Constituent Authorities in relation to the Pooling Collaboration, it shall:

- (a) transfer the request for information to the other Constituent Authorities as soon as practicable after receipt and in any event within 2 (two) Business Days of receiving a request for information;
- (b) provide the other Constituent Authorities with a copy of all information in its possession or power in the form that the Constituent Authorities reasonably require within 10 (ten) Business Days (or such longer period as the Constituent Authorities may specify) of the Constituent Authority requesting that information; and
- (c) provide all necessary assistance as reasonably requested by the other Constituent Authorities to enable the Constituent Authority to respond to a request for information within the time for compliance set out in the FoIA.

- 27.3 Where a Constituent Authority receives a request for information under the FoIA which relates to this Agreement or the Pooling Collaboration it shall;

- (a) advise the person making the request that the information is held by another public authority being the Joint Governance Committee and that the request has been passed to that public authority to respond;

- (b) transfer the request for information to the Host Council on behalf of the Joint Governance Committee as soon as practicable after receipt and in any event within 2 (two) Business Days of receiving a request for information;
  - (c) provide the Host Council with a copy of all information in its possession or power in the form that the Host Council reasonably require within 10 (ten) Business Days (or such longer period as the Constituent Authorities may specify) of the Constituent Authority requesting that information; and
  - (d) provide all necessary assistance as reasonably requested by the Host Council to enable the Host Council to respond to a request for information on behalf of the Joint Governance Committee within the time for compliance set out in the FoIA.
- 27.4 The Constituent Authorities or the Host Council shall be responsible for determining in their absolute discretion whether any information requested under the FoIA:
- (a) is exempt from disclosure under the FoIA;
  - (b) is to be disclosed in response to a request for information.
- 27.5 Each Constituent Authority acknowledges that the other Constituent Authorities and the Joint Governance Committee may be obliged under the FoIA to disclose information:
- (a) without consulting with the other Constituent Authorities where it has not been practicable to achieve such consultation; or
  - (b) following consultation with the other Constituent Authorities and having taken their views into account.

## **28 DATA PROTECTION**

- 28.1 The Constituent Authorities shall comply with the Data Protection Act 1998.

## **29 DISSOLUTION**

- 29.1 No Constituent Authority shall be capable of dissolving the Pooling Collaboration unilaterally by means of a notice.
- 29.2 The Pooling Collaboration and this Agreement shall be terminated upon the unanimous agreement of all of the Constituent Authorities.
- 29.3 Each Constituent Authority shall act in good faith in the wind up of the Pooling Collaboration following the unanimous decision to dissolve as soon as reasonably practicable thereafter, and all costs and expenses shall be borne equally by the Constituent Authorities.

### **30 ENTIRE AGREEMENT**

- 30.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 30.2 Each Constituent Authority acknowledges that, in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.
- 30.3 Each Constituent Authority agrees that it shall have no claim for innocent or negligent misrepresentation (or negligent misstatement) based on any statement in this agreement.
- 30.4 Nothing in this clause shall limit or exclude any liability for fraud.

### **31 NOTICES**

- 31.1 Any notice, demand or communication in connection with this Agreement will be in writing and may be delivered by hand, post or facsimile addressed to the recipient as set out in Schedule 1 or any other address notified to the other party in writing in accordance with this clause as an address to which notices, invoices and other documents may be sent. The notice, demand or communication will be deemed to have been duly served:
- (a) if delivered by hand during business hours, at the time of delivery;
  - (b) if delivered by post, 48 hours after being posted (excluding Saturdays, Sundays and public holidays);
  - (c) if delivered by facsimile during business hours, at the time of transmission, provided that a confirming copy is sent by first class post to the other party within 24 hours after transmission; or
  - (d) if delivered by email or other electronic form of communication during business hours, at the time of transmission provided that a confirming copy is sent by first class post to the other party within 24 hours after transmission.
- 31.2 Where notice is served by hand, facsimile or email outside business hours, it will be deemed to have been served on the next business day.

## **32 CONTRACTS (THIRD PARTY RIGHTS)**

- 32.1 The Constituent Authorities as parties to this Agreement do not wish that any of its terms will be enforceable by virtue of the Contract (Rights of Third Parties) Act 1999 by any person not a party to this Agreement.

## **33 SEVERANCE**

- 33.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision of part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.
- 33.2 If one Constituent Authority gives notice to the other Constituent Authorities of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the Constituent Authorities shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended result of the original provision.

## **34 AMENDMENTS**

- 34.1 No amendment to this Agreement shall be binding unless it is in writing and signed by a duly authorised representative of each of the Constituent Authorities and expressed to be for the purpose of such amendment.

## **35 GOVERNING LAW AND JURISDICTION**

- 35.1 This agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales as it applies in Wales.
- 35.2 Each party irrevocably agrees that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement, its subject matter or formation.

## **36 ALTERNATIVE DISPUTE RESOLUTION**

- 36.1 The Constituent Authorities agree:
- (a) to pursue a positive approach towards dispute resolution with an objective of reaching a consensus without formal dispute resolution and/or legal proceedings and maintaining a strong working relationship between the Constituent Authorities;



- (b) that any dispute between the Constituent Authorities in relation to matters covered by this Agreement will be referred to in the first instance to the Chief Executives of the Constituent Authorities who may, at their sole discretion, delegate the dispute to the appropriate senior officer within 10 Business Days of written notice of the dispute;
- (c) that if the Chief Executives or their delegates are not able to resolve the dispute within 5 Business Days of meeting or there is disagreement over a Member matter, then any Member may refer the matter to a mediation facilitated by the [Welsh Local Government Association] or to a suitably qualified and independent person, as recommended by the Chief Executives and the Constituent Authorities agree;
- (d) that where any dispute is agreed to be of a legal or technical nature the parties to the dispute may (but not must) jointly take the opinion of an appropriate expert including opinion of senior legal counsel where appropriate. Such expert opinion must be instructed through the OWG and be instructed within [ ] days of referral to Chief Executives under sub-clause (b) following which the opinion should be delivered within a further [ ] days. that, if after exhausting other methods of dispute resolution, one of the Constituent Authorities commences legal proceedings then this will be subject to the exclusive jurisdiction of the Courts of England and Wales.

All costs are borne equally between the Constituent Authorities which are party to the dispute unless agreed otherwise by the Joint Governance Committee or ordered by the Courts.

***[Please consider what happens where a dispute is not merely contractual but a s151 or monitoring officer considers an action to be ultra vires or maladministration. Do you have a view on this aspect?]***

[This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.]

**Schedule 1**

Contact Details

Carmarthenshire County Council  
[Contact Name and Details]

City & County of Swansea Council  
[Contact Name and Details]

City of Cardiff Council  
[Contact Name and Details]

Flintshire County Council  
[Contact Name and Details]

Gwynedd Council  
[Contact Name and Details]

Powys County Council  
[Contact Name and Details]

Rhondda Cynon Taff County Borough  
[Contact Name and Details]

Torfaen County Borough Council  
[Contact Name and Details]

## **Schedule 2**

### **Matters Reserved to the Constituent Authorities**

- 1 Appointment, termination or replacement of the Operator following the making of a recommendation by the Joint Governance Committee.
- 2 Approval of additional expenditure not included within the Business Plan which exceeds [30] % of the approved budget in the Business Plan in any one Financial Year.
- 3 Formulation, approval or revisions of each respective Constituent Authority's investment strategy for the purposes of regulation 7 of the Investment Regulations.
- 4 Admitting a new administering authority within the LGPS to the Investment Pool as a Constituent Authority.
- 5 Amendment of this Agreement.
- 6 Termination of this Agreement.
- 7 Material change to the nature of the Operator Contract.
8. Approval of the initial strategic objectives to allow preparation of the first Business Plan (which objectives shall reflect the objectives set out in the procurement of the Operator).
- 9 Approval of any evaluation or scoring criteria for any procurement of a replacement Operator.
- 10 Approval of Business Plan which shall include approval of the ongoing strategic objectives of the Investment Pool.
11. Determination of the timing of the transition of the assets held by the LGPS fund for which they are an administering authority into the Pooling Collaboration and the funds or sub-funds operated by the Operator.

### **Schedule 3**

#### **Joint Governance Committee Matters**

Subject to the terms of the Agreement, the Joint Governance Committee shall undertake those matters which are not Matters Reserved to the Constituent Authorities which shall include (without prejudice to the generality of the foregoing):

- 1 Making a recommendation on the appointment, replacement or termination of the Operator to the Constituent Authorities.
- 2 Appointing and replacing service providers, advisers to the Joint Governance Committee (other than the Operator).
- 3 Approving the creation of new pooled vehicles for the Operator.
- 4 Approving the creation of new sub-funds provided by the Operator.
- 5 Approving the termination of sub-funds provided by the Operator.
- 6 Preparing a plan relating to the overall transition of assets in accordance with each Constituent Authority's asset transition plan.
- 7 Approving changes to the Operator Contract which are not material changes to the nature of the Operator Contract.
- 8 Dealing with the necessary general ongoing management of the Pooling Collaboration.
- 9 Delegation of tasks to the OWG, including the preparation of reports and draft documents and the undertaking of consultations.
- 10 Liaison with Pension Boards as appropriate in line with CIPFA Guidance, guidance issued by the Pensions Regulator and other applicable legislation or regulatory guidance.
11. Determining the best means of alternative investment structures for assets where a sub-fund is not being provided by the Operator.

Notwithstanding the above, for the avoidance of doubt, the Joint Governance Committee may not delegate its responsibilities.

## **Schedule 4**

### **Joint Governance Committee - Terms of Reference**

The Joint Governance Committee responsibilities are:

- Making recommendations to the Constituent Authorities on the termination of the Operator Contract before the conclusion of the fixed term contract, where the performance of the Operator is considered unacceptable;
- Ensuring that there are an appropriate range of sub-funds available in order to allow the Constituent Authorities to meet their strategic investment aims. Following representation from any, some or all of the Constituent Authorities, the Joint Governance Committee may direct the Operator to set up a sub-fund in a particular asset class. The Joint Governance Committee must be mindful at all times of the need to balance the requirement to provide a particular sub-fund with the benefits of holding aggregated assets;
- Monitoring the performance of the Operator against the agreed set of key performance indicators;
- Reporting on the performance of the Investment Pool, its costs and other activities, but not limited to, the Constituent Authorities, government, the Scheme Advisory Board and the general public;
- From time to time, to review the appropriateness of the existing structures, including the number and make-up of sub-funds and to make recommendations to the Constituent Authorities as to the respective merits of procuring Operator services by means of a third party or through ownership by the Constituent Authorities of the Operator;
- Liaising with the Operator, in such areas as the Operator seeks the preferences and views of the Joint Governance Committee, on the appointment of suppliers, for example manager preferences or the appointment of depositories;
- Liaising with the Constituent Authorities on the appropriate range of sub-funds to be provided in the Investment Pool;
- From time to time reviewing policies in respect of ethical, social and governance matters and voting rights and where appropriate make recommendations to the Constituent Authorities as to any changes deemed necessary;
- Applying any processes or policies that are assigned to it within this Agreement;

- Recommend a high level plan for initial transition of assets to the pool and further asset transitions in the event, for example, of new sub-funds being created or manager changes within sub-funds;
- Ensuring that the OWG acts within its remit as set out in clause 4 and Schedule 8 of this Agreement;
- Recommending the approval or otherwise of accounts to the Constituent Authorities; Monitoring the implementation and effectiveness of the policies listed in Schedule [5] and initiating reviews of these where required;
- Delivery and ongoing monitoring against the Pooling Collaboration objectives, Business Plan and budgets;
- Approving responses from the Pooling Collaboration in relation to consultations or other matters considered appropriate;
- Seeking advice from professional and authorised and regulated advisers where necessary;
- Agreeing the Business Plan to be put forward to the Constituent Authorities for approval;
- Report to the Constituent Authorities quarterly (and at any other time when the Joint Governance Committee considers it to be necessary) on the matters within their remit including but not limited to the performance of the Operator, the structure of the funds and the ongoing monitoring of the Business Plan;
- Agreeing criteria for the evaluation of bids or tenders for any procurement (other than the first appointment of the Operator) to be put forward for the approval of the Constituent Authorities.

## **Schedule 5**

### Policies and Procedures

- Training and Competence
- Complaints
- Breaches and Errors
- Conflicts of Interests
- Business Continuity Planning
- DSAR/FOI
- Contract Management, Co-ordination and Liaison with the Operator

## **Schedule 6**

### **Joint Governance Committee Procedure**

#### **1 MEMBERSHIP**

- 1.1 The membership of the Joint Governance Committee shall consist of one elected member or their deputy per Constituent Authority.
- 1.2 No substitutes other than deputies shall be allowed.
- 1.3 The Joint Governance Committee shall not include any non-voting or co-opted members.

#### **2 MEETINGS**

- 2.1 Meeting shall be held a minimum of four times per Financial year. The anticipated schedule of meetings and the locations in which they will be held will be agreed in advance of the commencement of the next Financial Year no later than the final meeting of the current Financial Year.
- 2.2 A meeting may be held at such time and place as the Chair of the Joint Governance Committee thinks fit provided that at least two meetings per annum shall be held in rotating locations between the Constituent Authorities to facilitate public access. The Constituent Authorities shall make available suitable accommodation for the holding of such meetings in public including the provision of Welsh Language translation, video-conferencing and webcasting services as appropriate.
- 2.3 All agendas, reports and minutes in relation to the Joint Committee shall be in both Welsh and English, and simultaneous translation of proceedings will be available throughout all meetings of the Joint Committee.
- 2.4 The Joint Governance Committee may decide to allow remote participation in meetings via video-conference or any similar medium. Any Member attending by video-conference shall be held to be in attendance at the meeting for the purposes of this Schedule.
- 2.5 A meeting of the Joint Governance Committee may be called by a proper officer of the Host Council on the request of the Chair. Members must declare any conflict of interest in respect of any business being conducted at the meeting which would likely to be regarded to prejudice the exercise of a person's function as a participant in the meeting.
- 2.6 The Chair is responsible for the running of meetings. The Chair shall invite Members expressing a desire to speak in turn. All discussion and debate shall be held through the Chair and the Chair may draw a discussion to a vote at any time where they consider that every Member has been given a fair opportunity to speak.



2.7 Minutes will be kept of all meetings. The Chair will sign the minutes of the proceedings at the next suitable meeting.

2.8 Notice of meetings

- (a) A notice of meeting specifying the place, date and time of the meeting and containing a statement of the matters to be discussed at the meeting, shall be served on all of the Members of the Joint Governance Committee by the appropriate governance officer of the Host Council;
- (b) Notice of each meeting, copies of the agenda and any reports to be presented at the meeting, shall be given to all Constituent Authorities by the Host Council no later than [14] clear days before the date of the meeting. The Constituent Authorities shall ensure that a minimum of five clear days' notice of all meetings is given in accordance with their normal procedures for notification of Council meetings and all papers made available at all of the Constituent Authorities head offices for inspection for those five days unless certified as confidential in which case agendas and any non-certified items are made available only.
- (c) If a meeting is required to be held with less than 5 days' notice, the Chair must agree it is required urgently, approve the shortened notice period and allow as much notice as possible to be given. Notice should be given in the same manner, and the documents should be made available to all of the Constituent Authorities for as many days as practicable before the meeting.

2.9 Exclusion of the public and press

- (a) Where any item to be discussed forms exempt information the Chair shall move that the public and press are excluded from the meeting for the duration of the discussion and voting on that item. Motions to exclude the press and public do not require to be seconded and shall be determined by simple majority vote of the Members present.
- (b) Where the press and public are excluded under (a) above the Chair may invite any person to remain in the meeting where they consider it to be necessary or appropriate to do so and any members of the OWG present shall be presumed to be invited to remain unless the Chair specifies otherwise.
- (c) Any person may be excluded from a meeting or required to leave a meeting where in the opinion of the Chair they are causing a disturbance to the running of the meeting and have not desisted from doing following a request; or where any person is so disruptive that their conduct if allowed to remain would prevent the meeting from proceeding in a fair and acceptable manner.

- 2.10 The Joint Governance Committee may, through the Chair, invite any person to speak at a meeting.
- 2.11 Officers of the OWG presenting reports to the Joint Governance Committee may be asked questions following such presentation.
- 2.12 Section 151 officers and Monitoring Officers of any Constituent Authority are entitled to attend all meetings including any part of any meeting which is closed to the public and press.

### **3 QUORUM**

- 3.1 The quorum shall be five Members.
- 3.2 Where a quorum is not present within 15 minutes of the start of the meeting and the Chair has not been notified that one or more Members have been delayed but will be attending, the meeting shall not be held and the Host Council will be ask to schedule and give notice of a replacement meeting.
- 3.3 Where, during any meeting there is no quorum present, then the meeting will adjourn immediately. If the Chair has been unable to ascertain within 15 minutes that the quorum can be restored the remaining business will be considered at another time and date fixed by the Chair.

### **4 CHAIR AND VICE CHAIR.**

- 4.1 The Chair and Vice-Chair shall be Members and shall be appointed by vote for a term of 12 calendar months.
- 4.2 In the absence of the Chair, the Vice-chair shall be entitled to exercise all of the functions of the Chair.
- 4.3 The decision of the Chair of the meeting on all points of procedure and order and the Chair's interpretation of any rule in this schedule shall be final and no debate may ensue thereon. The Chair shall be entitled to take the advice of a governance officer in interpreting any rule or objection on procedure.
- 4.4 The Chair may be assisted during meetings by governance officer on procedural matters and such administrative officers as the Chair considers appropriate. Such governance and secretarial officers shall be entitled to remain in the meeting where the public and press are excluded.

### **5 AGENDA**

- 5.1 An agenda shall be produced in advance for each meeting by the Host Council following consultation with the Chair.

- 5.2 The agenda for each meeting shall contain as the first substantive item the approval of the minutes of the previous meeting. The Chair will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.
- 5.3 The OWG and the Constituent Authorities may ask the Chair to include any matter on the agenda which they consider should be discussed by the Joint Governance Committee.
- 5.4 The decision on whether to allow discussion on any other matter not on the agenda of a meeting at that meeting shall be made by the Chair.

## **6 MOTIONS**

- 6.1 Any Member may propose a motion. All motions must be seconded. Motions which are opposed shall be put to a vote in accordance with the voting provisions of this schedule.
- 6.2 A Member may raise a point of order at any time. The Chair will hear them immediately. A point of order may only relate to an alleged breach of the provisions of this Schedule, or the law or other competent authority. The Member must indicate the provision or law or regulation and the way in which he/she considers it has been broken. The ruling of the Chair on the matter will be final. The Chair may take advice on the point of order from the appropriate officer.

## **7 VOTING**

- 7.1 The Chair shall seek consensus wherever possible however where a vote is required the provisions of this section shall apply.
- 7.2 Each Member present will have one vote and voting will be by means of a show of hands. In the event of a tied vote, the Chair shall have a casting vote.
- 7.3 All decisions will be determined by simple majority.
- 7.4 In the event that a vote is taken, the voting positions and any abstentions of members will be recorded in the minutes.

## **8 SUB-COMMITTEES AND WORKING GROUPS**

- 8.1 The Joint Governance Committee shall form such sub-committees and working groups as it considers expedient to performing its function. The Joint Governance Committee shall at the time of forming sub-committees or working groups set out the remit of the sub-committees or working groups, what the sub-committees or working groups are required to deliver and the timescale for that delivery.

- 8.2 Sub-committees and working groups shall be entitled to request the input and support of the OWG in the same manner as the Joint Governance Committee.
- 8.3 Each sub-committee and working group shall appoint a chair for that sub-committee or working group, who is to be one of the Members of the sub-committee or working group.
- 8.4 Working groups may invite any person who is not a Member to join the group in order to assist in carrying out its function.
- 8.5 The Chairs of sub-committees and working groups shall report to Joint Governance Committee at each meeting of that committee on the process of the matters within their remit.
- 8.6 Sub-committees and working groups may be disbanded at any time on the vote of the Joint Governance Committee.

## Schedule 7

### TUPE

#### **1 DEFINITIONS**

1.1 The following definitions shall apply in this Schedule:

**Data Protection Legislation** means the Data Protection Act 1998, the Data Protection Directive (95/46/EC), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

**Expected Transferring Employees** means those Host Council Personnel who are reasonably expected by the Host Council to be a Transferring Employee.

**Future Host Council** means any relevant Constituent Authority who provides services which are identical or substantially similar to any of the Host Council Services (directly or indirectly) following the termination or expiry of this Agreement or the termination of the provision of any of the Host Council Services by the Host Council.

**Host Council Personnel** means the individuals employed or engaged by the Host Council or any other person in the provision of the Host Council Services under this Agreement from time to time.

**Host Council Services** means the services to be provided by the Host Council under this Agreement as more particularly described at clause 7.

**Redundancy Costs** means any notice pay (including payment in lieu of notice), holiday pay and statutory and/or contractual redundancy payments.

**Sub-Contractor** means any person to whom the provision of any of the Host Council Services may be sub-contracted by the Host Council.

**Subsequent Transfer Date** means the date on which responsibility for the provision of the Host Council Services, or any part of the Host Council Services, transfers from the Host Council to the Future Host Council.

**Transferring Employee** means an individual whose contract of employment has effect from and after the Subsequent Transfer Date, by virtue of the operation of TUPE, as if originally made between such person and the Future Host Council.

## **2 NO TRANSFER ON COMMENCEMENT**

- 2.1 The Constituent Authorities agree that the neither the commencement of this Agreement nor the implementation of any of the arrangements contemplated within it shall give rise to a "relevant transfer" within the meaning of TUPE on or around the Commencement Date.

## **3 EMPLOYEE INFORMATION ON TERMINATION**

- 3.1 Subject to the Data Protection Legislation, during the period of twelve months preceding the expiry of this Agreement, or at any time after the Host Council has given notice to withdraw from the Pooling Collaboration or at any time after the Host Council has actually ceased to provide any of the Host Council Services:

- (a) the Host Council shall within 28 days of the reasonable request by any Future Host Council disclose to that Future Host Council details of the number, age and terms and conditions of employment, in relation to any Host Council Personnel assigned to the provision of the Host Council Services or any relevant part of the Host Council Services;
- (b) the Host Council shall not and, if relevant, shall procure that any Sub-Contractor shall not, save in the ordinary course of business, materially vary the terms and conditions of employment or engagement of any Host Council Personnel or redeploy, replace or dismiss any Host Council Personnel, or employ or engage any additional individual in the provision of the Host Council Services, without the prior written consent of the Future Host Council (such consent not to be unreasonably withheld or delayed).

## **4 EMOLUMENTS**

All wages, salaries, bonus and commission payments, contributions to pension schemes, entitlement to holiday pay and any other emoluments (whether monetary or otherwise), tax and national insurance contributions relating to the Transferring Employees shall be paid or borne by the Host Council (or Sub-Contractor) in relation to the period before the Subsequent Transfer Date (and the Host Council shall procure such payment by any Sub-Contractor) and by the relevant Future Host Council thereafter (and the Constituent Authorities shall procure such payment by any Future Host Council), and all necessary apportionments shall be made.

## **5 COMPLIANCE AND INDEMNITIES**

- 5.1 The Host Council shall and/or, if relevant, shall procure that any Sub-Contractor shall:
- (a) comply with its or their obligations to inform and consult the Expected Transferring Employees pursuant to Regulation 13 of TUPE;

- (b) use reasonable endeavours to agree with the Future Service Provider, and deliver to the Expected Transferring Employees prior to the Subsequent Transfer Date, a suitable joint statement regarding the proposed transfer of their employment to the Future Host Council on the Subsequent Transfer Date; and
  - (c) give employees of the Future Host Council such access to the Expected Transferring Employees prior to the Subsequent Transfer Date as the Future Host Council may reasonably require for the purposes of consultation or of effecting an efficient transfer of the Host Council Services and Transferring Employees with effect from the Subsequent Transfer Date.
- 5.2 The Host Council shall indemnify and keep indemnified the Future Host Council against all and any costs, expenses, liabilities, damages and losses arising out of or in connection with any claim, demand, action or proceeding which is made or brought against the Future Host Council in relation to:
- (a) the employment or termination of employment of any Transferring Employee during the period before the Subsequent Transfer Date; or
  - (b) the Host Council's failure or alleged failure to comply with its obligations under Regulation 13 of TUPE, save to the extent that any such failure or alleged failure is as a result of or in consequence of a failure by the Future Host Council to comply with its obligations under Regulation 13(4) of TUPE.
- 5.3 If a claim or allegation is made by any person who is not a Transferring Employee (a **"Non-Disclosed Transferring Employee"**) that his contract of employment has or should have effect as if originally made between himself and the Future Host Council by virtue of the operation or alleged operation of TUPE:
- (a) the Future Host Council shall notify the Host Council in writing as soon as reasonably practicable of any such claim or allegation and the Future Host Council shall then allow the Host Council (or any relevant Sub-Contractor) a period of 10 working days to consult with any such Non-Disclosed Transferring Employee concerning his claim or allegation;
  - (b) the Future Host Council shall give to the Host Council (or any relevant Sub-Contractor) such co-operation or assistance as the Host Council (or relevant Sub-Contractor) may reasonably require;
  - (c) if, following the period of 10 working days referred to in paragraph 4.3(a) above, any Non-Disclosed Transferring Employee continues to assert that his contract of employment has or should have effect as if originally made between himself and Future Host Council, the Future Host Council may, within a further period of 20 working days (or such other period as may be agreed in writing between the

Host Council and Future Host Council), serve notice to terminate the employment or alleged employment of such Non-Disclosed Transferring Employee with immediate effect; and

- (d) subject to the Future Host Council's compliance with this paragraph 5.3, the Host Council shall indemnify and keep indemnified the Future Host Council against all and any costs, expenses, liabilities, damages and losses arising out of or in connection with any claim, demand, action or proceeding which is made or brought by any such Non-Disclosed Transferring Employee in relation to any sums paid or payable to such Non-Disclosed Transferring Employee up to the date of the termination of such Non-Disclosed Transferring Employee's employment or alleged employment, and in relation to such termination.

5.4 The Future Host Council shall indemnify and keep indemnified the Host Council (for itself and any Sub-Contractor) against all and any costs, expenses, liabilities, damages and losses arising out of or in connection with any claim, demand, action or proceeding which is made or brought:

- (a) by any Transferring Employee in relation to any act or omission of the Future Host Council on or after the Subsequent Transfer Date and/or in relation to any events or circumstances relating to the employment or termination of employment of any Transferring Employee occurring or arising on or after the Subsequent Transfer Date;
- (b) in relation to any failure or alleged failure of the Future Host Council to comply with their obligations under Regulation 13 of TUPE; or
- (c) in relation to any substantial change made or proposed by the Future Host Council in the working conditions of any of the Transferring Employees, or any individual who would have been a Transferring Employee but whose employment terminated prior to the Subsequent Transfer Date, where that change is to the detriment of such Transferring Employee(s) or such individual(s).

## **6 REDUNDANCY COSTS**

6.1 The Constituent Authorities shall indemnify and keep indemnified on a joint and several basis the Host Council (for itself and any Sub-Contractor) against all and any Redundancy Costs arising out of or in connection with any claim, demand, action or proceeding which is made or brought against the Host Council (or Sub-Contractor) arising out of or in connection with the termination or alleged termination of employment of any Host Council Personnel by reason of redundancy within 6 months of the Subsequent Transfer Date, where the employment such Host Council Personnel does not transfer to a Future Host Council (under TUPE or otherwise) on the cessation of the provision of any or all of the



Host Council Services, provided that the Host Council shall, or shall procure that any Sub-Contractor shall, use reasonable endeavours to:

- (a) mitigate the amount of any such Redundancy Costs;
- (b) search for and, if available, offer alternative employment within the Host Council's or the Constituent Authorities' (or, as the case may be, the Sub-Contractor's) organisation to any Host Council Personnel at risk of redundancy and shall give that Host Council Personnel a reasonable opportunity to accept any such offer of alternative employment before terminating that Host Council Personnel's employment; and
- (c) comply with any applicable statutory obligations.

### **Schedule 8 - Officers Working Group Remit**

The remit of the OWG shall include:

- (a) proposing to the Joint Governance Committee and procuring external support requirements (including legal, governance, tax and other financial support) relevant to the Pooling Collaboration;
- (b) proposals to the Joint Governance Committee on governance arrangements including how the Operator should be held to account by reference to the Operator Contract;
- (c) proposals to the Joint Governance Committee on the most appropriate means of accessing different asset types, the structure of the Investment Pool including the number and make-up of sub-funds and where appropriate use of any external or national investment vehicles;
- (d) proposing high level transition plans for the transfer of assets to pool;
- (e) challenging and contributing to the development of the Pooling Collaboration to enable the Pooling Collaboration and the Joint Governance Committee to achieve its objectives;
- (f) making recommendations to the Joint Governance Committee on the appointment, replacement or termination of the Operator including recommendations on whether to use a third party supplier or an owned entity;
- (g) monitoring and reviewing the performance of the Operator in meeting its objectives, service levels and key performance indicators and reporting to the Joint Governance Committee within the quarterly reports and on other occasions as required;
- (h) receiving reports on performance of the assets and reporting to the Joint Governance Committee;
- (i) external reporting on the pool and its performance no less than quarterly;
- (j) liaison with other pools as required;
- (k) consider and make recommendations to the Joint Governance Committee in relation to the Business Plan, prepare a draft Business Plan for consideration by the Joint Governance Committee, consulting upon the approved draft and reporting on the outcomes of such consultation including proposing any revisions to the draft to the Joint Governance Committee;

- (l) develop and keep under review the programme of training to be delivered to Members ensuring that it complies with all relevant regulations and applicable guidance, which programme of training shall have regard to the training undertaken in Members' roles on their respective Constituent Authority pension committees and shall seek to avoid duplication of training;
- (m) seek advice from professional advisors that are authorised and regulated by competent authorities;
- (n) managing the procurement process for the procurement of any replacement Operator including proposing criteria for the evaluation of bids or tenders
- (o) such other matters as the Joint Governance Committee shall request or delegate to the OWG.

*[Execution clauses to be inserted]*

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# CC40- 2017

CYNGOR SIR POWYS COUNTY COUNCIL.

FULL COUNCIL

7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Wynne Jones  
Portfolio Holder for Finance

**SUBJECT:** TREASURY MANAGEMENT STRATEGY STATEMENT &  
ANNUAL INVESTMENT STRATEGY

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**REPORT FOR:** Decision

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## Summary

### **1. Introduction**

- 1.1 This Treasury Management Strategy Statement and Annual Investment Strategy report is a requirement of the CIPFA Code of Practice on Treasury Management and a requirement under the Local Government Act 2003. It has regard to the 2010 Guidance on Local Government Investments issued by the Welsh Assembly Government which requires the Treasury Management Strategy Statement and Annual Investment to be approved by Full Council.
- 1.2 The report details the expected activities of the Treasury function in the forthcoming financial year 2017/18, in respect of borrowing and investments.
- 1.3 The report requires an appropriate strategy for borrowing and investing for the financial year 2017/18.
- 1.4 The Strategy will be monitored throughout the year and will be revised for approval by Full Council if there are any significant changes necessary due to such things as the following:-
- updates in legislation/guidance
  - changes in the economy/financial outlook which may affect the Authority's Strategy
  - changes in the financial position of the Authority.

### **2. CIPFA Code of Practice on Treasury Management 2011**

- 2.1 In 2011 CIPFA issued a revised edition of the TM Code of Practice. It is a requirement of the Code that this Authority should formally adopt the key principles of the Code and this was done by Cabinet on 14<sup>th</sup> February 2012 (see Appendix B).
- 2.2 The Code emphasises a number of key areas including the following:-
- i. All authorities must formally adopt the revised Code

- ii. The strategy report will affirm that the effective management and control of risk are prime objectives of the Authority's treasury management activities
- iii. The Authority's appetite for risk must be clearly identified within the strategy report and will affirm that priority is given to security of capital and liquidity when investing funds and explain how that will be carried out
- iv. Responsibility for risk management and control lies within the organisation and cannot be delegated to any outside organisation
- v. Credit ratings should only be used as a starting point when considering risk. Use should also be made of market data and information, the quality financial press, information on government support for banks and the credit ratings of that government support
- vi. Authorities need a sound diversification policy with high credit quality counterparties and should consider setting country, sector and group limits
- vii. Borrowing in advance of need is only to be permissible when there is a clear business case for doing so and only for the current capital programme or to finance future debt maturities
- viii. The main annual treasury management reports must be approved by Cabinet/Full Council
- ix. There needs to be, at a minimum, a mid-year review of treasury management strategy and performance. This is intended to highlight any areas of concern that have arisen since the original strategy was approved
- x. Each Authority must delegate the role of scrutiny of treasury management strategy and policies to a specific named body
- xi. Treasury management performance and policy setting should be subject to scrutiny prior to implementation
- xii. Members should be provided with access to relevant training
- xiii. Those charged with governance are also personally responsible for ensuring they have the necessary skills and training
- xiv. Responsibility for treasury management activities must be clearly defined within the organisation
- xv. Officers involved in treasury management must be explicitly required to follow treasury management policies and procedures when making investment and borrowing decisions on behalf of the Authority.

2.3 The Authority will adopt the following reporting arrangements in accordance with the revised Code of Practice:-

<b>Report/Document</b>	<b>Committee</b>	<b>Frequency</b>
Treasury Management Policy Statement and Practices	Audit Committee followed by Cabinet	When changes require
Treasury Management Strategy and Annual Investment Strategy	Full Council	Annually before the start of financial year
Treasury Management Quarterly Reports	Audit Committee followed by Cabinet	Quarterly
Treasury Management Annual Review	Audit Committee followed by Cabinet	Annually by 30 <sup>th</sup> Sept after the end of financial year

### **3. Economic Background and Forecasts**

- 3.1 The economic background is attached at Appendix C. The information contained therein is considered in the formulation of this Treasury Management Strategy Statement and Investment Strategy.
- 3.2 The most recent forecast of interest rates for 2017/18 by the Authority's advisor is:

	<b>Mar17</b>	<b>Jun17</b>	<b>Sep17</b>	<b>Dec17</b>	<b>Mar18</b>	<b>Jun18</b>	<b>Sep18</b>	<b>Dec18</b>
<b>Bank rate</b>	0.20%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%	0.25%
<b>5yr PWLB</b>	1.60%	1.60%	1.60%	1.60%	1.70%	1.70%	1.70%	1.80%
<b>10yr PWLB</b>	2.30%	2.30%	2.30%	2.30%	2.30%	2.40%	2.40%	2.40%
<b>25yr PWLB</b>	2.90%	2.90%	2.90%	3.00%	3.00%	3.00%	3.10%	3.10%
<b>50yr PWLB</b>	2.70%	2.70%	2.70%	2.80%	2.80%	2.80%	2.90%	2.90%

During the two-year period 2017 - 2019, when the UK is negotiating the terms for withdrawal from the EU, it is likely that the Monetary Policy Committee will do nothing to dampen growth prospects by raising Bank Rate. Accordingly, a first increase to 0.50% is not tentatively pencilled in until quarter 2 2019 after those negotiations have been concluded, (though the period for negotiations could be extended). However, if strong domestically generated inflation, (e.g. from wage increases within the UK), were to emerge, then the pace and timing of increases in Bank Rate could be brought forward.

Economic and interest rate forecasting remains difficult with so many external influences weighing on the UK. As such, the above forecast will be liable to further amendment depending on how economic data and developments in financial markets transpire over the next year.

### **4. Borrowing Strategy**

- 4.1 The Authority's Capital Financing Requirement (CFR) is the amount of capital expenditure that is not financed from revenue resources, capital grants and other contributions and capital receipts. Any expenditure that is not financed from these resources increases the authority's underlying need to borrow. Part of the Council's treasury activities is to address the funding requirements for this borrowing need. Depending on the capital expenditure programme, the treasury service organises the Council's cash position to ensure that sufficient cash is available to meet the capital plans and cash flow requirements. This may be sourced through external borrowing or utilising temporary cash resources within the Council.

The Authority is currently maintaining an under borrowed position. This means that the capital borrowing need (the Capital Financing Requirement) has not been fully funded with loan debt as cash supporting the Authority's reserves,

balances and cashflow has been used as a temporary measure. This is a prudent and cost effective approach in the current economic climate of low interest rates and is a good use of the Council's cash.

The Authority's estimated closing Capital Financing Requirement (CFR) for 2016/17 is £321.5M. If no borrowing takes place within the remainder of the current financial year, the outstanding debt at 31<sup>st</sup> March 2017 will be £226.4M showing that the Authority is currently borrowed well below its CFR. Analysis of the balance sheet confirms the Authority to be in an internally borrowed position which, as mentioned above, is a prudent and cost effective approach in the current climate of low interest rates.

The current Capital budget for 2017/18 is £86.4M with Prudential Borrowing of £28.2M.

Borrowing rates were on a generally downward trend during most of 2016. They fell sharply to historically phenomenally low levels after the referendum and even further after the MPC meeting of 4<sup>th</sup> August when a new package of quantitative easing purchasing of gilts was announced. Gilt yields have since risen sharply due to a rise in concerns around a 'hard Brexit', the fall in the value of sterling, and an increase in inflation expectations. The policy of avoiding new borrowing by running down spare cash balances, has served well over the last few years. However, this needs to be carefully reviewed to avoid incurring higher borrowing costs in later times when the authority will not be able to avoid new borrowing to finance capital expenditure and/or to refinance maturing debt.

There will remain a cost of carry to any new long-term borrowing that will cause a temporary increase in cash balances due to the difference between borrowing costs and investment returns.

In view of the authority's position and the above interest rate forecast the Authority will monitor interest rates and will, when required, give consideration to new borrowing as follows:-

- PWLB loans in the 13-25 years period
- Short dated borrowing (up to 5 years).

#### 4.3 PWLB Certainty Rate:

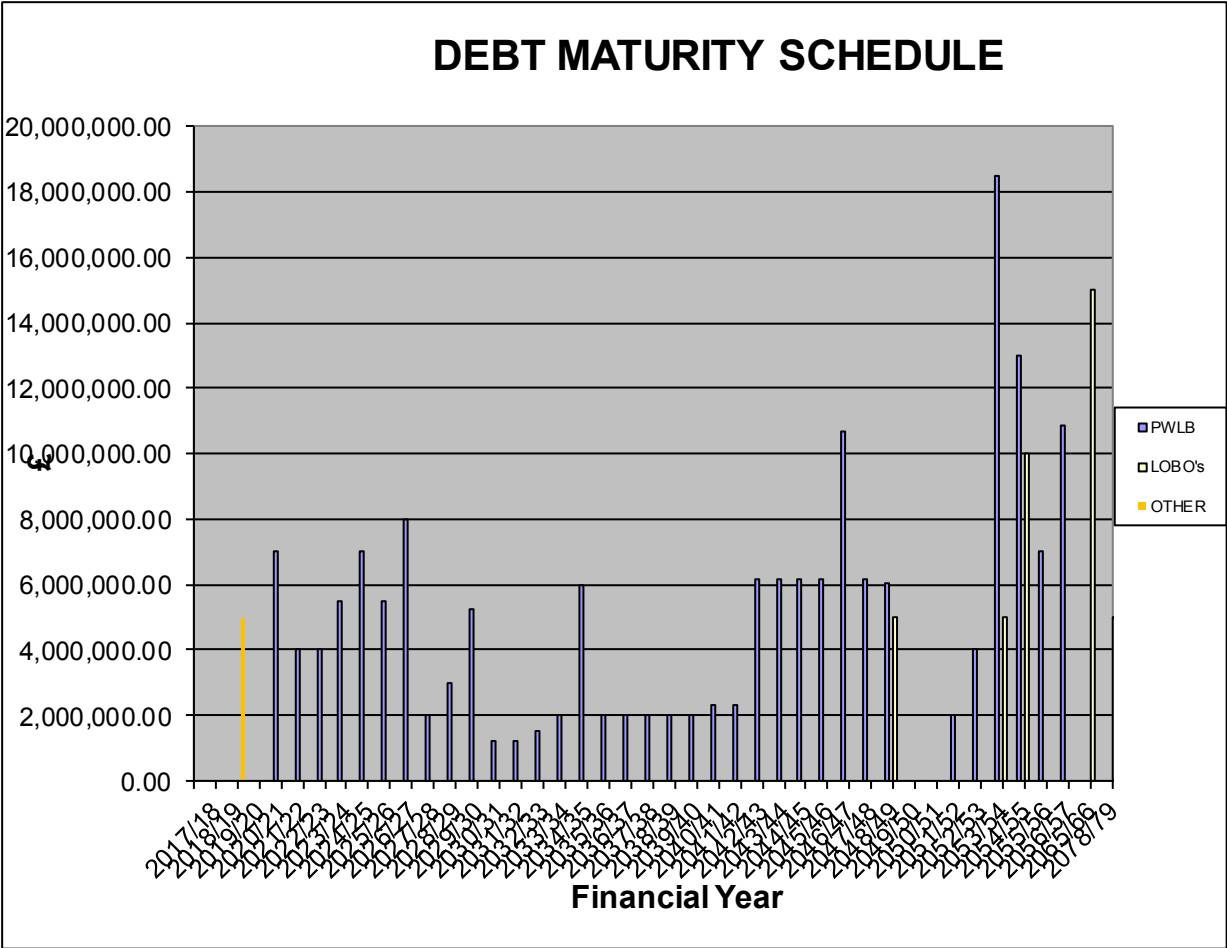
In 2012-13, the Government introduced a 20 basis points (bps) discount on loans from the Public Works Loan Board (PWLB) under the prudential borrowing regime for those principal local authorities providing improved information and transparency on their locally-determined long-term borrowing and associated capital spending plans. The Government said it would also work with the local authority sector to consider the potential for an independent body to facilitate the provision of PWLB lending at a reduced rate to authorities demonstrating best quality and value for money. This certainty rate continues to be available and this Authority has registered its interest in this preferred rate option.



4.4 Estimated Debt Maturity Profile as at 01.04.17:

(please click on the graph below and increase the percentage in the View option of the toolbar above for an enhanced view)

Members will see that the debt maturity profile is fairly even across the years. This maturity profile has been managed as such, so as to ensure that there is no undue preponderance in any particular year which may put the Authority’s financing and cashflow position at risk.



5. Debt Rescheduling

5.1 The introduction by the PWLB in 2007 of a spread between the rates applied to new borrowing and repayment of debt, which was compounded on 20<sup>th</sup> October 2010 by a considerable further widening of the difference between new borrowing and repayment rates, has meant that PWLB to PWLB debt restructuring is now much less attractive than before both of these events.

5.2 However, as short term borrowing rates will be considerably cheaper than longer term rates, there may be potential opportunities to generate savings by switching from long term debt to short term debt. However, these savings will need to be considered in the light of their short term nature and the likely cost of refinancing those short term loans, once they mature, compared to the current rates of

longer term debt in the existing debt portfolio. The cost of any debt repayment i.e. premiums incurred will also be taken into consideration.

The reasons for any rescheduling to take place will include:

- the generation of cash savings and / or discounted cash flow savings,
- helping to fulfil the strategy outlined in paragraph 4 above, and
- enhance the balance of the portfolio (amend the maturity profile and/or the balance of volatility).

5.3 All rescheduling will be reported to Cabinet as soon as is practicable.

## **6. Policy on borrowing in advance of need**

6.1 The Authority will not borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be within forward approved Capital Financing Requirement estimates and will be considered carefully to ensure value for money can be demonstrated and that the Authority can ensure the security of such funds.

6.2 In determining whether borrowing will be undertaken in advance of need the Authority will:

- ensure that there is a clear link between the capital programme and maturity profile of the existing debt portfolio which supports the need to take funding in advance of need
- ensure the ongoing revenue liabilities created and the implications for the future plans and budgets have been considered
- evaluate the economic and market factors that might influence the manner and timing of any decision to borrow
- consider the merits and demerits of alternative forms of funding
- consider the alternative interest rate bases available, the most appropriate periods to fund and repayment profiles to use.

## **7. Investments**

7.1 *Investment Policy:*

7.1.1 The Authority has regard to the 2011 edition of the CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes ("the CIPFA TM Code") and the Welsh Assembly Government Guidance on Local Government Investments.

7.1.2 The Authority's investment priorities are: -

- (a) the security of capital and
- (b) the liquidity of its investments.

7.1.3 The Authority will aim to achieve the optimum return on its investments commensurate with proper levels of security and liquidity. The risk appetite of this Authority has been low in order to give priority to security of its investments.

7.1.4 The borrowing of monies purely to invest or on-lend and make a return is unlawful and this Authority will not engage in such activity.

7.1.5 The minimum amount that is to be held during the financial year in investments other than long-term is Nil.

## 7.2 *Derivatives:*

7.2.1 The 2011 Code of Practice introduced various references to the use of hedging tools such as derivatives. It is not this Authority's intention to make use of such tools.

## 7.3 *Definition of Investments – Specified and Non-Specified:*

7.3.1 The Local Government Act 2003 refers to specified and non-specified investments. The Welsh Assembly Government's Guidance on Local Government Investments, effective from 1<sup>st</sup> April 2010, defines the following:-

### **Specified Investments:**

An investment is a specified one if all of the following apply:-

- (a) it is denominated in sterling and any payments or repayments in respect of it are payable only in sterling
- (b) the investment is not a long-term one i.e. one which is due to be repaid within 12 months of the date on which the investment was made or one which may require to be repaid within that period
- (c) the making of the investment is not defined as capital expenditure by virtue of regulation 20(1)(d) of the Local Authorities (Capital Finance and Accounting) (Wales) Regulations 2003 [SI 3239 as amended]
- (d) the investment is made with a body or in an investment scheme of \* high credit quality or with one of the following public sector bodies:
  - i. the UK Government
  - ii. a local authority in England or Wales (as defined in section 23 of the 2003 Act) or a similar body in Scotland or Northern Ireland
  - iii. a parish or community council.

\* High credit quality is defined in Paragraph 7.5 below.

### **Non-specified Investments:**

- (i) An investment is non-specified if it does not meet the above definition.

There are various innovative products on offer which fit this criteria, many of which do so because their initial and maturity value can differ. The spirit of the 2004 National Assembly for Wales guidance was to ensure that authorities had the skills to assess any such products prior to possible

commitment. Our advisors have confirmed that officers within Powys have the ability and knowledge to assess the value of such products. Any such assessment will involve determining a high credit quality in line with Paragraph 7.5 below.

As per Prudential Indicator 16.3.3 below the Authority has a maximum limit for investments held for a period of over 364 days.

As per Paragraph 7.7 below the Authority has a maximum limit to be held in Money Market Funds of £50M.

#### 7.4 *Creditworthiness policy:*

7.4.1 This Authority uses the creditworthiness service provided by Capita Asset Services although the Authority has adopted a position that is slightly more risk averse than Capita's suggested list in respect of counterparties and durations.

7.4.2 Capita uses a sophisticated modelling approach with credit ratings from all three main rating agencies - Fitch, Moody's and Standard and Poor's. The credit ratings of counterparties are supplemented with the following overlays: -

- credit watches and credit outlooks from credit rating agencies
- CDS (credit default swap) spreads to give early warning of likely changes in credit ratings
- sovereign ratings to select counterparties from only the most creditworthy countries.

This approach is in line with the CIPFA Code of Practice which states that "credit ratings should only be used as a starting point when considering credit risk". Authorities should also use financial press, market data, information on government support for banks and the credit ratings of that government support.

7.4.3 Capita's modelling approach combines credit ratings, credit watches and credit outlooks in a weighted scoring system which is then combined with an overlay of CDS spreads for which the end product is a series of colour coded bands which indicate the relative creditworthiness of counterparties. These colour codes can be used by the Authority to determine the suggested duration for investments and are therefore referred to as durational bands:-

- Yellow - 5 years  
for UK Government debt or its equivalent, Money Market Funds and collateralised deposits where the collateral is UK Government debt
- Dark pink - 5 years  
for Enhanced Money Market Funds with a credit score of 1.25
- Light pink - 5 years  
for Enhanced Money Market Funds with a credit score of 1.5
- Purple - 2 years
- Blue - 1 year  
only applies to nationalised or semi nationalised UK Banks
- Orange - 1 year
- Red - 6 months
- Green - 100 days

- No Colour - not to be used

7.4.4 A copy of the current full credit rating list is being sent to members alongside this report for information regarding which banks fall into each duration.

7.4.5 The 2011 revised Code of Practice advises that authorities have regard for all the ratings issued by all three main agencies and to make their decisions based on all ratings. The advisors' creditworthiness service corresponds with this as it uses the ratings from all three agencies but, by using a scoring system, does not give undue preponderance to just one agency's ratings.

7.5 *"High" credit quality:*

7.5.1 It is proposed that the Authority continue with the following in respect of defining a "high" credit quality. If a rating is not available from any of the rating agencies then the available ratings will be used. Members will note that this proposal excludes investments with some banks off the advisors' suggested list:-

Long Term Ratings (in respect of long-term investments):

Permitted Fitch Ratings	Permitted Moody's Ratings	Permitted S&P Ratings
AAA	Aaa	AAA
AA+	Aa1	AA+
AA	Aa2	AA
AA-	Aa3	AA-

Short Term Ratings (in respect of short-term investments):

Permitted Fitch Ratings	Permitted Moody's Ratings	Permitted S&P Ratings
F1+	N/A	A-1+
F1	P-1	A-1

7.5.2 All credit ratings will be monitored daily. The Authority is alerted to changes to ratings of all three agencies through its use of the advisors' creditworthiness service.

7.5.3 Any institution which drops below any of the above ratings will be removed from the Authority's counterparty list for investments. Any investments held with the counterparty will also be reviewed in order to establish whether the premature maturity of the investment should be sought.

7.5.4 In addition to the use of Credit Ratings the Authority will also be advised of information in movements in Credit Default Swap against the iTraxx benchmark and other market data on a weekly basis. Extreme market movements may result in downgrade of an institution or removal from the Authority's investment list. Any investments held with the counterparty will also be reviewed in order to establish whether the premature maturity of the investment should be sought.

7.5.5 Sole reliance will not be placed on the use of this external service. In addition the Authority will also use market data and information, information on government support for banks and the credit ratings of that government support.

## 7.6 Country limits:

- 7.6.1 It is proposed that the Authority will use approved counterparties from the UK and approved counterparties from other countries with the following sovereign credit ratings:-

Permitted Fitch Ratings	Permitted Moodys Ratings	Permitted S&P Ratings
AAA	Aaa	AAA

The list of countries (excluding the UK) that qualify using this credit criteria as at the date of this report are shown in Appendix D. This list will be added to or deducted from by officers should ratings change.

- 7.6.2 Our advisor's view is that all Authorities should avoid a concentration of investments in too few counterparties or countries but that a suitable spreading approach in itself is likely to be sufficient given the safeguards already built into its creditworthiness service.

As such the following limits are proposed:-

Country	Maximum Investment per Country	Credit Rating/Other Assessment of Risk
AAA countries (listed at Appendix C)	£20M (held in call accounts)	As per rating list
UK	No Maximum Investment	As per rating list

## 7.7 Group/Institutions - Counterparty Criteria/Limits:

The current limits per the 2016/17 Strategy are as follows:-

### **Specified Investments (2016/17):**

Institution	Maximum Investment per Group/Institution £M	Maximum Length	Credit Rating/Other Assessment of Risk
UK Banks	20 (a maximum £10M to be held in fixed term investments)	Up to 364 days	As per Capita's matrices and the Authority's definition of a high credit rating
Foreign Banks	5	Up to 364 days	As per Capita's matrices and the Authority's definition of a high credit rating
Other Local Authorities	25	Up to 364 days	N/A

It is proposed that the limits above remain the same for 2017/18.

**Non-Specified Investments (2016/17):**

<b>Institution</b>	<b>Maximum Investment per Group/Institution £M</b>	<b>Maximum Length</b>	<b>Credit Rating/Other Assessment of Risk</b>
UK Banks	10 (£2M limit with any one institution)	Up to 2 years	As per Capita's matrices and the Authority's definition of a high credit rating
Lloyds Bank (as a mortgage lender in the LAMS scheme)	5	Up to 5 years	N/A
Foreign Banks	2	Up to 2 years	As per Sector's matrices and the Authority's definition of a high credit rating
Money Market Funds (max. of 5)	10	N/A	All are AAA rated plus the parents/owners must meet the Authority's short term investment criteria
Other Local Authorities	10	Up to 2 years	N/A
European Investment Bank Bonds	3	2-3 years	N/A
<i>Note: Limits for Specified and Non-Specified are combined limits. The maximum limit will also apply to a banking group as a whole.</i>			

It is proposed that the following limits are in place for 2017/18.

<b>Institution</b>	<b>Maximum Investment per Group/Institution £M</b>	<b>Maximum Length</b>	<b>Credit Rating/Other Assessment of Risk</b>
UK Banks	10 (£2M limit with any one institution)	Up to 2 years	As per Capita's matrices and the Authority's definition of a high credit rating
Lloyds Bank (as a mortgage lender in the LAMS scheme)	5	Up to 5 years	N/A
Foreign Banks	2	Up to 2 years	As per Sector's matrices and the

			Authority's definition of a high credit rating
Money Market Funds (max. of 5)	10	N/A	All are AAA rated
Other Local Authorities	10	Up to 2 years	N/A
<i>Note: Limits for Specified and Non-Specified are combined limits. The maximum limit will also apply to a banking group as a whole.</i>			

## **8. The Local Authority Mortgage Scheme (LAMS)**

- 8.1 The Authority is participating in the cash backed mortgage scheme which requires the Authority to place a five year deposit matched to the life of the indemnity. This is outlined in the investment criteria above. This scheme is due to end in August 2017.

## **9. Investment Strategy**

- 9.1 In-house funds:  
The majority of the Authority's in-house managed funds are cash flow derived. However, this has and will continue to decrease as per the information in 4.1 above.
- 9.2 Investment returns area likely to remain relatively low during 2017/18 and beyond. The suggested budgeted investment returns from the Authority's advisors for investments up to 100 days are:

2017/18	0.25%
2018/19	0.25%

Members should be aware that these returns may not be achieved by this Authority whilst cash levels are low and hence being kept in liquid accounts.

- 9.3 The Authority currently has no investments that are longer-term. It is unlikely that the Authority will lock into further longer term deals while investment rates are down at historically low levels and due to the reduction in cash balances.
- 9.4 For its cash flow generated balances, the Authority will seek to utilise its business reserve accounts, fixed term deposits (if appropriate) and money market funds.

## **10. Policy on the use of external service providers**

- 10.1 The Authority currently uses Capita Asset Services as its external treasury management advisors. This contract was awarded following a competitive process and runs to 31<sup>st</sup> August 2018.
- 10.2 The Authority recognises that responsibility for treasury management decisions remains with the organisation at all times and will ensure that undue reliance is not placed on external service providers.



10.3 It also recognises that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources. The Authority will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed and documented, and subjected to regular review. This review will incorporate assessing the following:-

- level of technical expertise/advice
- appropriateness of advice given
- value of information provided i.e. market commentaries, forecasts, etc.
- value of training given
- attendance at meetings

## **11. Scheme of delegation**

- 11.1 (i) Full Council
- approval of annual strategy
- (ii) Audit Committee
- reviewing the treasury management policy and procedures and making recommendations to the responsible body.
- (iii) Cabinet
- receiving and reviewing reports on treasury management policies, practices and activities
  - approval of amendments to the Authority's adopted clauses, treasury management policy statement and treasury management practices
  - budget consideration and approval
  - approval of the division of responsibilities
  - receiving and reviewing regular monitoring reports and acting on recommendations
  - approving the selection of external service providers.

## **12. Role of the section 151 officer (Chief Financial Officer)**

- 12.1 The S151 officer will have responsibility for:
- recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance
  - submitting regular treasury management policy reports
  - submitting budgets and budget variations
  - receiving and reviewing management information reports
  - reviewing the performance of the treasury management function

- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function
- ensuring the adequacy of internal audit, and liaising with external audit
- recommending the appointment of external service providers.

### **13. Treasury Management Training**

13.1 The Authority recognises that relevant individuals will need appropriate levels of training in treasury management due to its increasing complexity. There are two categories of relevant individuals: -

- treasury management staff employed by the Authority
- members charged with governance of the treasury management function.

13.2 All treasury management staff should receive appropriate training relevant to the requirements of their duties at the appropriate time. All treasury management staff are required to be members of an appropriate professional body and, in line with the continuing professional development requirements of these professional bodies, the Authority operates a Professional Development Review system which identifies the training requirements of individual members of staff engaged on treasury related activities. Additionally, training is also provided in the job and it is the s the level of training appropriate to their duties.

13.3 Details of Approved Training Courses

Treasury management staff and members will go on courses provided by our treasury management advisors, CIPFA, etc.

13.4 Records of Training received by Treasury Staff

As required by their relevant professional bodies, treasury management staff will maintain records of training they receive.

13.5 Approved Qualifications for Treasury Staff

It is the Authority's policy that the Treasury Manager and the Technical Accountancy Assistants are qualified to at least AAT level.

13.6 Members

The CIPFA Code of Practice states that members charged with governance (all members as the annual strategy requires approval by Full Council) have a personal responsibility to ensure that they have the appropriate skills and training for their role. To aid this, the Authority normally holds two briefing sessions per year for members and members should ensure that they attend at least one of these each year.

#### **14. Pension Fund Cash**

The Authority will comply with the requirements of The Local Government Pension Scheme (Management and Investment of Funds) Regulations 2009, which were implemented on 1st Jan 2010. From 1st April 2010 the Pension fund has its own bank accounts although, due to use of the Authority's financial systems, a small amount of pension fund cash remains pooled with the Authority's cash balances for investment purposes. Any investments made by the pension fund directly with this local authority will comply with the requirements of SI 2009 No 393.

#### **15. Treasury Management Budget**

A requirement of the Authority's Treasury Management Policy Statement is that a summary treasury management budget is included in the Strategy report. This is attached at Appendix E.

#### **16. CIPFA Prudential Code - Prudential and Treasury Indicators**

16.1 The following indicators, required by the CIPFA Prudential Code, are included as part of the annual budget report :-

- authorised limit for external debt
- operational boundary for external debt
- actual external debt

16.2 Prudential and Treasury Indicators are relevant for the purposes of setting an integrated treasury management strategy and, as such, the indicators required to be included as part of this strategy are as follows:-

##### *16.3.1 Interest Rate Exposure:*

The setting of upper and lower limits for interest rate exposures has the effect of creating ranges within which the Authority will limit its exposure to both fixed and variable interest rate movements.

The current limits are as follows:-

Fixed rates	140%
Variable rates	60%

As dictated by the Code of Practice, this indicator for fixed and variable limits is calculated by looking at the net position between debt and investments. The following table shows an example of the Authority's position and clearly shows what the Indicator is trying to achieve in that the investments we hold in variable rate contracts easily outweigh those in fixed rates:

	Debt	Investments	Net Debt
	£,000	£,000	£,000
Total at Fixed Rates	115,804	4	115,800
Total at Variable Rates	35,000	25,295	9,705
Total	150,804	25,299	125,505
	%	%	%
Fixed Debt less investments (net position)	76.79%	0.02%	92.27%
Variable Debt less investments (net position)	23.21%	99.98%	7.73%

**It is proposed that the limits above remain the same for 2017/18.**

### 16.3.2 Maturity Structure of Borrowing:

Local authorities are exposed to the risk of having to refinance debt at a time in the future when interest rates may be volatile or uncertain. This indicator is designed to assist authorities in avoiding large concentrations of fixed rate debt that has the same maturity structure and would therefore need to be replaced at the same time. It is recommended that the Authority sets upper and lower limits in each period as a percentage of its total borrowings.

The current limits are as follows:-

	Upper Limit	Lower Limit
Under 12 months	40%	0%
12 months to 2 years	40%	0%
2 years to 5 years	40%	0%
5 years to 10 years	40%	0%
10 years to 20 years	40%	0%
20 years to 30 years	40%	0%
30 years to 40 years	40%	0%
40 years to 50 years	40%	0%

**It is proposed that the limits above remain the same for 2017/18.**

### 16.3.3 Principal sums invested for periods longer than 364 days:

This indicator is used to demonstrate that the Authority has taken into account all the resources available for investment. This is to minimise the possibility that longer-term investments will need to be realised early which might have disadvantageous results. This indicator is also used to demonstrate that the Authority is not borrowing more than it needs to, or in advance of its needs, purely to profit through investment from the extra borrowing.

The current limit is set at £10M.

**It is proposed that this limit remains at £10M for 2017/18 although it is unlikely to be utilised.**

## **Proposal**

It is proposed that Council approves the Treasury Management Strategy Statement and Annual Investment Strategy.

## **Statutory Officers**

The Strategic Director – Resources (s151 officer) has made the following comment:

“The Treasury Management Strategy Statement and Annual Investment Strategy forms a key part of the Council’s overall approach to borrowing and investments. The report ensures the authority complies with relevant legislation and the Code of Practice on Treasury Management.”

The Solicitor to the Council (Monitoring Officer) has made the following comment:

“I have nothing to add to the report.”

## **Future Status of the Report**

Not applicable

<b>Recommendation:</b>		<b>Reason for Recommendation:</b>	
<b>That Council approves the Treasury Management Strategy Statement and Annual Investment Strategy</b>		<b>Statutory Requirement</b>	
<b>Relevant Policy:</b>		Treasury Management Policy	
<b>Within Policy:</b>	<b>Y</b>	<b>Within Budget:</b>	<b>Y</b>
<b>Person(s) To Implement Decision:</b>		<b>Ann Owen – Treasury Manager</b>	
<b>Date By When Decision To Be Implemented:</b>		<b>1<sup>st</sup> April 2017</b>	

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## **Background Papers used to prepare Report:**

CIPFA Code of Practice on Treasury Management and Cross Sectoral Guidance Notes  
Treasury Management Policy Statement  
Advisors’ Information  
WAG Guidance on Local Government Investments 2010

## **Appendix A:**

### **Treasury Management Policy Statement**

1. This organisation defines its treasury management activities as: “The management of the authority’s investments and cash flows, its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks”.
2. This organisation regards the successful identification, monitoring and control of risk to be the prime criteria by which the effectiveness of its treasury management activities will be measured. Accordingly, the analysis and reporting of treasury management activities will focus on their risk implications for the organisation and any financial instruments entered into to manage these risks.
3. This organisation acknowledges that effective treasury management will provide support towards the achievement of its business and service objectives. It is therefore committed to the principles of achieving value for money in treasury management, and to employing suitable comprehensive performance measurement techniques, within the context of effective risk management.”

## Appendix B:

1. This Authority adopts the key principles of CIPFA's *Treasury Management in the Public Services : Code of Practice (2011 Edition)*, as described in Section 4 of that Code as follows:-

### Key Principle 1:

Public service organisations should put in place formal and comprehensive objectives, policies and practices, strategies and reporting arrangements for the effective management and control of their treasury management activities.

### Key Principle 2:

Their policies and practices should make clear that the effective management and control of risks are prime objectives of their treasury management activities and that responsibility for these lies clearly within their organisations. Their appetite for risk should form part of their annual strategy, including any use of financial instruments for the prudent management of those risks, and should ensure that priority is given to security and liquidity when investing funds.

### Key Principle 3:

They should acknowledge that the pursuit of value for money in treasury management and the use of suitable performance measures are valid and important tools for responsible organisations to employ in support of their business and service objectives; and that, within the context of effective risk management, their treasury management policies and practices should reflect this.

In framing these recommendations, CIPFA acknowledges the difficulties of striving for effective risk management and control, whilst at the same time pursuing value for money. This code does not seek to be prescriptive about how this issue should be handled, particularly since it covers such a wide variety of organisations. However, where appropriate, the sector specific guidance notes give suitable advice. CIPFA recognises that no two organisations in the public services are likely to tackle this issue in precisely the same manner but success in this area of treasury management is likely to be viewed, especially in value for money terms, as an indicator of a strongly performing treasury management function.

Even though it dates back to 1991, CIPFA considers that the report by the Treasury and Civil Service Committee of the House of Commons on the BCCI closure is still pertinent, wherein it was stated that:

*In balancing risk against return, local authorities should be more concerned to avoid risks than to maximise returns.*

Indeed this view was supported by the Communities and Local Government Select Committee report into local authority investments in 2009.

It is CIPFA's view that throughout the public services the priority is to protect capital rather than to maximise return. The avoidance of all risk is neither appropriate nor possible. However, a balance must be struck with a keen responsibility for public money.

2. Accordingly, the Authority will create and maintain, as the cornerstones for effective treasury management:

- a treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities
- suitable treasury management practices (TMPs) setting out the manner in which the Authority will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities.

The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of the Authority. Such amendments will not result in the Authority materially deviating from the Code's key principles.

3. The Authority will also have regard for the Guidance on Local Government Investments issued by the Welsh Assembly Government and effective from 1<sup>st</sup> April 2010.
4. Full Council will receive the annual strategy report as recommended in the Welsh Assembly Guidance on Local Government Investments and the Authority's Cabinet will receive reports on its treasury management policies, practices and activities, including, as a minimum, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.
5. The Authority delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Cabinet, and for the execution and administration of treasury management decisions to the Chief Financial Officer, who will act in accordance with the Authority's policy statement and TMPs and, if he/she is a CIPFA member, CIPFA's Standard of Professional Practice on Treasury Management.
6. The Authority nominates Audit Committee to be responsible for ensuring effective scrutiny of treasury management policies, practices and performance.



## Appendix C:

### ECONOMIC BACKGROUND

#### UK

The UK's growth rates of 2.2%, 2.9% and 1.8% in 2013, 2014 and 2015 were some of the strongest rates among the G7 countries. Growth was expected to strengthen in 2016 with the Bank of England estimating 2.2%. However, the actual figure recently released was below estimation at 2.0%. 2017 is expected to be a tougher year with household spending weakening but Brexit has not been a factor as yet.

The June referendum vote for Brexit delivered an immediate shock fall in confidence indicators and business surveys at the beginning of August and this was interpreted by the Bank of England in its August Inflation Report as pointing to an impending sharp slowdown in the economy. The Monetary Policy Committee meeting in August was therefore dominated by countering this expected sharp downfall and resulted in a package of measures that included a cut in Bank Rate to 0.25%, a renewal of quantitative easing (£70bn) and a £100bn tranche of cheap borrowing being made available for banks to use to lend to businesses and individuals. There was the suggestion that there could be another rate decrease before the end of the year but this did not materialise as economic news was better than expected.

The MPC did subsequently give a forward view that Bank Rate could go either up or down depending on how economic data evolves over coming months. However, current forecasts are indicating that no change is expected prior to 2019.

Consumers have very much stayed in a "business as usual" mode and there has been no sharp downturn in spending. It is consumer expenditure that underpins the services sector which comprises circa 75% of UK GDP. Retail sales grew by 1.2% in Quarter 4 2016. However, the GfK consumer confidence index fell back to -7 in December indicating a return to pessimism about future prospects, probably based mainly around concerns about rising inflation eroding purchasing power. The Bank of England February inflation report expects growth to slow over 2017 as households adjust their spending to match lower real income growth which has resulted in large part from the 18% fall in Sterling since late 2015.

The Chancellor has said that he will do "whatever is needed" to promote growth. There are two main options he can follow – fiscal policy e.g. cut taxes, increase investment allowances for businesses and/or increase government expenditure on infrastructure, housing, etc. This will mean that the deficit elimination timetable will need to slip further into the future as promoting growth will be a more urgent priority and this was confirmed in the Autumn Statement, as was some increased spending on infrastructure.

The other key figure in forecasts for Bank Rate is inflation where the MPC aims for a target for CPI of 2.0%. The January 2017 figure was 1.8% and the Bank of England February inflation report estimates that it will return to around the 2.0% target in February and then rise above it over following months. The Bank of England has given a clear warning that, if wage inflation was to rise significantly as a result of cost pressures on consumers, then they would take action to raise Bank Rate.

## **Appendix D:**

### Approved Countries for Investment

#### AAA

- Australia
- Canada
- Denmark
- Germany
- Luxembourg
- Netherlands
- Norway
- Singapore
- Sweden
- Switzerland

## Appendix E:

### Summary Treasury Management Budget

	2017/18 £	2016/17 £
Employees	165,000	165,000
Transport	1,514,310	1,788,000
Supplies and Services	205,000	193,000
Interest Paid	10,791,945	10,185,000
Debt Management Expenses	6,000	6,000
<b>Gross Expenditure</b>	<b>12,682,255</b>	<b>12,337,000</b>
Interest Received	0	0
<b>Gross Income</b>	<b>0</b>	<b>0</b>
<b>Net Expenditure</b>	<b>12,682,255</b>	<b>12,337,000</b>

#### Notes:

- Transport is the Authority's leasing costs – leasing is classified as a Treasury Management activity.
- Supplies and Services includes the following main items:-

Bank and dr/cr card charges	175k
Treasury /Leasing Advice	15k
- The Interest Paid figure for 2017/18 does not include Prudential Borrowing costs but does include potential replacement borrowing.
- Interest Received has no budget as cash balances have significantly reduced. Any interest received in respect of cash surpluses may need to be used to offset borrowing costs for negative cash balances.

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## CYNGOR SIR POWYS COUNTY COUNCIL

County Council

7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Wynne Jones, Portfolio Holder for Finance

**SUBJECT:** Question from County Councillor William Powell

**Will the Cabinet Member please confirm how regularly Powys County Council reviews its consultation methodology? In particular, how does the Authority ensure that it harnesses fully the network of Town and Community Councils, in engaging the maximum numbers of residents, in any given consultation?**

Answer from the Portfolio Holder with responsibility for Communications

As a County Council we work to the National Principles around Public Engagement for Wales. These principles act as our guiding methodology whenever looking to engage and consult on council business whether this is a new policy or a proposed service change. Whenever a service wishes or needs to engage residents on a particular issue they are advised to consider carefully who their key stakeholders are and to ensure they invite them to have their say on the issue at hand. Town and community councils are often either contacted directly by the service to give their views or pro-actively contribute their views when they see publicity about an issue which affects their community. However, this isn't always the case and there is scope to better harness the network of Town and Community Councils to ensure we reach a wider audience. We would welcome a conversation on how we can improve engagement across the county.

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol



## CYNGOR SIR POWYS COUNTY COUNCIL

County Council

7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Wynne Jones, Portfolio Holder for Finance

**SUBJECT:** Question from County Councillor William Powell

**Will the Cabinet Member please update Council on the profile of spend of EU/RDP monies in the County, now that they are time limited and finite? Also, what strategies are in place to secure replacement funds wherever possible - and to assess the emerging effect of 'Brexit' on the vibrancy of the wider Powys economy?**

Answer from the Portfolio Holder for Finance

***Point 1 - Will the Cabinet Member please update Council on the profile of spend of EU/RDP monies in the County, now that they are time limited and finite?***

### Regeneration Service Projects – current position:

Fund	Project Title	Total Value	Length of Project	Comments
European Social Fund (ESF)	Cynnydd (Youth Service project: 11-16 year olds)	£1.9 million (£950K EU)	3 years	Approval by WEFO anticipated soon
European Social Fund (ESF)	Workways+ Powys (support to individuals 54 years + back into employment)	£695,823 (£348K EU)	3 years (2017 – 2020)	Newly approved project
European Agricultural Fund for Rural Development (EAFRD)	LEADER 2014 - 2020: Powys Implementation**	£3,430,470	7 years (2015-2021)	Programme officially opened for funding applications

				1/2/16
<p>** The LEADER approach is associated with local empowerment through local strategy development and resource allocation. The main tool for the application of this approach to area development and involving local representatives in decision-making is the LEADER Local Action Group (LAG).</p> <p>LEADER is a form of Community-Led Local Development (CLLD). Through a process of stakeholder engagement, building the capacity of target groups and co-operation, the problems faced and opportunities available to an area are recognised and potential solutions are piloted.</p> <p>Innovative activities under LEADER must be consistent with at least one of the five LEADER themes for Wales:</p> <ul style="list-style-type: none"> <li>• adding value to local identity and natural cultural resources</li> <li>• facilitating pre-commercial development, business partnerships and short supply chains</li> <li>• exploring new ways of providing non-statutory local services</li> <li>• renewable energy at community level</li> <li>• exploitation of digital technology</li> </ul> <p>Please see our website for more information: <a href="http://www.arwain.wales">www.arwain.wales</a></p>				
European Agricultural Fund for Rural Development (EAFRD)	LEADER 2014-2020: Powys Co-operation***	£400,000	7 years (2015-2021)	Programme officially opened for funding applications 1/2/16
<p>*** LEADER is a community-led local development (CLLD) method which has been used for over 20 years to engage local actors in the design and delivery of strategies, decision-making and resource allocation for the development of their rural areas.</p> <p>Co-operation is one of the 7 key principles of the LEADER approach. EAFRD and the EMFF also have specific provisions for CLLD Co-operation.</p> <p>The support for Co-operation is a mandatory element of the LEADER measure in all Rural Development Programmes (RDPs).</p> <p>Co-operation of a Local Action Group (LAG) area with other geographical areas can be a key component of a LAG's Local Development Strategy or an additional asset to this strategy. Co-operation can evolve in stages from exchange of experience, to the transfer of promising practice to a common activity. Co-operation with other territories implementing LEADER or other forms of Community Led Local Development (CLLD) can also be a strategic tool which the</p>				

Local Action Group can use to reach the critical mass needed for some projects or to pool complementary resources and expertise.

In addition to inter-territorial co-operation (between LAGs within a Member State), transnational co-operation gives supplementary European added value to local development.

Co-operation is a way to widen local views and bring new knowledge to the area in order to improve local strategies. It can boost the innovative character of local development actions and contribute to increased competitiveness of the area through e.g. capacity building, bringing in new business partners and the diffusion of innovation, know-how and new skills.

***Point 2 - What strategies are in place to secure replacement funds wherever possible - and to assess the emerging effect of 'Brexit' on the vibrancy of the wider Powys economy?***

The Regeneration service is not aware of any specific strategies that address the issue of securing replacement funds in the future. Currently there is no dedicated resource/function within the Council to lead on Brexit related activity, to undertake the work to assess the impact of Brexit on the Powys economy, or to inform the Council's response/approach to Brexit. There is currently minimal capacity for existing staff to fulfil this function on top of existing service delivery commitments and future plans.

However, the Regeneration Service is working closely with the Mid Wales Regional Engagement Officer (Powys and Ceredigion) as we jointly endeavour to keep abreast of the fluid and fast changing emerging position on future regional policy, regarding local government's engagement in the Brexit process and post EU membership. There is a growing amount of information in circulation that we receive through wide and varied sources on a Wales, UK and EU level that we are striving to keep on top of and share.

Brexit is a much wider issue than just European funding and should be considered at a corporate level, thus embracing all service areas in a more well-rounded view by the Council. The amount of policy areas and legislation that Brexit affects is massive. For information attached is a House of Commons briefing paper (please see attached) that details the variety of policy areas that will need reviewing in light of Brexit.

Through the Growing Mid Wales (GMW) Partnership, we are engaging with the Welsh European Funding Office (WEFO) and Welsh Local Government Association (WLGA) on work currently being undertaken to inform the future of regional policy in Wales (*please see attached WLGA briefing paper*). This was discussed at the WLGA Coordinating Committee on the 24<sup>th</sup> February and we have been informed of a

consultation on future regional policy that is expected to be announced by the Welsh Government (WG) before Easter.

The GMW Partnership is also working with key partners including WG Economy and Wales Office, on trying to establish Wales' position in the context of the proposed UK Government Industrial Strategy and how it relates to the £23 billion productivity investment fund mentioned in the last Autumn Statement. There is a risk Wales will arrive 'late to the table' with the Industrial Strategy if there is a delay in WG and UK Government establishing how Wales fits into it.

In terms of the Powys economy we are at risk of the additional wider impacts of Brexit, the weakening pound and increased inflation. The Powys economy may be at greater risk due to the reliance on sectors such as agriculture and the public sector, which is likely to suffer in the future due to a reduced tax base. It is estimated that approximately £80million of CAP Pillar One funding is paid directly to farmers in Powys per year. As Powys has the highest proportion of SMEs of any local authority in Wales this sector may not be as resilient to the future economic challenges we are facing.

With regards to the amount of EU funding spent in Wales by pan-Wales European Structural & Investment Funded (ESIF) projects, such as Business Wales (European Regional Development Fund - ERDF) and the Apprenticeship Scheme (European Social Fund - ESF). It is extremely hard to disentangle the figures on a pan-Wales basis.

It is important to draw attention to the recent External Affairs and Additional Legislation Committee's report on the Implications for Wales of leaving the European Union, especially recommendations one and four (*please see attached, Implications for Wales of leaving the EU*). The WG has produced a lot of evidence on the potential impacts of Brexit across different sectors and it would be useful, as well as transparent, for the WG to share this evidence with Local Authorities to inform their work and plan for future scenarios accordingly.

Attachments:

House of Commons Brexit Briefing Paper

WLGA Brexit Update and Emerging Position on Future Regional Policy

Implications for Wales of leaving the EU



## BRIEFING PAPER

Number 07213, 26 August 2016

# Brexit: impact across policy areas

Edited by Vaughne Miller

### Inside:

1. Background
2. Trade relations
3. Other economic impacts
4. Employment
5. Agriculture
6. Fisheries policy
7. Environment
8. Energy and Climate Change
9. Transport
10. Immigration
11. Justice and Home Affairs
12. Human rights
13. Social security
14. Health policy and medicines regulation
15. Higher education
16. Culture, communication, copyright, broadcasting, sport
17. Consumer policy
18. Foreign policy
19. International development
20. Defence and the armed forces
21. The devolved legislatures



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# Summary

## Key statistics

### Social

#### Population, 2016

	million	% of EU total
EU incl. UK	510.1	100%
Germany	82.2	16%
UK	65.3	13%
France*	63.7	12%
Italy	60.7	12%
Spain	46.4	9%

#### Unemployment rate (%), Q1 2016

	%	Rank (1=highest)
EU incl. UK	8.8	..
UK	5.0	25
Greece	24.3	1
Spain	20.4	2
Germany	4.3	27
Czech Rep.	4.2	28

\* Figure from 2013, excluding overseas territories

### Economy

#### Gross Domestic Product, 2015

	£ billion	% of EU total
EU incl. UK	10,625	100%
UK	1,870	18%
Germany	2,197	21%
France	1,583	15%
Italy	1,188	11%
US	12,208	..

#### GDP growth (annual average, 2010-2015)

	%
EU incl. UK	1.2
UK	2.0
Germany	2.0
France	1.1
Italy	-0.3
US	2.0

### Trade

#### UK's largest export markets, 2014

	£ billion	% of total
Total EU	228.9	44.4%
USA	88.0	17.1%
Germany	43.3	8.4%
Netherlands	34.1	6.6%
France	30.6	5.9%
Ireland	27.9	5.4%

#### UK's largest import markets, 2014

	£ billion	% of total
Total EU	290.6	52.9%
Germany	70.6	12.8%
USA	51.6	9.4%
China	38.3	7.0%
France	37.0	6.7%
Netherlands	36.1	6.6%

### EU budget contributions

#### Highest net contributions, 2014

	£ billion
Germany	14.2
France	6.0
UK	5.7
Netherlands	5.1
Italy	4.2

#### Highest net contributions per head, 2014

	£
Netherlands	305
Sweden	218
Germany	177
Denmark	143
UK	89 (8th highest)

Note: EU budget contributions include EU receipts to the private sector. This is the main reason why the UK's net contribution is lower than the £9.8bn [reported by HM Treasury](#).

Sources: Eurostat (social and economy); ONS, *Pink Book 2015* (trade); Commons Library briefing, *EU budget and the UK's contribution*; HMRC for exchange rates

## Trade

Taken as a group, the EU is by far the UK's most important trading partner. In 2015 it accounted for 44% of UK goods and services exports (£222 billion) and 53% of UK imports (£291 billion). The UK imports more from the EU than it exports to it. In 2015 the UK's deficit on trade in goods and services with the EU was £69 billion, while the surplus with non-EU countries was £30 billion. The share of UK exports going to the EU has declined in recent years. In 2002 the EU accounted for 55% of UK exports. This had fallen to 44% by 2015. The share of UK imports from the EU declined from 58% in 2002 to 50% in 2011, before increasing slightly to 53% in 2015.

The UK's new trading relationship with the EU will be the product of negotiation. Options range from membership of the European Economic Area (EEA) to trading under World Trade Organization (WTO) rules. The EEA option would be the closest to EU membership and would largely maintain access to the EU single market but would mean accepting free movement of people and contributions to the EU Budget. The UK would have no direct influence over EU rules if it were a member of the EEA. The WTO option would be the biggest change from the current arrangements. There would be no requirement to accept free movement of people or make EU Budget contributions, but trade between the EU and UK would be subject to tariffs and other barriers to trade.

The EU has negotiated an array of preferential trade agreements with other countries. It is not yet clear what will happen to these agreements with Brexit but most analysts believe they will need to be renegotiated.

## Overall economic impact

Besides the effect on trade, the long-term impact of withdrawal is likely to be on areas such as foreign direct investment (FDI), the UK's contribution to the EU Budget and the effect of immigration on the labour market. The effect on FDI is uncertain, with much depending on the trade arrangements reached with the EU and other countries. Access to the single market is an important determinant of FDI but by no means the only one. Outside the EU, the UK may be able to establish a regulatory regime more favourable to overseas investors, which could offset the effect of its departure.

The UK will continue to make contributions to the EU Budget while it remains an EU Member State. The UK's contribution was an estimated £8.5 billion in 2015, around 1% of total public expenditure and equivalent to 0.5% of GDP. Any future contributions will depend on what arrangements are agreed for the UK's relationship with the EU after leaving. Members of the EEA, for example, contribute to the EU Budget, so if the UK joins the EEA, it is likely to pay into the EU Budget.

Possible changes to immigration rules following the UK's withdrawal from the EU are likely to affect businesses and the economy, if it becomes more difficult for employers to recruit workers from other EU/EEA countries. The extent to which employers are affected will depend on the new rules, but one possibility would be to restrict economic migration to high-skilled migrants (via a points-based system). This would reduce the flow of migrant workers doing low-skilled jobs. Employers may be able to compensate for any changes to immigration rules by recruiting more UK nationals, but this will depend on their ability to find workers with the same skills and to attract workers from a smaller pool of potential recruits.

Although the UK is a net contributor to the EU, certain regions where living standards are relatively low receive significant levels of support from the EU Budget through the European Regional Development Fund (ERDF) and the European Social Fund (ESF), boosted by matched funding from government or the private sector. Withdrawal would leave a policy vacuum which the Government would have to fill to avoid certain regions and sectors losing out.

### **Business and financial services**

The argument centres on whether the benefits of having a more tailored and flexible national regulatory regime outweigh the loss of access to the single market that may come with pursuing an independent agenda.

A huge amount of existing financial services regulation is derived from the EU. The UK has frequently led reform in this area. It is likely, therefore, that a significant amount of this legislation would remain post-withdrawal. The majority opinion of City firms was that the UK should remain in the EU. The main question financial firms have is over the future of 'passporting' – the ability to sell across the EU with a non EU regulator.

### **Employment**

A substantial component of UK employment law is based on EU law. EU employment law often provides a minimum standard below which domestic employment law must not fall. In some cases EU law has entrenched at an international level provisions that already existed in domestic law: for example, sex and race discrimination and certain maternity rights. In others, new categories of employment rights have been transposed into domestic law to comply with emerging EU obligations. Some of these were resisted by the UK government during EU negotiations (e.g. agency workers' rights and limitations on working time). Commentators differ in their opinions on what the Government will do with EU employment law, but the Brexit Minister, David Davis, said in mid-July: "All the empirical studies show that it is not employment regulation that stultifies economic growth, but all the other market-related regulations, many of them wholly unnecessary".

### **Agriculture**

Brexit, in all scenarios, means a departure from the Common Agricultural Policy (CAP) and its subsidy and regulatory regime.

EU farm subsidies currently make up to around 50-60% of UK farm income. The UK Government has [guaranteed](#) the current level of direct subsidies to 2020 "as part of the transition to new domestic arrangements".

This is in line with the current CAP funding period and hence the timescale over which farmers and regulators have already invested and planned.

However, it is not clear what levels of support the UK Government will be willing to provide beyond this, or whether it will target subsidies in a different way.

Previous Government positions on CAP reform have indicated that the UK Government and Devolved Administrations would be unlikely to match the current levels of subsidy and would require more 'public goods' in return for any support, such as environmental protection, which the UK Government views as the overarching market failure in this sector.

Farming organisations are anxious to know what support will be available after 2020, the degree of future access to the Common Market and migrant labour, and how imports will be regulated.

On the positive side, they also see opportunities in UK trade deals outside Europe and a simpler farming policy which can focus on UK priorities for a competitive industry. Although, under some exit models e.g. EEA, key areas of frustration in the sector such as elements of EU pesticide and GM regulation would continue where there are concerns that scientific assessment processes have become overtly politicised.

Meanwhile, environmental groups are concerned about the overall level of funding for agri-environment schemes outside CAP and how far future UK agriculture policy would support environmental goals.

## Fisheries

The implications of Brexit for fisheries are highly uncertain. Based on the views of different stakeholders and evidence from existing non-EU European countries, they may include:

- The UK obtaining exclusive national fishing rights over its Exclusive Economic Zone (EEZ) up to 200 miles from the coast. However, the UK may trade off some of these rights in order to obtain access to the EU's EEZ or access to the EU market for fisheries products;
- Impacts on the UK's ability to negotiate favourable fish quotas for UK fishers with the EU. It is not possible to say whether the UK will be more or less able to obtain satisfactory quotas for fishers;
- The identification of a mechanism to enable the UK to negotiate and agree annual fishing quotas with the EU and other countries;
- The introduction of a UK fisheries management and enforcement system. This in many respects may mirror the existing arrangements for managing fisheries, albeit with additional resources required;
- Restrictions on EU market access for fishery products (depending on the outcome of negotiations) and less influence in discussions on determining EU market rules for fish;
- Less certainty around public funding of support for fishing communities or environmental sustainability; and
- Challenges related to coordinating the protection of the marine environment with the EU.

## Environment

The environment is an area in which UK and EU law have become highly entwined. Depending on the terms of Brexit, it may be easier for future UK governments to change environmental standards.

Some have raised concerns that as a result some environmental standards could be lowered. There may be fewer incentives for the UK Government to meet environmental standards if EU enforcement mechanisms do not apply to the UK.

However, some incentives to maintain environmental standards will remain. The Government would still have certain international environmental commitments and some EU standards may still apply if the UK seeks to keep access to the single market. Future governments may also decide to increase standards in some areas.

A particular challenge following Brexit may be ensuring effective ongoing coordination with other countries, as many environmental challenges cannot be tackled in isolation. New mechanisms for coordinating with the EU and between the four nations of the UK might be needed.



## Energy and climate change

EU policy on energy has been to develop a more transparent and open European Energy Market. The UK has a competitive and open energy market, with multinational companies and investors. Links with the EU market are likely to continue. However, it is uncertain how Brexit will affect UK energy policy; emission targets are set into UK law through the [Climate Change Act 2008](#), but exit may give the Government more scope in the way it meets climate targets and how it ensures UK security of supply. A key issue for the industry will be investor confidence in the UK energy market so that capital projects continue. The UK is likely to want to ensure the UK industry continues to interact with the EU market.

An exit would affect the UK's international climate targets under the United Nations Conference on Climate Change (UNFCCC), which it currently negotiates as a part of the EU block. It was recognised in the Balance of Competences Review that negotiating as part of an EU block was beneficial, as it had more influence at an international level than if individual Member States acted alone. Withdrawal from the EU would have to address that lack of a UK-specific target under UNFCCC.

One currently unresolved question is how Brexit would affect the UK's ratification of the Paris Agreement, which the UK signed in April this year. Recently, ministers have reiterated the UK's commitment to tackling climate change but have made no comment on whether, when or how the UK might ratify the Paris Agreement. Some commentators have suggested that Brexit may mean that the Paris Agreement itself has to be recalibrated. A recent briefing from the Department for Energy and Climate Change (DECC) has said "We remain committed to ratifying as soon as possible".

The Select Committee on Energy and Climate Change has recently launched two inquiries exploring [the implications of leaving the EU for UK energy policy](#) and [UK climate change policy](#).

The new Government announced on 14 July 2016 that the previous Department for Energy and Climate Change would become part of a new Department for Business, Energy and Industrial Strategy (DBEIS).

## Transport

On transport, it is far too early to say what impact Brexit will have on aviation, shipping, public transport including rail and bus, and road haulage. Much will hinge on whether the UK remains a part of the EEA or whether it concludes bilateral treaties which oblige it to apply much of the current framework as regards single transport markets (such as Switzerland has). More generally transport prices may be affected by the general economic impact of Brexit – for example if inflation rises so will rail fares; and if the economy experiences a downturn big expensive infrastructure projects might be more difficult to finance.

## Immigration

The UK already maintains its own border controls. It is not part of the internal border-free Schengen Area, and Border Force officers conduct checks on EU/EEA travellers crossing UK ports of entry, as well as British citizens and non-EU/EEA nationals.

The UK has not opted in to EU measures facilitating legal migration of third-country migrants, but has recognised that there are benefits to practical co-operation and information-sharing with other Member States, for example to strengthen responses to organised immigration crime and current and future migratory pressures.

At the moment, it is very unclear what kind of future relationship the UK might have with the EU and EEA/Swiss states after leaving the EU. A key question, when considering the impact of leaving the EU on immigration policy and the immigration rights of British and EU/EEA citizens, is to what extent the UK might remain bound by EU free movement of people laws post-Brexit. There is unlikely to be any clarity about this until the withdrawal negotiations are underway. The legal status of British and EU expats post-Brexit will be one of the issues to resolve during the UK's withdrawal negotiations.

Leaving the EU does not automatically affect the UK's border controls in northern France, which are based on a bilateral treaty between the UK and France.

The UK will continue to be bound by the 1951 *Geneva Convention on the Status of Refugees* and related pieces of international law

## Police and justice co-operation

The UK currently has an opt out arrangement with the EU on policing and criminal justice measures, whereby it can choose which measures to opt in to. The UK has chosen, with parliamentary approval, to opt in to a number of measures, the most significant of which is the European Arrest Warrant (EAW). Others relate to information sharing and participation in EU law enforcement agencies.

Predictions about the consequences of Brexit are of course speculative at this stage and depend on the outcome of negotiations. However, it is likely that the UK would wish to recreate at least some of the existing arrangements. Some matters are covered by Council of Europe treaties (e.g. Convention on the Transfer of Sentenced Persons), although in practice these are generally less detailed and may prove to be less effective. In other areas it may be possible to negotiate bilateral treaties with individual Member States, or with the EU as a whole. It is possible that, without the mutual recognition and trust between EU Member States that underpins the EAW and other measures, these arrangements would be more complicated, expensive or time consuming.

## Human rights

A UK withdrawal from the EU would mean that the UK no longer has to comply with the human rights obligations of the EU Treaties. The controversial EU Charter of Fundamental Rights would not apply, and the EU Court of Justice would not have jurisdiction over the UK (except possibly for transitional cases that arose before withdrawal).

Withdrawing from the EU does not mean withdrawing from the separate European Convention on Human Rights. The Government is planning a British Bill of Rights, but Theresa May has said that she does not intend to withdraw from the Convention.

## Social security

Entitlement to welfare benefits for people moving between EU Member States is closely linked to free movement rights. Brexit could have significant implications both for EU/EEA nationals living in or wishing to move to the UK, and for UK expatriates elsewhere in the EU/EEA, and those considering moving abroad.

If Brexit means the end of free movement rights, the UK will be able to impose restrictions on access to many social security benefits via immigration law. Entitlement to contributory social security benefits could be limited by limiting access to employment. It will also be possible to restrict the ability of EU nationals to apply for social housing.

The UK could seek to secure bilateral social security agreements on reciprocal rights with individual EU/EEA states, but negotiations could be difficult and protracted. Alternatively, the UK could seek a single agreement with the EU/EEA as a whole. Such an arrangement could, however, end up closely resembling existing provisions in EU law. Whatever the solution, decisions would have to be made on how to protect social security rights already accrued at the point of withdrawal from the EU.

### Health

Although health care systems are a matter of national responsibility, other aspects of health care – reciprocal access to healthcare through the European Health Insurance Card (EHIC), pharmaceuticals, the working hours of doctors and mutual recognition of qualifications, for example - are regulated to a greater or lesser extent by EU law. The EU also has a significant role in ensuring a cross-border approach to important public health issues, such as preventing pandemics and anti-smoking measures.

If the UK remains in the EEA it might be able to continue to participate in the EHIC scheme, or, subject to negotiation with EU Member States, participate on a similar basis to Switzerland.

### Higher education

Universities are concerned about the impact of Brexit on students and research. Brexit could mean the Government will not have to provide student loans or maintenance funding for EU students, which would save money. But the loss of funding for EU students could have an impact on the numbers of EU students coming to study in the UK and this could have a detrimental impact on fee income for universities and on the culture and diversity of universities. But it can also be argued that Brexit could increase places for UK students and charging EU students higher fees as overseas students could maintain, or increase, fee income if UK higher education continued to attract EU students.

The UK may lose access to EU research funding and there are also concerns that the movement of high calibre staff and researchers could be impacted, which could detrimentally affect the quality of research projects.

### Consumer policy

Consumer protection in the UK is currently a complex combination of EU and national law. A huge amount of UK consumer protection regulation is derived from the EU. For example, directives implemented in the UK protect consumers from unsafe products, unfair practices, misleading marketing practices, distance selling etc. It is unclear whether any EU-derived consumer laws would need to be repealed or replaced on Brexit because that will depend to a considerable degree on what form Brexit takes.

### Foreign and defence policy

Acting through the EU means a larger aid budget, the promise of access to the largest consumer market in the world and a louder political voice. All of these can be significant 'soft power' tools in the pursuit of European interests. If the UK no longer co-ordinates its policy with Member States, it will lose access to these shared tools. However, many UK actions are taken in conjunction with the US rather than the EU. Without the UK's defence capacity and foreign policy experience, the EU's voice in the Middle East, for example, could be less influential. But it can also be argued that Brexit will not make much difference to the UK's capacities in this region, that the US remains the most significant power there and that the UK could co-ordinate its Middle East policies more closely with those of the US.

While generally supportive of the EU's Common Security and Defence Policy (CSDP), successive UK governments have been cautious in their approach to greater European defence integration, regarding it as entirely complementary to NATO and essential for strengthening European military capabilities within that alliance, as opposed to the pro-European view that the EU should establish an independent military capability outside the NATO framework.

Until the UK formally leaves the EU it will remain part of its CSDP planning structures and the EU military operations to which the UK has committed forces.

The impact of Brexit on the UK's military is arguably minimal in the near term. However, the UK's ability to influence or shape the CSDP agenda going forward will be significantly curtailed. Questions have also been raised over future UK defence spending if economic growth predictions fail to materialise in the aftermath of the Brexit vote. The affordability of the MOD's Defence Equipment Plan, should the defence budget be cut at some point in the future, could be brought into question.

The UK's relationship with NATO will be unaffected.

## International development

The UK channels funds for development cooperation and humanitarian aid through two budget lines, both of them managed by the European Commission: the development part of the EU budget, and the European Development Fund. In 2014, about 10% of the UK's aid budget would have required reallocation if the UK had not been an EU Member State.

## The devolved legislatures

With Brexit there could be further policy and legislative divergence in areas of devolved competence, as the UK Government and Devolved Administrations will no longer be required to implement the common requirements of EU Directives. This will probably be particularly noticeable in policy areas such as the environment or agriculture and fisheries, which are currently strongly governed by EU policy and legislation.

### Scotland

Around two-thirds of Scots voted to stay in the EU, and the Scottish First Minister, Nicola Sturgeon, would like to find a way for Scotland to remain, despite the overall UK vote to leave.

Scotland has benefited from both pre-allocated and competitive European funds over the last four decades. Between 2014 and 2020 Scotland is set to benefit from around a further €4.6 billion. During the 2014 to 2020 Multiannual Financial Framework, Scotland's programmes will benefit from a total of €985 million; with match funding from the Scottish Government and other public sector organisations, total funding will be around €1.9 billion.

### Wales

Wales has access to considerable funding opportunities from the EU, notably from the Common Agriculture Policy and Structural Funds (as well as many other funding streams). Between 2014 and 2020 Wales is set to benefit from around £1.8bn European Structural Funds investment. Together with match funding, these funds will result in investment of at least £2.7bn across Wales. Nevertheless, Wales voted by 52.5% to 47.5% to leave the EU.

**Northern Ireland**

Northern Ireland benefits significantly from EU funding: a total of €1,211 million in EU Regional Policy Funding 2014-20. The impact of a UK withdrawal on Northern Ireland would also be different from that in the rest of the UK because NI is the only region of the UK to share a land border with another EU Member State. UK withdrawal would mean that an external border of the EU would run through the island of Ireland.

# 1. Background

## 1.1 Review of the balance of competences

Following on from a 2010 election and Coalition Government pledge to 'repatriate' EU competences to the UK, in July 2012 the Government launched a *Review of the Balance of Competences*, which it described as "an audit of what the EU does and how it affects the UK". The Review involved Government Departments collecting evidence from experts and interested parties, including other EU Member States and the EU institutions, across a range of policy areas. The [32-volume Review](#) was completed in autumn 2014. The Review was to form the basis for the Government's proposed reform of the UK's relationship with the EU. Although it did not identify grossly unacceptable or wide-scale abuse of competences, the final reports picked up on a number of recurring themes:

- Subsidiarity and proportionality are not always sufficiently implemented, EU action is not always necessary, is overly harmonising or has resulted in disproportionate costs to business or governments.
- There is a need for greater democratic accountability of EU institutions. The EU Court of Justice has too wide a margin over interpretation of competence. Accountability could be improved by giving national parliaments a greater role in decision-making.
- The UK has often been successful in shaping the EU agenda, particularly in the EU enlargement process. EU programmes have benefitted the UK.
- There is a need for less and better EU regulation, and more effective implementation and enforcement of existing legislation. The rights of all EU Member States need to be protected as the Eurozone integrates further, to ensure the integrity of the single market.
- The EU should focus on areas where it adds genuine value. Member States should retain the ability to take actions appropriate to national circumstances (one size does not always fit all), particularly in areas where questions are raised over how far the single market provides a rationale for action.<sup>1</sup>

## 1.2 Negotiating a new UK relationship with the EU

To address these and other UK concerns, in 2015 the then Prime Minister, David Cameron, and other members of the Government, held talks with EU leaders to drum up support for proposals which the Government said would benefit not only the UK but the EU as a whole.<sup>2</sup>

David Cameron had pledged in his [Bloomberg speech](#) in January 2013 to put the final reform package to a referendum by the end of 2017. The [European Union Referendum Act 2015](#), which received Royal Assent on 17 December 2015, provided for a referendum on continued EU membership to be held on 23 June 2016.

At the December 2015 meeting of the European Council, Member States [agreed](#) to work together closely to find "mutually satisfactory solutions" in four broad areas set out in the [Prime Minister's letter](#) to European Council President Donald Tusk on 10 November 2015.

<sup>1</sup> From summary of final conclusions, [Government press release, 18 December 2014](#).

<sup>2</sup> The EU-UK negotiations are discussed in Commons Briefing Papers 7311, [EU referendum: reform negotiations June to December 2015](#), and 7497, [referendum: UK's EU reform negotiations and the Tusk package](#).

On 17-19 February 2016 the Heads of State or Government of the EU Member States, meeting within the European Council, considered [draft texts](#) submitted by Donald Tusk on 2 February 2016 to address the UK's EU membership concerns.

Agreement was reached on 19 February 2016 on a 'New Settlement for the United Kingdom within the European Union'. The package is set out in Annexes to the [European Council Conclusions](#), 19 February 2016, and in the [Official Journal of the EU, 23 February 2016](#).

### 1.3 The New Settlement for the UK within the EU

The New Settlement contained provisions on economic governance, competitiveness, sovereignty, and social benefits in the context of free movement.<sup>3</sup> David Cameron, satisfied with the New Settlement, announced that "the Government's position will be to recommend that Britain remains in a reformed European Union".<sup>4</sup>

#### **Economic Governance**

There should be no discrimination against non-eurozone countries (such as the UK) because they are outside the eurozone. Non-eurozone countries would not impede further integration in eurozone matters and would not face financial losses due to eurozone 'bail-outs'. Discussion of matters that affect all EU Member States, such as Eurogroup matters, would involve all EU Member States, including non-eurozone members. The Bank of England would remain responsible for supervising the financial stability of the UK.

#### **Competitiveness**

The aims of the single market and free movement of people, goods, services and capital were confirmed. The EU and member States "must enhance competitiveness" and take steps to lower the regulatory burden on businesses. The Commission would review the EU acquis for compliance with subsidiarity and proportionality and will consult national parliaments.

The Commission would introduce by the end of 2016 a new burden review mechanism, monitor progress against the targets set and report to the European Council every year. The EU remained committed to an "ambitious trade policy".

#### **Sovereignty**

The UK would not be committed to further political integration in the EU and the concept of "ever closer union" would not apply to the UK.

National parliaments would have 12 weeks in which to object to a legislative proposal on subsidiarity grounds. There would be a 'red card' procedure: 55% of national parliaments would be able to prevent further discussion in the Council of EU legislative proposals, where they believed power should lie with national legislatures.

The UK would retain its opt-out and opt-in arrangements in measures on policing, immigration and asylum policy, and national security would remain the sole responsibility of the UK Government.

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<sup>3</sup> The New Settlement is discussed in CBP 7524, [EU Referendum: analysis of the UK's new EU Settlement](#), updated 26 May 2016.

<sup>4</sup> [Commons statement, 22 February 2016](#).



### Social benefits and free movement

There were clarifications of the interpretation of current EU rules, including that Member States could take action to prevent abuse of rights or fraud, such as marriages of convenience, and that in assessing the potential threat of an individual's behaviour, Member States could take into account the individual's past conduct and act on preventative grounds. The Commission and Member States would improve efforts to prevent abuse and fraud. The UK's position on restricting free movement rights with future EU enlargements was acknowledged.

The free movement rights of non-EU family members of EU citizens would be restricted by amendments to the free movement directive. Another EU law amendment would provide an 'emergency brake' to limit full access to in-work benefits by newly arrived EU workers if a Member State was experiencing an "exceptional situation" (the UK already met the criteria for this). A third amendment would give all Member States an option to index exported child benefits to the conditions of the Member State where the child resided.

The Settlement would come into effect the day after a vote to stay in the EU.<sup>5</sup>

## 1.4 The referendum outcome

The New Settlement featured little in the referendum campaigns, which focused mainly on the economy and EU immigration.

On 23 June 2016 the UK voted in favour of leaving the European Union. Turnout was 72.2% and Leave won 51.9% of the vote across the UK. Remain took 48.1% of the vote.

The New Settlement did not come into effect.

David Cameron announced on 24 June 2016 that he would step down as Prime Minister. He did not think it was right for him "to try to be the captain that steers our country to its next destination".<sup>6</sup>

Brexit recriminations gave rise to leadership challenges in both the Conservative and Labour parties.

A debate began over when and how the UK would notify the European Council of the UK's intention to withdraw from the EU under Article 50 of the *Treaty on European Union* (TEU).

There were calls for Parliament to approve triggering the Brexit process rather than the Government through Royal Prerogative powers. There have been judicial review claims challenging the Government's ability to trigger Article 50 TEU without recourse to Parliament. A case is being brought by law firm Mishcon de Reya.<sup>7</sup> The Divisional Court (Lord Justice Leveson and Mr Justice Cranston) has ordered the various claims to be joined together and has set a provisional hearing date before the Lord Chief Justice for 15 October 2016, with a possible 'leapfrog' procedure straight to the Supreme Court after that, with a view to it being heard by the Supreme Court in December.<sup>8</sup>

<sup>5</sup> Questions were raised as to whether it was legally binding or not. This is discussed in CBP 7524.

<sup>6</sup> [Statement](#) in Downing Street, 24 June 2016.

<sup>7</sup> See Mishcon de Reya, 3 July 2016, [Article 50 process on Brexit faces legal challenge to ensure parliamentary involvement](#).

<sup>8</sup> See Brexit Law blog, 20 July 2016, [Article 50 judicial review to be heard this year](#).



Remain supporters called for a second referendum. The Scottish First Minister did not rule out a second Scottish independence referendum, given that a majority in Scotland had voted to stay in the EU.

The then Home Secretary, Theresa May, became the new UK Prime Minister on 13 July 2016. She said that Brexit meant Brexit [and](#) “As we leave the European Union, we will forge a bold new positive role for ourselves in the world”. She said she would not trigger Article 50 before the end of 2016, so negotiations will not start until 2017.

As to whether UK citizens will benefit from leaving the EU, this will depend on how the UK Government fills any policy gaps left by withdrawal. In some areas, the environment, for example, where the UK is bound by other international agreements, much of the content of EU law will probably remain. In others, it might be expedient for the UK to retain the substance of EU law, or for the Government to remove EU obligations from UK statutes.

Much will also depend on whether the UK seeks to remain in the European Economic Area (EEA)<sup>9</sup> with a view to retaining access to the Single Market - but along with free movement for EEA nationals; or decides to go it alone and negotiate bilateral agreements with the EU along the lines of the Swiss model; or whether it negotiates a different relationship altogether.

This paper looks at the current position of the UK and the EU in a range of important policy areas and how this might change with UK withdrawal from the EU (here referred to as Brexit).

## 1.5 Commons and Lords Library Papers on Brexit-related themes

### Constitutional issues

CBP 7214, [Brexit: some legal and constitutional issues and alternatives to EU membership](#), 28 July 2016

Lords Library note (LLN) 2016-0034, [Leaving the EU: Parliament's Role in the Process](#), 4 July 2016

CBP 7632, [Brexit: what happens next?](#) 30 June 2016

CBP 7551, [Brexit: how does the Article 50 process work?](#) 30 June 2016

### Policy

CBP 7629, [Brexit - implications for pensions](#), 10 August 2016

LLN 2016-0043, [UK-Commonwealth Trade](#), 5 August 2016

CBP 7675, [Brexit and UK immigration and asylum policy: a reading list](#), 2 August 2016

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<sup>9</sup> The EEA consists of all 28 EU Member States, Norway, Iceland and Liechtenstein. The right to free movement throughout the EEA is covered by Article 28 of the [EEA Agreement, Annex V](#) on the Free Movement of Workers and [Annex VIII](#) on the Right of Establishment. Nationals of the EEA EFTA States have the same right as EU citizens to take up an economic activity anywhere in the EU/EEA without being discriminated against on the grounds of their nationality. EU citizens also have the right to work and reside in the EEA EFTA States. Non-economically active persons such as pensioners, students and family members of EEA nationals are also entitled to move and reside anywhere in the EU/EEA subject to certain conditions set out in EU legislation. (From [EFTA website](#), accessed 22 August 2016).

- CBP 7628, [Brexit and financial services](#), 1 August 2016
- CBP 7669, [What next for UK fisheries?](#) 28 July 2016
- CBP 7633, [Brexit: how will it affect transport?](#) 25 July 2016
- CBP 7659, [Impacts of immigration on population and the economy](#), 25 July 2016
- CBP 7664, [Brexit and local government](#), 20 July 2016
- CBP 7662, [The UK's points-based system for immigration](#), 18 July 2016
- CBP 7661, [The Common Travel Area and the special status of Irish nationals in UK law](#) 15 July 2016
- Lords Library Note 2016-0039, [NHS and Social Care Workforce: Implications of Leaving the European Union](#), 15 July 2016
- CBP 7393, [Climate change: Ratifying the Paris Agreement](#), 15 July 2016
- CBP 7237, [Support for science](#), 15 July 2016
- CBP 7630, [UK tax after the EU referendum](#), 14 July 2016
- CBP 7435, [Financial Services: European aspects](#), 30 June 2016
- CBP 7638, [UK economy: information for debate on 29 June 2016](#), 29 June 2016
- CBP 7525, [Leaving the EU: How might people currently exercising free movement rights be affected?](#) 27 June 2016
- CBP 6455, [EU budget and the UK's contribution](#), 27 June 2016

## Referendum

- CBP 7678, [Referendum campaign literature](#), 8 August 2016
- CBP 7249, [European Union Referendum Bill 2015-16: Progress of the Bill](#), 7 July 2015.
- CBP 5923, [Overseas voters](#), 4 July 2016
- CBP 7639, [Analysis of the EU Referendum results 2016](#), 29 June 2016
- CBP 7212, [European Union Referendum Bill 2015-16](#), 3 June 2015
- CBP 7486, [The EU referendum campaign](#), 27 January 2016
- CBP 7220, [Reading list on UK-EU relations 2013-16: reform, renegotiation, withdrawal](#), 24 June 2016

## 2. Trade relations

### 2.1 How does it work at the moment?

EU Member States are part of a customs union, with no tariffs on goods moving between them and a common tariff applied to goods entering from outside the EU. Member States cannot operate independent trade policies, for instance by pursuing bilateral free trade agreements with non-EU countries. Instead, external trade relationships are co-ordinated at EU level through the Common Commercial Policy (CCP). The EU Trade Commissioner acts as the negotiator in multilateral and bilateral trade talks, with the EU Council (ministers from the Member States) and European Parliament making certain formal decisions regarding the commencement and mandate for the negotiations, and approving their final result. The EU recently concluded a trade agreement with Canada and is currently negotiating the Transatlantic Trade and Investment Partnership (TTIP) with the US.<sup>10</sup>

The principle of free trade in services between EU Member States (i.e. that businesses should be free to provide services within the EU, either on a cross-border basis or through establishing in the countries of their choosing) is also enshrined in the EU Treaties.

The previous Government noted that less progress had been made in the Single Market for services compared with that for goods:

Services make a very important contribution to the overall EU economy but the trade in services within the Single Market is much less integrated than that of goods. Notwithstanding the fact that services are typically less tradable than goods, evidence submitted to this review attributes this underperformance of the single market in services to a number of factors, but particularly to poor implementation of the Services Directive, with national restrictions remaining as barriers to trade.<sup>11</sup>

The Prime Minister made clear in his statement on the outcome of the referendum that there would be no immediate change to these arrangements: “Let me stress that nothing changes in the UK’s trading relations with Europe until we actually leave the European Union”.<sup>12</sup> He emphasised this point: “The true position is that as long as we are in this organisation—until we exit—all the rules about trade, services, financial passports and access to markets do not change”.<sup>13</sup>

### 2.2 Statistics on UK-EU trade

Taken as a group, the EU is by far the UK’s most important trading partner. In 2015 it accounted for 44% of UK goods and services exports (£222 billion) and 53% of UK imports (£291 billion). These figures are shown in the chart and table below.<sup>14</sup>

<sup>10</sup> Further information on TTIP is in [The Transatlantic Trade and Investment Partnership](#), Commons Library Standard Note 6688, 4 December 2015.

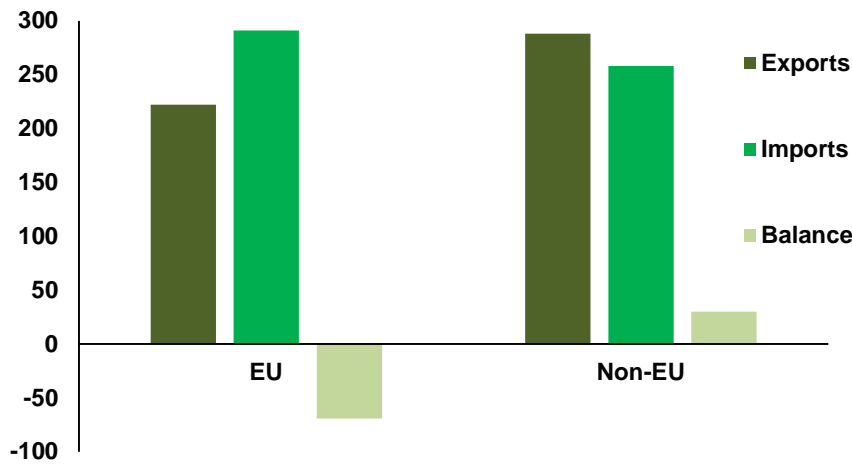
<sup>11</sup> HM Government, [Review of the Balance of Competences between the United Kingdom and the European Union, The Single Market: Free Movement of Services](#), June 2014, p6.

<sup>12</sup> [HC Deb 27 June 2016 c32](#)

<sup>13</sup> [HC Deb 27 June 2016 c38-9](#)

<sup>14</sup> ONS Statistical Bulletin, [Balance of Payments Jan to Jun 2016](#), 23 June 2016, Tables B and C.

**UK trade with EU and non-EU countries  
£ billion, 2015, Goods and services**



Source: ONS

**UK trade with EU and non-EU countries 2015  
Goods and services**

	Exports		Imports		Balance
	£ billion	%	£ billion	%	£ billion
EU	222	44%	291	53%	-69
Non-EU	288	56%	258	47%	+30
Total	510	100%	549	100%	-39

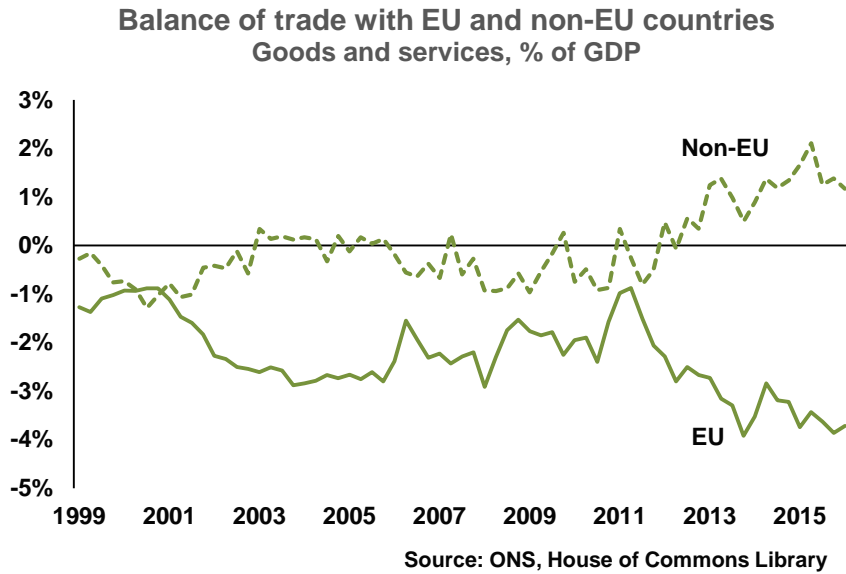
Source: ONS Balance of Payments Stat Bulletin, 30 Jun 2016, Tables B & C

These estimates take no account of the ‘Rotterdam effect’. This is the argument that UK trade with the EU is overstated by these figures. The UK does a large amount of trade with the Netherlands, some of which may ultimately be with countries outside the EU but recorded as EU trade. There are no official estimates of how big this effect might be and, even making allowance for it, the EU is still the UK’s largest trading partner by a large margin.<sup>15</sup>

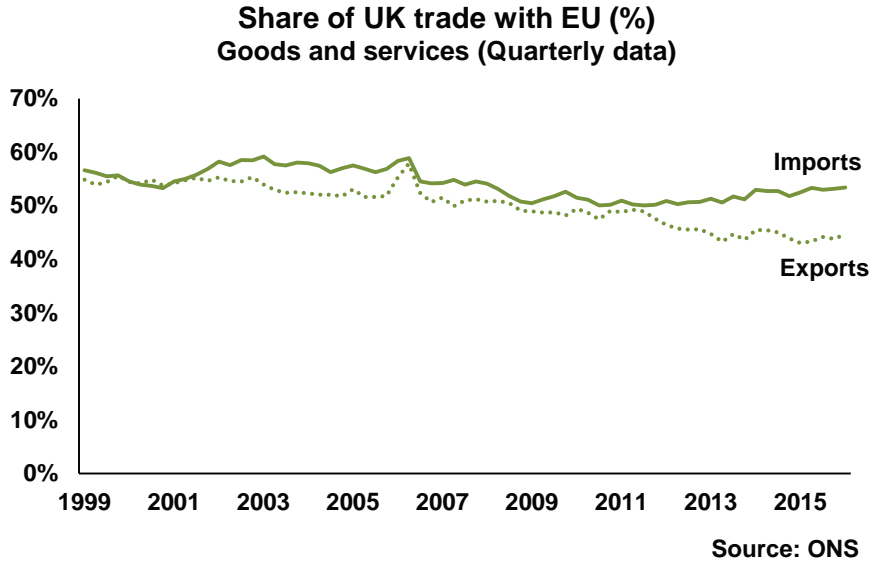
The UK imports more from the EU than it exports to it. In 2015, the UK’s deficit on trade in goods and services with the EU was £69 billion, while the surplus with non-EU countries was £30 billion. The chart below shows the UK balance of trade since 1999 with EU and

<sup>15</sup> There is more information on the Rotterdam effect and more detailed statistics on UK trade with the EU in Commons Briefing Paper 6091 [In brief: UK-EU economic relations](#).

non-EU countries.



The share of UK exports going to the EU has declined in recent years. In 2002 the EU accounted for 55% of UK exports. This had fallen to 44% by 2015. The share of UK imports from the EU declined from 58% in 2002 to 50% in 2011, before increasing slightly to 53% in 2015.



## 2.3 Scenarios for EU exit

### Introduction

The UK's new trading relationship with the EU will be the product of negotiation. There are a number of different options. These range from membership of the European Economic Area (EEA) to trading under World Trade Organization (WTO) rules. The EEA option would be the closest to EU membership while the WTO option would be the biggest break. Most economic analyses published before the referendum found that the EEA option would do the least harm to the UK economy, with the WTO option having the largest negative impact.

The renegotiation of the UK's trading relationship with the EU will require a number of considerations to be balanced. These include access to the single market, free movement of people, contributions to the EU budget, the extent to which the UK needs to adopt EU rules and the extent of UK influence over those rules. According to a document published by the Government before the referendum, "none of the alternative relationships to full EU membership offer full access to the Single Market".<sup>16</sup> The EU has said that access to the single market depends on accepting all four freedoms – including free movement of labour. It has said that "there will be no single market 'a la carte.'" <sup>17</sup>

Theresa May has said the UK's future relationship with the EU will not necessarily be based on the models that already exist.<sup>18</sup>

## EU exit without a free trade agreement

### Tariff barriers

The principle of non-discrimination requires WTO members not to treat any member less advantageously than any other: grant one country preferential treatment, and the same must be done for everyone else. There are exceptions for regional free trade areas and customs unions like the EU, but the principle implies that, outside of these, the tariff that applies to the 'most-favoured nation' (MFN) must similarly apply to all.

In practice, this would prevent discriminatory or punitive tariffs being levied by either the EU on the UK, or vice versa. The maximum tariff would be that applied to the MFN. The EU's MFN tariff has generally fallen over time, meaning that in this particular context the 'advantage' of membership has declined. In 2013 the EU's trade weighted average MFN tariff was 2.3% for non-agricultural products.<sup>19</sup> This is an average figure: tariffs on some individual products are much higher, however, especially on agricultural goods. The EU tariff on cars, for example, is 10%. The average EU tariff on sugars and confectionery is nearly 30% and on beverages and tobacco over 20%.<sup>20</sup>

However, given that MFN tariffs would be imposed on many of the UK's goods exports to the EU, it would necessarily mean many exporters becoming less price competitive, to varying degrees, than their counterparts operating within the remaining EU, and those in countries with which the EU has preferential trading relationships.

The UK would also need to decide the level of tariffs on imports into the UK. Under WTO rules, the UK would not be able to discriminate between imports from different countries. At the moment, it is not clear whether the UK could simply "inherit" the EU tariff and apply these to UK imports (including those from the EU).<sup>21</sup> Setting the level of tariffs would involve a trade-off between lower prices for domestic consumers on the one hand, and bargaining power in future trade negotiations on the other. Setting relatively high tariffs would increase prices for consumers but give a bargaining chip in future negotiations. Eliminating or setting low tariffs would tend to reduce prices, but give trading partners little incentive to reduce their tariffs in any future negotiations.

<sup>16</sup> HM Government, [Alternatives to membership: possible models for the united Kingdom outside the European Union](#), March 2016, p11.

<sup>17</sup> [Remarks by President Donald Tusk after the informal meeting of 27 EU heads of state or government](#), 29 June 2016.

<sup>18</sup> UKpolitics.org.uk, [Theresa May press statement in Slovakia](#), 30 July 2016.

<sup>19</sup> World Trade Organization, [WTO Tariff Profiles 2015](#), page 75.

<sup>20</sup> HM Government, [Alternatives to membership: possible models for the United Kingdom outside the European Union](#), March 2016, p36, based on WTO data.

<sup>21</sup> Brexit: Silence from leave camp leaves options in the air. Financial Times, 27 June 2016.

The WTO option would impose the fewest obligations on the UK. There is no requirement to implement EU legislation, although UK businesses would still have to comply with EU rules in order to export to the Single Market. Under the WTO option, there would be no obligation to accept free movement of people or make a contribution to the EU Budget. The WTO option would give the UK no say over EU decisions.<sup>22</sup>

Before the referendum, Roberto Azevedo, the Director-General of the WTO, warned that the UK would face “tortuous negotiations” over the terms of its WTO membership. He said “pretty much all of the UK’s trade [with the world] would somehow have to be negotiated”. The UK joined the WTO as a member of the EU and Mr Azevedo said the UK would not be allowed simply to cut and paste those terms. The WTO has never been through this kind of negotiation with an existing member and even the procedures for doing so are unclear.<sup>23</sup>

### **Non-tariff barriers**

Non-tariff barriers to trade refer to a range of measures that have the effect of reducing imports, either intentionally or unintentionally. They include anti-dumping measures that prevent goods being exported at a price below production cost (usually by the application of an additional duty), and product standards, such as labelling, packaging and sanitary requirements. Support to domestic producers and export subsidies, such as those provided under the Common Agricultural Policy (CAP), can also be interpreted as non-tariff barriers since they inhibit market access by foreign producers on equal terms. In the context of falling tariff barriers, such non-tariff measures have become more widely used as a means to protect domestic producers from foreign competition.

The terms of WTO agreements limit the circumstances in which such measures can be applied, and in particular uphold the principle of non-discrimination that would prohibit punitive measures against the UK. Many of the EU’s anti-dumping measures are against China and other Asian countries. Few are against other advanced Western countries.<sup>24</sup>

Just as important in a trade context, however, are the standards required of products imported from outside the EU. All UK businesses must comply with these standards already, although as in other areas of regulation, withdrawal raises the prospect of costly divergences between the UK and EU product standards. On the other hand, some proponents of withdrawal argue that leaving the EU would mean only exporters to the EU would have to be bound by the EU’s product standards, leaving other businesses free to operate under a UK regime.

### **Services trade**

Without further negotiation, the UK’s trade in services with the EU would be governed by the WTO General Agreement on Trade in Services (GATS). Under this agreement, EU Member States (and other parties to the agreement) have chosen which sectors they are prepared to liberalise, and the timescale over which they wish to do so. As with trade in goods, GATS also operates on the principle of non-discrimination, meaning broadly that outside preferential agreements, restrictions on market access must be applied uniformly across all countries.

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<sup>22</sup> HM Government, [Alternatives to membership: possible models for the United Kingdom outside the European Union](#), March 2016, paras 3.70-71.

<sup>23</sup> “WTO warns on tortuous Brexit trade talks”, Financial Times, 25 May 2016.

<sup>24</sup> European Commission, [Anti-dumping, Anti-Subsidy Statistics covering first 11 months of 2015](#), November 2015.



Barriers to services trade are usually in the form of non-tariff barriers, such as domestic laws and regulations, also known as ‘behind the border’ measures. In general, services markets are more highly regulated than the market for goods. Often, regulation is intended to meet social objectives, or to correct failures in supply, rather than directly to restrict foreign suppliers, but the effect on market access for foreign companies can in some cases be highly restrictive. EU Member States retain considerable national discretion over services regulation and supervision. Just as a fully level playing field in services trade does not exist within the EU, so exporters from outside the EU face different levels of market access in individual Member States. However, the level of market access would generally be far more limited for UK exporters under a GATS arrangement than it is currently.

As well as affecting cross-border trade in services, these restrictions could also have implications for UK companies providing services through a commercial presence (effectively outward direct investment) in other Member States.<sup>25</sup> The EU Treaties require that a service provider from one Member State be legally free to establish in another, while continuing to be regulated by the authorities of its home country. A UK company that provides services through establishments in other Member States may find, when the UK is no longer a member of the EU, that it has to comply with the requirements of a foreign regulatory authority.

### EU exit under a negotiated arrangement

Beyond the MFN position, there are a host of more preferential trade arrangements between the EU and UK that may be negotiated. For example, the UK might be able to negotiate a free trade agreement (FTA) with the EU.<sup>26</sup> A free trade agreement would be likely to mean less access to the Single Market but also fewer obligations in terms of accepting free movement of people and making a contribution to the EU budget. Exporters to the Single Market must comply with its rules.<sup>27</sup> Unlike a customs union, an FTA would allow the UK to set its own tariffs on trade with countries outside the FTA.

It remains to be seen how keen the rest of EU is to enter into an FTA with the UK, or what the terms of such an agreement might be. A comprehensive economic and trade agreement between the UK and the EU would need the agreement of all EU Member States’ governments (and some parliaments of EU Member States).<sup>28</sup> The UK is, however, an important market for the rest of the EU. In 2014 18 of the other 27 EU Member States had a trade surplus with the UK. Germany’s surplus was £25 billion. These commercial considerations might lead to pressure for a UK-EU FTA. Also, negotiations would start from a position of close integration between the EU and the UK. The aim of the negotiations would be to loosen this to some extent. As the Treasury Committee noted, this is different from most trade negotiations which aim to increase economic co-operation.<sup>29</sup> On the other hand, some EU countries may have domestic political incentives to drive a hard bargain with the UK to disadvantage anti-EU parties in their own countries.

<sup>25</sup> This is recognised as a form of services ‘trade’ under GATS, but is not measured in trade statistics, which are intended to record *cross-border* trade.

<sup>26</sup> Other European trade groups, such as the European Free Trade Association (EFTA) and the European Economic Area (EEA) are discussed in Commons Briefing Paper 7214, [Brexit: some legal and constitutional issues and alternatives to EU membership](#), 28 July 2016.

<sup>27</sup> HM Government, [Alternatives to membership: possible models for the United Kingdom outside the European Union](#), March 2016, para 3.52.

<sup>28</sup> Treasury Committee, [The economic and financial costs and benefits of the UK’s EU membership](#), HC 122, 27 May 2016, para 141.

<sup>29</sup> *Ibid*, para 149.



There is, however, likely to be a trade-off between the level of access to the Single Market (i.e. freedom from tariff and non-tariff barriers to trade), and freedom from EU product regulations, social and employment legislation, and budgetary contributions.

### **Rules of origin**

Because the EU, as a customs union, operates with a common external tariff, goods entering from outside can travel freely within the Union once that tariff has been paid (e.g. a mobile phone imported into the UK from China can be re-exported to the rest of the EU tariff free). The same is not true of goods that enter the EU via the EEA (e.g. a mobile phone from China re-exported to the EU from Norway) or via other countries with which the EU has a free or preferential trading relationship, because they do not share the EU's common external tariff. Determining where a good originated, and hence whether it should attract tariffs, is done through the EU's Rules of Origin. Given the complexity of some global supply chains and the range of preferential trading relationships the EU operates, this can be a difficult, time-consuming and often subjective process.<sup>30</sup> The costs of rules of origin were discussed in research published alongside the Coalition Government's Balance of Competences Review:

With the UK as a customs union member within the European Union, British firms are saved the compliance and administrative costs linked to proving the origin of products shipped in the European market. With the UK instead taking direct control over its external trade policies, and so operating outside the customs union, rules of origin would become necessary under free trade with the customs union. This means British firms would be exposed to a combination of administrative and compliance costs linked to rules of origin, ranging (based on existing estimates) from 4 percent to perhaps 15 percent of the cost of goods sold. For low tariff products, it is therefore likely that firms would instead simply opt to pay the common external tariff of the EU, and so avoid costs linked to rules of origin. This means that, for low tariff products, there would be very little difference between no trade agreement, and one involving free trade combined with rules of origin.<sup>31</sup>

### **Anti-dumping and other non-tariff barriers**

Were the UK in the EEA or if it adopted the Swiss model, goods would still be susceptible to anti-dumping action by the EU; for instance, in 2005, the EU imposed a 16% duty on Norwegian salmon. Membership of the EEA or the negotiation of bilateral agreements analogous to those in Switzerland would also require the UK to continue to adopt EU product standards (and other regulations) across the whole economy.

### **Implications of EU exit for trade relationships outside the EU**

As mentioned above, the UK exports more to non-EU countries than to EU Member States and the share of non-EU countries is rising. The UK's trade relations with countries outside the EU are therefore particularly important.

The EU has negotiated an array of preferential trade agreements with other countries (see box below).<sup>32</sup> In addition, negotiations for a trade and investment agreement with Canada have been completed, although this has still to be ratified. The EU is also negotiating seven bilateral trade and investment agreements (with the US, Japan, the Philippines, India, Mercosur - a trading bloc made up of a number of South American countries -

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<sup>30</sup> In very simple terms, origin is determined on the principle of goods being wholly obtained in the exporting country, or substantially transformed there.

<sup>31</sup> Centre for Economic Policy Research (CEPR), [Trade and Investment: Balance of Competence Review. Project Report](#), November 2013, p58.

<sup>32</sup> [Map of EU trade agreements.](#)

Morocco and Tunisia). Bilateral investment treaties are being negotiated with China and Burma. The EU is also involved in two “plurilateral” negotiations: the Trade in Services Agreement and the Environmental Goods Agreement.<sup>33</sup>

### List of countries with which the EU has Free Trade Agreements

Mexico, Chile, Peru, Morocco, Algeria, Tunisia, Egypt, Jordan, Israel, Occupied Palestinian Territory, Lebanon, Syria, FYR Macedonia, Albania, Serbia, Montenegro, Bosnia and Herzegovina, Switzerland, Korea, Antigua, Barbuda, Belize, Bahamas, Barbados, Dominica, Dominican Republic, Grenada, Guyana, Haiti, Jamaica, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, Colombia, Honduras, Nicaragua, Panama, Guatemala, Papua New Guinea, South Africa, Madagascar, Mauritius, Seychelles, Zimbabwe, Costa Rica, El Salvador, Fiji, Cameroon, Georgia, Moldova, Ukraine, EU Customs Union (Andorra, Monaco, San Marino, Turkey), EEA (Norway, Iceland, Liechtenstein).<sup>34</sup>

A number of opinions have been put forward on what will happen to these agreements now that the UK has voted to leave the EU. For example, in evidence to the Foreign Affairs Committee, Sir Alan Dashwood QC, Emeritus Professor of European Law, Cambridge University, said:

Take the example ... of the free trade agreement with South Korea, which has been very favourable to the UK. [...]. The UK will not be able to—well, it could not—stay as a part. Although it is a free trade agreement, it is still a mixed agreement because it goes a little further than the core area of the common commercial policy. Nevertheless, I don’t believe that the UK could retain the rights and obligations that apply to it under the agreement. We would have to renegotiate ...<sup>35</sup>

The issue was also raised in evidence to the Treasury Committee. Philippe Legrain (LSE European Institute) and Simon Tilford (Centre for European Reform) were both of the opinion that the agreements would all need to be renegotiated. Roger Bootle (Capital Economics), however, was not sure that this was the case and said the Committee should investigate the matter further.<sup>36</sup>

Also in evidence to the Treasury Committee, the then Chancellor, George Osborne, said that in the event of Brexit the UK would no longer be party to some of the EU’s trade agreements with other countries. He said:

those who advocate our exit, without setting out to try to improve arrangements as they are, need to explain what the alternative is, not just support for farmers, but also the trade agreements that the EU has signed with numerous other countries, some of which we would not be party to if we exited from the European Union.<sup>37</sup>

A paper by the Institute of Economic Affairs took a different view:

<sup>33</sup> PQ HL601 21 June 2016

<sup>34</sup> Source: HM Government, [Alternatives to membership; possible models for the United Kingdom outside the European Union](#), March 2016, p45 (based on European Commission data)

<sup>35</sup> Foreign Affairs Committee, [Costs and benefits of EU membership for the UK’s role in the world](#), HC 545, Q219 Q217

<sup>36</sup> Treasury Committee, [The economic and financial costs and benefits if UK membership of the EU](#), 27 October 2015, HC 499, Qq47-51

<sup>37</sup> Treasury Committee, [The economic and financial costs and benefits if UK membership of the EU](#), 1 December 2015, HC 499, Q372

As a WTO Member and signatory of the EU's Free Trade Agreements (FTAs) in its own right, the UK will continue to be bound by these obligations and should expect other countries to reciprocate.

The UK, like all other EU Member States, is a member in its own right of the WTO. Though currently its tariffs and services obligations are incorporated in the schedules for the EU, they would still stand as an obligation on the UK if the country exited the EU. Similarly, the UK signs and ratifies EU trade agreements in its own right, even though all negotiation is done by the Commission.<sup>38</sup>

The Treasury Committee's conclusion on this issue was as follows:

Were the UK to leave the EU, it is very uncertain whether it would be able to continue to participate in these agreements. The extent to which the UK would have to enter into negotiations to ensure its continued participation would probably depend on the attitude of the contracting parties, about which little is known.<sup>39</sup>

Unless the UK provided the same level of access to its market as under the current arrangements, there is a possibility that the EU would have to pay compensation to the affected countries with which it has a trade agreement, as a result of the 'shrinking' of the market from what was originally agreed. This concern was raised by the European Commission in 1983 in the run-up to Greenland's departure from the EU:

The free trade agreements concluded by the Community with the EFTA countries, which at present enjoy exemption from customs duties and free access without quantitative restrictions to the Greenland market, would automatically cease to apply to Greenland. The question whether the Community would have to negotiate with its partners compensation for the rights and benefits which those countries would lose as a result of the 'shrinking' of the Community would not arise if the same rights and benefits were granted by Greenland.<sup>40</sup>

Any negotiated solution may therefore require the UK to maintain consistency in its trade treatment with countries outside the EU, thereby limiting the extent of trade policy independence it would gain on withdrawal.

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<sup>38</sup> Iain Mansfield, [A Blueprint for Britain: Openness not Isolation](#), Winner Brexit Prize, 2014, p14 and footnote 16.

<sup>39</sup> Treasury Committee, [The economic and financial costs and benefits of the UK's EU membership](#), HC 122, 27 May 2016, para 226.

<sup>40</sup> European Commission (1983) *Status of Greenland: Commission opinion*, COM (83) 66 final, Annex A, p.22.

### 3. Other economic impacts

The following sections consider the impact of withdrawal in areas of the economy where EU membership currently has the most obvious impact. These include foreign direct investment (FDI), the UK's contribution to the EU Budget, the effect of immigration on the labour market and the impact on business.

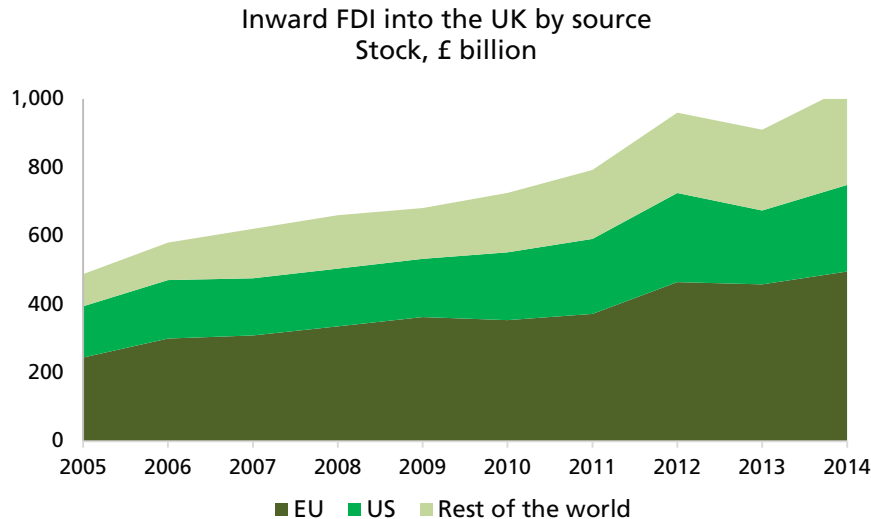
#### 3.1 Foreign direct investment

Broadly speaking, foreign direct investment (FDI) became part of the EU's Common Commercial Policy (CCP) under the 2009 Lisbon Treaty.<sup>41</sup> The EU has exclusive competence over the CCP, meaning that only it, and not the Member States, has the power to act in this area.<sup>42</sup>

##### Statistical context

The UK is a major recipient of inward FDI and also an important investor in overseas economies. The UK had the third highest stock of inward FDI in the world in 2014, behind the US and China.<sup>43</sup>

In 2014 EU countries accounted for just under half the stock of FDI in the UK (£496 billion out of a total of £1,034 billion, 48%).<sup>44</sup> This compares with 24% from the US and 28% from other countries. The share accounted for by the EU has fluctuated between 47% and 53% over the last decade. In terms of UK investment abroad, the EU accounted for 40% of the total stock of UK FDI in 2014.<sup>45</sup>



#### Implications of exit

FDI is important to the economy. As the Institute for Fiscal Studies (IFS) explains:

<sup>41</sup> There is a discussion of EU Competence over FDI and the arguments about how far this extends in Chapter 2 of the Government's [Review of the Balance of Competences between the United Kingdom and the European Union: Trade and Investment](#), February 2014.

<sup>42</sup> Ibid.

<sup>43</sup> UK Trade and Investment, [Inward Investment Report 2014/15](#), p4.

<sup>44</sup> ONS Statistical Bulletin, [Foreign Direct Investment Involving UK Companies 2014](#), 3 December 2015.

<sup>45</sup> Ibid.

Foreign direct investment directly increases national income and can also have subsequent beneficial impacts on productivity levels. Investments made in the UK by entities or companies outside of the UK can raise productivity through bringing new ideas and approaches (which may spill over to other firms) or simply being productive themselves and raising the overall average.<sup>46</sup>

Membership of the EU is one of many factors which may attract foreign investment to the UK. The Treasury Committee report explains this as follows:

Membership might act as a draw for inward investment to the UK because it allows multinationals based outside the EU to access EU markets without facing tariff and non-tariff barriers. For similar reasons, companies headquartered elsewhere in the EU can bring UK-based operations into their supply chain at a lower cost.<sup>47</sup>

The IFS points out that the EU does not restrict movement of capital, which might make it easier for EU countries to invest in the UK. Exiting the EU might affect future flows of investment into the UK or the existing stock of investment, if, for example, a UK HQ was relocated overseas.<sup>48</sup>

However, many other factors besides EU membership may affect foreign investors. These other factors include: the UK's flexible labour market, the skills of the UK labour force, political stability, the rule of law, language, openness of the UK economy, the UK's relaxed attitude towards foreign ownership of assets.<sup>49</sup> These reasons for investing in the UK will continue even when the UK has left the EU.

The Treasury Committee concluded that EU membership did help to attract inward investment. The Treasury Committee did not attempt to quantify the negative impact of Brexit on FDI, saying it would depend on a range of factors:

How far FDI was negatively affected by Brexit would depend both on the extent of market access that the UK negotiated on leaving the EU, and how far it was able to increase its attractiveness to foreign investors by changing its regulatory framework and striking trade deals with non-EU countries. It is beyond the scope of this report accurately to assess or predict the size of the impact.<sup>50</sup>

Outside the EU, the UK may be able to establish a regulatory regime more favourable to overseas investors that could offset the effect of its departure. In particular, the UK would regain competence to negotiate international agreements on foreign direct investment with other countries, something which it has not been able to do since the Lisbon treaty entered into force in 2009.

## 3.2 EU Budget contributions

### The UK will continue to contribute to the EU Budget until it departs the EU

Whilst the UK remains a member of the EU, until the day of its departure, it will continue to contribute to the EU Budget. Following a negotiated departure, the UK may still make contributions to the EU Budget.

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<sup>46</sup> IFS, [Brexit and the UK's public finances](#), IFS Report 116, May 2016 p39.

<sup>47</sup> Treasury Committee, [The economic and financial costs and benefits of the UK's EU membership](#), HC 122, 27 May 2016, para 205.

<sup>48</sup> IFS, [Brexit and the UK's public finances](#), IFS Report 116, May 2016 p40.

<sup>49</sup> Treasury Committee, [The economic and financial costs and benefits of the UK's EU membership](#), HC 122, 27 May 2016, paras 206-7.

<sup>50</sup> Ibid, paras 213.

Any future contributions will depend on what arrangements are agreed for the UK's relationship with the EU after leaving. EEA Members, for example, contribute to the EU Budget, so if the UK joins the EEA, it is likely to pay into the EU Budget. There is more on alternatives to EU membership the Library briefing [Brexit: some legal and constitutional issues and alternatives to EU membership](#), 28 July 2016.

## The UK's contribution

The UK's budgetary contribution to the EU is one of the more quantifiable costs of its membership. Net of receipts under the Common Agricultural Policy, EU regional funding, and the Budget rebate, the Government contributed an estimated £8.5 billion to the EU in 2015, around 1% of total public expenditure and equivalent to 0.5% of GDP.<sup>51</sup>

The EU's Budget is used to pay for policies carried out at a European level, including agricultural subsidies via the CAP, regional funding to assist poorer parts of the EU, research, and some aid to developing countries.

The basis for budgeting in the EU is a financial framework set for a period of years. The current framework runs from 2014 to 2020 and was agreed in 2013. The framework sets out annual expenditure ceilings, and allocates spending to broad priorities. A separate but concurrently negotiated decision sets out the limits and sources of revenue for the Budget. Year-to-year expenditure and revenue are set through an annual budgeting process that takes place within the limits set by the financial framework.

Contributions by Member States to the Budget consist of four elements, called 'own resources'. These are described in more detail in Commons Briefing Paper [EU budget and the UK's contribution](#). By far the most important element, accounting for around 75% of total revenue, are GNI-based contributions, which are calculated by taking the same proportion of each Member State's Gross National Income (0.7481% in 2015).<sup>52</sup>

Around 6% of the EU's budget is spent on administration and a further 5% on the EU's foreign policies, international development, and pre-accession aid. The remainder is redistributed back to Member States in the form of agricultural and regional funding. Depending on its standard of living in relation to the EU average, and depending on the size of its agricultural sector, a Member State may get more or less back than they 'put in'. In 2014, 10 of the EU Member States, including the UK, were net contributors to the Budget. Per capita, contributions ranged from net receipts of €569 in Hungary to net contributions of €378 in the Netherlands. The UK's per capita contribution was €110.<sup>53</sup>

The UK has been a net contributor to the EU Budget in 42 out of its 43 years of membership (the exception being 1975), contributing a total of £496 billion in real terms gross, and £177 billion net of receipts and the budget rebate. The chart below illustrates the trends in the UK's contribution since it joined. The UK has received an abatement, or rebate, on its budget contribution since 1985, worth £4.9 billion in 2015 and £116 billion (in real terms) since it was first agreed;<sup>54</sup> this was originally negotiated due to the high proportion of EU expenditure that went towards the CAP, and consequently benefitted

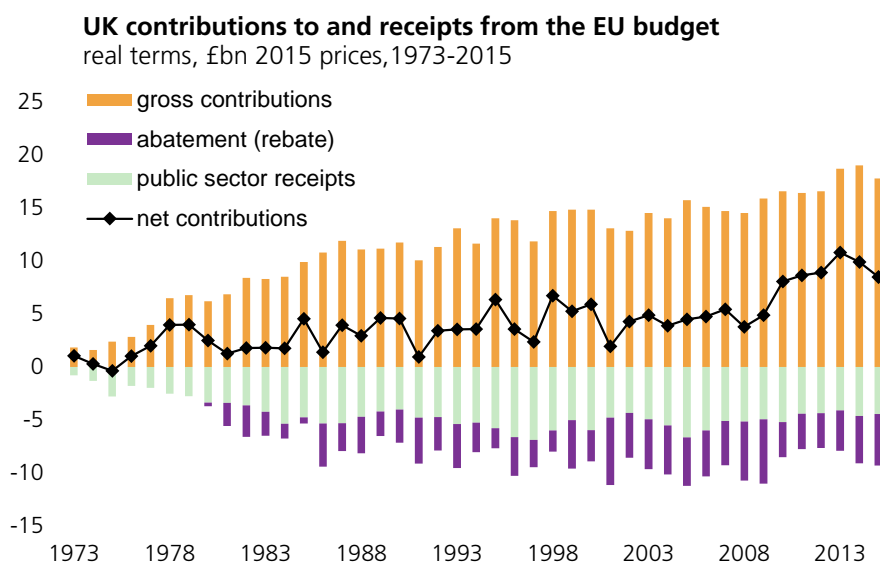
<sup>51</sup> HM Treasury [Annual Statement on EU Finances 2014](#); Office for Budget Responsibility [Public Finances Databank](#) Table 4.1; ONS National Accounts [Series YBHA](#).

<sup>52</sup> OJ L 69, 13 March 2015, [Chapter 1.4](#).

<sup>53</sup> European Commission [Interactive: EU expenditure and revenue](#). These figures exclude Luxembourg as administrative expenditure significantly affects their figures.

<sup>54</sup> Before this, refunds to the UK were negotiated annually.

the UK, with its smaller farming sector, less than other Member States. Details of the UK's contribution since accession are shown in the chart.<sup>55</sup>



### 3.3 Immigration and the labour market

Possible changes to immigration rules following the UK's withdrawal from the EU would be likely to impact upon businesses and the economy.

Currently, the UK is unable to impose limits on immigration from within the EU, as the free movement of labour, one of the four fundamental principles of the EU, entitles citizens of Member States and their families to reside and work anywhere in the EU. This right also applies to citizens of EEA Member States not part of the EU, and Switzerland.<sup>56</sup>

Should the UK wish to remain in the Single Market but outside the EEA, it would probably have to accept certain EU rules. Whether these would include the free movement of people would depend on the outcome of UK-EU negotiations. If the UK did not sign up to the free movement of people principle, it could impose its own controls on EU/EEA immigration as it currently does on non-EU/EEA nationals.<sup>57</sup>

The extent to which employers are affected by controls on EU/EEA immigration will depend on the new rules. If the Government wishes to introduce a more restrictive immigration system for EU/EEA nationals, one option would be to simply extend current rules for non-EU/EEA nationals to all non-UK nationals. This would largely restrict economic migration to high-skilled migrants (via a points-based system) and reduce the flow of migrant workers doing low-skilled jobs.

The Social Market Foundation estimates that if EEA employees had to meet the visa requirements that currently apply to non-EEA workers, only 12% of EEA employees

<sup>55</sup> All statistics in this paragraph and the chart are based on HM Treasury *European Union Finances* (various editions).

<sup>56</sup> Subject to a few exceptions and the possibility of transitional arrangements for new EU members (such as Bulgaria and Romania).

<sup>57</sup> Irish nationals may be affected differently from other EU/EEA nationals in this scenario as they have a special status in UK immigration and nationality law that predates EU membership.



currently working in the UK would qualify.<sup>58</sup> The London Chamber of Commerce and Industry (LCCI) has previously warned of the possibility of labour shortages in such a scenario:

Such an approach could lead to a shortage of low- and high-skilled workers that a lot of businesses are dependent on, affecting the economy and businesses' ability to trade both nationally and internationally.<sup>59</sup>

A more restrictive system would also place an additional burden on businesses recruiting workers from the EU, who would have to spend time arranging visas and ensuring they complied with immigration rules. Employers may be able to compensate by recruiting more UK nationals, but this would depend on the extent to which they are able to find workers with the same skills and are able to attract workers from a smaller pool of potential recruits. The Federation of Small Businesses highlighted access to skills as a key concern for small business in a letter to then Cabinet Office Minister Oliver Letwin following the referendum:

Free movement of people has enabled small firms to access the skills they need, shoring up the UK's ever growing skills gap and retaining our competitive advantage. Without the need to engage with the UK's costly and complex immigration system, small firms have been able to hire from an EU wide talent pool, and to obtain low skilled labour, a category currently excluded from the UK's immigration system.<sup>60</sup>

Whatever the change in policy, the impact would likely be felt most strongly in sectors which currently employ a higher share of EU migrants in their workforce (even assuming existing EU workers can continue to work in the UK as before), as they might be more likely to hire EU workers in the future.<sup>61</sup> Impacts would also be likely to vary by geography: areas such as London with relatively high concentrations of workers from elsewhere in the EU are more likely to be affected than areas with low shares of EU workers.

The sectors with the highest proportion of workers from other EU countries are accommodation and food services (13% at Q1 2016 – see table below) and manufacturing (10%). The sector with the lowest share of EU workers is public administration and defence (3%), while EU workers also form a relatively small proportion of the total workforce in education (5%) and health and social work (5%).

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<sup>58</sup> N Broughton, N Keohane and T Ketola, [Working Together? The impact of the EU referendum on UK employers](#), Social Market Foundation, May 2016, p6.

<sup>59</sup> LCCI, [Help or hindrance? The value of EU membership to London business](#), April 2013, p23.

<sup>60</sup> [Letter from Mike Cherry FSB Chairman to Rt Hon Oliver Letwin MP](#), 5 July 2016.

<sup>61</sup> The immigration status of existing EU migrants in the UK would have to be resolved at the time of EU withdrawal. Sudden large scale expulsions of EU workers from the UK would cause large-scale disruption to businesses that employed them.



### Employment of people born elsewhere in EU working in the UK, by industry, Q1 2016

People aged 16+, data not seasonally adjusted

	Number employed (000s)	% of total employment in sector
Manufacturing	307	10%
Construction	194	9%
Services	1,641	7%
<i>of which:</i>		
Accommodation & food services	222	13%
Admin & support services	135	9%
Transport & storage	141	9%
Information & communication	97	8%
Finance & insurance	90	7%
Professional, scientific & technical	147	7%
Wholesale & retail	261	6%
Health & social work	225	5%
Education	159	5%
Arts, recreation & other services	77	5%
Public admin & defence	56	3%
<b>Total</b>	<b>2,197</b>	<b>7%</b>

Source: ONS *Labour Force Survey* microdata, January-March 2016

Note: Total includes agriculture, extraction and utility sectors not listed in the table. Arts, recreation & other services includes Standard Industrial Classification (SIC) codes R and S.

## 3.4 Business

The EU has various powers that affect businesses directly. Through successive EU Treaty amendments, the policy areas in which the EU has competence to legislate have been gradually expanded, although the volume of new 'hard' law (regulations and directives) emanating from the EU has declined from a peak in the early 1980s.

New EU aims and areas of activity, for example in social protection and sustainable development, have raised concerns about the impact of EU membership on business and the wider economy. Regulation in these areas, some argue, has little to do with the EU's founding purpose of establishing a common market between Member States, imposing burdens that offset the trade benefits of membership.

### EU powers

The EU legislates in a number of areas that impact directly on businesses. These include:

- Product specifications, e.g. Directive 2000/36/EC on cocoa and chocolate products intended for human consumption
- Competition, e.g. Council Regulation 139/2004 on the control of concentrations between undertakings (also known as the merger regulation)
- Employment terms, e.g. Directive 2008/104/EC on temporary agency work
- Health and safety, e.g. Directive 2009/148/EC on exposure to asbestos at work
- Consumer protection, e.g. Directive 93/13/EC on unfair terms in consumer contracts.

Specific areas are discussed in more detail elsewhere in this paper.

## Costs and benefits of regulation to business

There is no definitive picture of the overall costs and benefits of EU regulation on businesses in the UK.

Various studies have attempted to estimate the total cost of EU law using impact assessments prepared by the Government. These estimate the potential costs and benefits associated with particular measures, generally ahead of implementation. In the UK, impact assessments are usually published in response to EU Directives (where the Government will have some discretion over how EU requirements will be transposed into national law), but not Regulations or Decisions, which do not trigger a new piece of domestic legislation.

Costs come from administrative burdens on companies (e.g. notifying the authorities about the possible presence of asbestos dust before commencing work) and from the additional practical obligations of putting the policy of the regulation into practice (e.g. providing employees who may come into contact with asbestos with relevant training). There may also be wider consequences arising from regulation, though these are less often quantified; benefits to groups other than businesses tend to be less often estimated.

In one study of impact assessments, Open Europe estimated that the cost to the economy of the 100 “most burdensome” EU regulations that could be analysed was £33.3 billion a year. The associated benefits were estimated as £58.6 billion a year in total, but Open Europe claimed that certain of the largest of these regulations had had their benefits vastly over-stated. The individual measures with the highest recurring costs were the UK Renewable Energy Strategy (£4.7 billion a year), the Capital Requirements Directive IV package for banking (£4.6 billion a year) and the Working Time Directive (£4.2 billion a year).<sup>62</sup>

A sense of the costs solely from more recent EU regulation can be found in the UK impact assessments checked by the independent Regulatory Policy Committee. In 2013 and 2014, they found that £1.6 billion per year in net costs to business – costs minus benefits – came from two new pieces of regulation, the Alternative Investment Fund Managers Directive and the Bank and Recovery Resolution Directive, which were introduced to protect against financial systemic risk. Other EU measures led to an estimated total of £730 million per year in net costs on UK business, including £400 million from the Air Pollution from Shipping Directive.<sup>63</sup>

The CBI have pointed to the negative effects on business of EU legislation, both individually and in total:

... the impact of poorly thought-out and costly EU legislation is a major issue for businesses: 52% of businesses believe that, were the UK to leave the EU, the overall burden of regulation on their business would fall. Areas where UK firms are frustrated with EU regulation include labour market regulation, highlighted by nearly half of

<sup>62</sup> Open Europe, [Top 100 EU rules cost Britain £33.3 billion](#), 16 March 2015. See other sections of this briefing paper for more detailed discussions of individual policy areas.

<sup>63</sup> Regulatory Policy Committee, [Securing the evidence base for regulation: Regulatory Policy Committee scrutiny during the 2010 to 2015 parliament](#), March 2015.

Note that these figures only cover impacts that have been checked by the Regulatory Policy Committee, that have an implementation date from 1 January 2013 onwards and that were submitted for scrutiny after October 2012. They do not include “gold plating”, where the UK government goes beyond minimum EU requirements when implementing European legislation.

businesses as having had a negative impact – with particular frustrations around the Temporary Agency Workers Directive and Working Time Directive.<sup>64</sup>

According to the Federation of Small Businesses, regulations on employment, health and safety and data protection are said to be particularly burdensome for small businesses.<sup>65</sup>

There is work to reduce business burden from EU regulations, some driven by the UK Government and others by the EU.<sup>66</sup>

It is worth noting that EU-level rules create benefits for British businesses, for example by removing barriers and creating common standards. In November 2013, the CBI said that:

Competitive and respected EU rules can also open up new markets to UK firms without having to duplicate standards as other regions often design their own rules around EU benchmarks. Despite frustrations, over half of CBI member companies (52%) say that they have directly benefitted from the introduction of common standards, with only 15% suggesting this had had a negative impact.<sup>67</sup>

## UK withdrawal

The Single Market was itself established through a vast legislative programme to remove technical and legal barriers to trade, and current models of non-EU access to the Single Market involve acceptance of associated EU law to some degree, often without a say in shaping it. There is more generally a trade-off between 'national sovereignty' and the sort of integration and harmonisation necessary to achieve completely free trade.

If the UK withdrew completely from the EEA, and shunned bilateral negotiation on access to the Single Market, it would be free to regulate largely as it saw fit. Because the Government would undoubtedly decide to retain the substance of at least some EU law, and because the costs of EU regulations are (at least partially) offset by benefits, the costs of regulation given above are emphatically not equivalent to the economic benefit of withdrawal. Overall, regulation in the UK is already fairly favourable to business, relative to other countries.<sup>68</sup>

Those in favour of withdrawal argue that the UK would be better able to balance the costs and benefits of regulation according to its own domestic priorities; and that it would be easier to amend the regulatory regime in response to changing circumstances.

Whatever the future arrangement, businesses that export to the EU would still have to comply with many EU product standards.

The argument over the effect of withdrawal in this context, then, boils down not to the size of the 'burden' on businesses, but to whether the benefits of having a more tailored and flexible national regulatory regime outweigh any loss of access to the Single Market that may come with pursuing an independent agenda.

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<sup>64</sup> CBI, [Our Global Future – The Business Vision for a reformed EU](#), November 2013. A separate section of this briefing paper discusses EU influences on employment law.

<sup>65</sup> Federation of Small Businesses, [FSB Manifesto European Elections 2014](#), February 2014.

<sup>66</sup> See for example:

- BIS Press Release, [Hancock hails boost to economy as UK cuts EU red tape](#), 6 November 2014;
- European Commission, [Regulatory Fitness and Performance Programme \(REFIT\): State of Play and Outlook](#), COM(2014)368, 18 June 2014.
- European Commission, [REFIT: Making EU law lighter, simpler and less costly](#), January 2016.

<sup>67</sup> CBI, [Our Global Future – The Business Vision for a reformed EU](#), November 2013.

<sup>68</sup> Based on OECD, [Indicators of Product Market Regulation 2013](#) – these figures measure the degree to which policies promote or inhibit competition in areas of the product market where competition is viable.

### 3.5 Public procurement

Much UK public procurement is regulated by EU rules, which are set out in the core EU Treaties, in EU directives and in UK regulations that implement the directives. These rules are controversial because they are often seen as overly bureaucratic and because they limit the ability of public bodies to 'buy British'. They do, however, offer UK firms the opportunities to supply the public sectors of other countries, as well as making it easier for the UK public sector to reach a wider range of potential suppliers, potentially increasing value for money in its purchases.

In practice, the extent of direct cross-border public procurement is limited. An estimated 1.3% of the value of larger UK public sector contracts was awarded directly abroad in 2009-2011. Some 0.8% of the value of larger public contracts secured by UK companies was directly from abroad.<sup>69</sup>

#### Alternatives and withdrawal

At present, the EU rules that apply to public procurement in the UK also apply to other EEA countries, under the EEA agreement. Switzerland is subject to a separate arrangement.

If the UK were to leave the EU and the EEA, it would ultimately need to decide whether it wanted agreements with other countries to mutually open up their public procurement markets. This could be done through individual trade agreements, or the UK could participate as an individual country in the WTO's General Procurement Agreement (GPA) for certain goods and services. However, this would mean that the UK would have to allow suppliers in other countries to bid for some UK public procurement opportunities, and the WTO route would mean that the UK had to follow certain procedures in its procurement processes – potentially doing away with some of the reduction of burden that could follow from no longer having to apply the EU rules.<sup>70</sup>

### 3.6 Financial services

#### Background

A huge amount of existing financial services regulation is derived from the EU. Because of its size and influence, the UK has frequently led reform of financial services, particularly since the financial crisis, with retrospective checking for alignment with EU requirements. Where it has not been ahead of the EU it has played a significant part in the determination of EU legislation. The Commissioner for Financial Stability, Financial Services and Capital Markets Union was, until he resigned on 25 June 2016, Jonathan Hill, the ex-Conservative Minister in the former Coalition Government.

The concern of the financial community and of UK regulators and the Government is not what changes they want to make to existing EU legislation; it is likely that a significant amount of this legislation would remain post-withdrawal, though not necessarily in the same form or to the same extent.

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<sup>69</sup> Source: Study for European commission, DG Internal Market and Services, [SMEs' access to public procurement markets and aggregation of demand in the EU](#), February 2014. Note that figures are for direct cross-border procurement only, where the single contractor or a leader of a joint bid is located in a different country. They are also restricted to procurement over certain values, where the EU procurement directives apply.

<sup>70</sup> Michael Bowsher QC's blog on [Procurement law after Brexit?](#) (16 March 2016) is an interesting discussion of the issues and options for the future.

## The issues now

Although it is always well to remember that there can be conflicting interests in the 'City' – what suits a fund management firm may be of less concern to an insurance house - but there is a pretty broad consensus on what the main worry is: access.

The primary concern, across all financial institutions, is the future status of the country in terms of access to the EU financial markets. This is a concern for many parts of the economy, but for few can it be as critical as in financial services, where the universal requirement to be authorised places a premium on the ability of firms to have 'passporting' rights to other jurisdictions (see below).

Put simply, to function in EU countries, financial firms carrying out authorised activities have to be regulated. If they are headquartered and regulated in one Member State, they can operate in and sell to, other Member States without getting authorisation from each one. Hence, given its attractive location, the size and liquidity of its markets, the depth of skills and infrastructure, London is a very attractive place to establish an HQ if one is, for example, a large American bank. With a UK authorisation, an American/Japanese/Chinese bank can establish operations in all other Member States.

If the UK is outside the EU, it remains an attractive place to set up in, but it could mean that an overseas firm might need to choose between a centre with natural and historic advantages (London) and one with a regulatory advantage (EU). Authorisation of a big organisation is a complex and costly matter and there is no certainty that firms would simply carry on as before with a main operation in London.

This is called 'passporting'. The Bank of England described passporting in its booklet about EU membership: [EU Membership and the Bank of England](#).

A pro-market think tank, New Capital, set out the implications (from its pessimistic viewpoint) that City firms will generally be considering in the aftermath in a report, [Beyond Brexit: what happens next for European capital markets?](#) In summary they include:

- 1) Pulling the trigger:** The decision by David Cameron not to pull the trigger on Article 50 means that capital markets will be in limbo for at least the next few months until a new government or Parliament start the clock on the formal two year process of leaving the EU.
- 2) First mover advantage:** Banks and asset management firms cannot afford to wait. They have to assume the worst case scenario of complete separation with no access to the single market and start the process of relocating legal entities, operations and staff immediately.
- 3) Relocation, relocation, relocation:** In order to future proof their business, banks, asset managers and other market participants will need to have a separately authorised subsidiary with a sufficient management presence inside the EU. Dublin, Frankfurt, Paris and other cities will be vying for that business.
- 4) An acrimonious divorce (and a protracted custody battle):** Most firms seem to be planning for an acrimonious divorce. While the divorce process itself may be reasonably swift, the separate negotiations to establish the terms of the future relationship between the UK and the EU will be slowed down by the competing domestic political imperatives in all 28 member states and could take years. [...]
- 6) A regulatory backlash?:** Brexit could trigger a concerted regulatory backlash in the rest of the EU against elements of the single market and capital markets union that are seen to play to the UK's advantage, such as the location of euro-denominated clearing.

**7) A loss of influence:** Whatever the outcome, the UK will lose influence over the future direction and nature of EU regulation that it may have to implement. The departure of Lord Hill will significantly change the tone of the future regulatory dialogue.

**8) Equivalence vs divergence:** In order to retain access to the single market from outside the EU, the UK would have to retain an 'equivalent' regulatory framework. While it would be equivalent on day one, over time changes to EU legislation may lead to costly regulatory divergence.

**9) The future of EU citizens:** In some sectors of the capital markets EU27 citizens account for as much as a quarter of all staff in the UK. Assurances over their future legal status have so far been too vague to instil confidence [Note there have been several statements subsequent to this publication which have addressed this question]. [...]

The issue that it takes time (in years) for large organisations to complete authorisation and establish a new HQ abroad, and that this timetable appears to be at odds with the more 'slowly, slowly' approach of some politicians and ministers, has been highlighted in several commentaries. Few international offices seem prepared for a delay of indeterminate length before they begin to act. An article in the Financial Times<sup>71</sup> estimates that there are about 70,000 overseas banks' employees in London

In terms of current issues, a large number of initiatives are being discussed at EU level, notably the Capital Markets Union and a wide review programme of the workings of the roughly 40 measures passed but only now being implemented.<sup>72</sup> All of these will have an impact on the UK and work will continue on implementing these until such time as the UK is no longer in the EU.

The Financial Conduct Authority (FCA) is the main regulator of financial conduct in the UK. On the day after the EU referendum it put out the following [statement](#):

The FCA is in very close contact with the firms we supervise as well as the Treasury, the Bank of England and other UK authorities, and we are monitoring developments in the financial markets.

Much financial regulation currently applicable in the UK derives from EU legislation. This regulation will remain applicable until any changes are made, which will be a matter for Government and Parliament.

Firms must continue to abide by their obligations under UK law, including those derived from EU law and continue with implementation plans for legislation that is still to come into effect.

Consumers' rights and protections, including any derived from EU legislation, are unaffected by the result of the referendum and will remain unchanged unless and until the Government changes the applicable legislation.

The longer term impacts of the decision to leave the EU on the overall regulatory framework for the UK will depend, in part, on the relationship that the UK seeks with the EU in the future. We will work closely with the Government as it confirms the arrangements for the UK's future relationship with the EU.

## An alternative relationship?

There are various different models of interaction between non-EU Member States and the EU and it is not obvious which of these models, if any, would apply. A possibly informative comparator is the relationship between Switzerland and the EU.

<sup>71</sup> Financial Times, 26 June 2016

<sup>72</sup> Details are in Commons Briefing Paper 7425 [Financial Services European Aspects](#).



Financial services trade is an area that could be particularly affected by a ‘Swiss’ approach. Currently, non-EEA financial services providers must generally establish a subsidiary or branch in the EU in order to provide cross-border services. The precise requirements are currently a matter for national regulators in individual Member States, but developments in EU-level financial regulation, and in particular the forthcoming implementation of the [Markets in Financial Instruments Directive II](#) (MiFID II), due to come into effect in January 2017, make the provision of financial services to the EU from outside the EEA increasingly difficult. A non-EU firm will still be able to incorporate an EU subsidiary, as now, but new rules will apply to the provision of services into the EU or through an EU branch. The new rules do not prevent a non-EU firm from providing services to EU clients or transacting with EU counterparties at the “own exclusive initiative” of a prospective EU client/counterparty.<sup>73</sup> However, the requirements for registration, according to a briefing note by KPMG, will be “strict and difficult to fulfil”.<sup>74</sup>

The 2013 study [Switzerland’s Approach to EU Engagement](#) notes that, to date, the Swiss have largely circumvented any disadvantages caused by non-EU/EEA membership by establishing subsidiaries within the EU, most notably in London, and where problems have arisen, they have benefited from a degree of EU ‘goodwill’. The study agrees that new EU financial regulation could put the sector under pressure:

The prevailing situation now seems under threat, as the Swiss financial sector faces tougher EU rules on third country operations. These can be discriminatory. MiFID II is seen as creating new barriers for Swiss firms by forcing more of them to open (larger) subsidiaries in the EEA and to obtain authorisation from an EEA Member State in order to gain an ‘EU passport’.

Hence, once the new EU legislation is fully in force and the four new supervisory agencies operational (the European Banking Agency, the European Securities and Markets Authority, the European Insurance and Occupational Pensions Authority and the European Systemic Risk Board), the problem for Swiss-based financial institutions will be two fold. First, to access the EU market, an equivalence certificate is needed. To obtain this, the Swiss authorities must demonstrate that not only are they able to supervise their own, but that they can also control EU-based businesses. Second, there are at least 20 different equivalence requirements in place, due to the (sub) sector specific approach of EU regulation. Both factors make obtaining equivalence a burdensome process.

Hence, the financial industry in particular will be faced with a choice of fully adapting to EU standards, once they are in place, or simply being shut out of the EU market. The ‘letterbox’ provision in AIFMD, according to which hedge funds have to locate significant management functions in the EU, might have similarly far-reaching consequences. If Swiss firms can no longer provide cross-border services into the EU, this could be very damaging in terms of job losses, decreasing tax revenue and prestige. For example, unofficial estimates from the Swiss banking sector speak of up to 29,000 jobs that could be lost in this way.<sup>75</sup>

Brexit might mean the UK will be in the position of participating in setting the new rules and negotiating a position to operate outside them. This would give the UK a different perspective from that of the Swiss, and given London’s enormous financial market, possibly a greater degree of ‘clout’. The study above notes “Swiss relationships with the

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<sup>73</sup> Travers Smith Briefing, [Financial Services and Markets MiFID II – A Short Introduction for Asset Managers](#), 30 April 2015.

<sup>74</sup> KPMG, [Provision of services by financial intermediaries from third countries in EU financial markets regulation](#), May 2015.

<sup>75</sup> University of Kent, [Switzerland’s Approach to EU Engagement: a financial services perspective](#); April 2013.

EU are not a formal model and the Swiss approach does not lend itself to being readily replicated”.

## City opinion

The majority opinion of City firms has been that the UK should remain within the EU. TheCityUK, a representative body of a range of London financial firms, said in a report in 2014:

Given this environment, the new Commission’s strategy for a Capital Markets Union in Europe is highly significant and we strongly welcome it. This is a strategy which is in the vital interests of all twenty eight Member States. We believe there can be no question of opt-outs or exceptionalism. On the contrary, the City as Europe’s financial centre has a central role to play in working with the authorities both in Brussels and with the Member States to achieve a single capital market. London’s capital market is a European asset that benefits the whole EU.<sup>76</sup>

“the City as Europe’s financial centre has a central role to play in working with the authorities both in Brussels and with the Member States to achieve a single capital market. London’s capital market is a European asset that benefits the whole EU”.

TheCityUK accepted that there is a long way to go and that for a real single market in capital to exist, some surrendering of national control is inevitable:

Much of the work required to fully realise a Capital Markets Union will be detailed and technical. For example, it will involve working to reduce the extent to which bankruptcy laws and procedures differ from one Member State to another. We are under no illusions about the complexity of the challenge: but we are convinced of its overwhelming importance. It will take many years to fully develop capital markets in Europe. There will be no overnight transformation of Europe’s growth prospects but the achievement of a single capital market would make the financial system more resilient in the event of another crisis. And there will be important policy decisions to be reached: it is inevitable that a real single capital market will need strong regulatory coordination at the EU level.<sup>77</sup>

“it is inevitable that a real single capital market will need strong regulatory coordination at the EU level”.

In written evidence to the Parliamentary Commission on Banking Standards, Goldman Sachs and JPMorgan (as overseas investors) both noted the importance of EU membership to the UK financial services industry:

We believe that a key risk to London’s retaining its status as a financial hub is an exit by the UK from the European Union. In common with financial institutions across the City our ability to provide services to clients and engage in investment activities throughout Europe is dependent on the passport that London-based firms enjoy to operate on a cross-border basis within the Union. If the UK leaves, it is likely that the passport will no longer be available, thereby forcing firms that wish to access EU markets to move their operations to within those markets.<sup>78</sup>

And:

We value the flexibility London offers as a platform for access to the single market in a variety of formats. Our trading activity in London benefits from an EU passport across the EU.<sup>79</sup>

Just after the 2015 General Election result became clear, a representative of the City of London commented in the *Financial Times* that “None of the alternatives to EU membership look particularly palatable”.<sup>80</sup>

<sup>76</sup> TheCityUK; [EU Reform: A view from TheCityUK](#); November 2014, p4.

<sup>77</sup> Ibid, p8.

<sup>78</sup> [Written evidence to Banking Standards Commission](#).

<sup>79</sup> Ibid.



Despite much comment about leaving and threats to leave, no big commercial institution has announced any significant departures. The one definite statement of intent has come from the European Banking Authority which is the regulator for the euro-zone area. It has announced that it will move from its current London headquarters within the next two years.<sup>81</sup>

### 3.7 Restructuring and Insolvency

[The EU Regulation on insolvency proceedings \(EC\) 1346/2000](#) (known as the ‘Insolvency Regulation’) came into force on 31 May 2002.<sup>82</sup> It is directly applicable in all EU Member States, excluding Denmark.

On 20 May 2015, the European Parliament [approved](#) the new [European Insolvency Regulation](#) (EIR) in the text adopted by the Council at first reading on 12 March 2015.<sup>83</sup> This marked the end of a revision process which started with the Commission [proposal](#) of 12 December 2012 (COM/2012/744 final). The recast Regulation will apply to insolvency proceedings commencing on or after 26 June 2017 and will apply in Member States except Denmark.

The current [Insolvency Regulation](#) established procedural rules on jurisdiction and applicable law in relation to insolvency proceedings. The aim is to facilitate the mutual recognition of cross-border insolvency proceedings in EU Member States and to deter parties from ‘shopping around’ within the EU for the most beneficial insolvency proceedings. It is important to note that the Insolvency Regulation does not harmonise substantive insolvency law between EU member States.

With Brexit the ‘Insolvency Regulation’ will no longer automatically apply to the UK. What this will mean for the treatment of UK insolvency proceedings in the courts of the remaining Member States (and the treatment of EU insolvency proceedings in the UK courts) is unclear. One option may be for the UK to adopt a similar regime to the current Insolvency Regulation, but to achieve this the Government would need to come to agreement with the EU.<sup>84</sup> A second option may be to rely on other mechanisms already in place in English law, intended to assist cross-border insolvency proceedings outside the EU. Notably, the ‘UNCITRAL Model Law on Cross-Border Insolvency’ has been adopted in national law in the UK as well as in other jurisdictions such as Australia, the US, and some EU Member States.

### 3.8 Taxation

Taxation is very largely a Member State competence. The implications of the UK lying outside the EU are likely to be less significant for taxation compared with other policy areas.

The major exception to this generalisation is indirect tax: primarily VAT – for which there is a substantive body of EU law establishing common rules across Member States – and, to a lesser extent, excise duties. It has long been recognised that the harmonisation of indirect taxes across Member States is an essential element in the achievement of an effective Single Market. Unlike most internal market measures, which use qualified majority voting (QMV), the harmonisation of taxation is decided by unanimity. The consequences of the

<sup>80</sup> *Financial Times* quoting Mark Boleat of City of London Corporation, 8 May 2015.

<sup>81</sup> *Financial Times*, 30 June 2016.

<sup>82</sup> OJL 2000 160/1

<sup>83</sup> OJL 2015 141/19

<sup>84</sup> Any agreement may need to be amended each time the ‘Insolvency Regulation’ is amended.

EU's shared competence in indirect tax is most frequently discussed in the context of the UK's limited discretion in setting the rates of VAT on individual goods and services. In addition, many commentators have raised concerns about the UK's ability in the future to maintain its existing range of VAT reliefs (such as the zero rates of VAT which apply to food and children's clothes) from any further harmonisation of VAT law.<sup>85</sup>

However, the relative importance of VAT to the Exchequer – accounting for around 17% of all government receipts – suggests that future governments would be unlikely to substantially increase these reliefs or abolish the tax, even though leaving the EU would give them this power.<sup>86</sup> Writing in the *Tax Journal* before the referendum, Ben Jones, partner at Eversheds LLP, noted: "there is no practical likelihood that VAT will be abolished by the UK following Brexit. It is not even the case that it would be necessary to take significant legislative steps to preserve VAT in the UK, given that the EU VAT rules have been mainly implemented by UK legislation". Mr Jones went on to note: "UK governments would have greater flexibility to use changes to the VAT system to further political objectives" (e.g. by widening zero-rating, exemption rules or the use of lower rates).<sup>87</sup> Indeed, during the referendum campaign it had been argued that Brexit would enable the Government to introduce a zero rate of VAT on domestic supplies of fuel and power.<sup>88</sup>

There are no equivalent provisions with regard to other taxes, though all national legislation has to comply with the overarching provisions of the EU Treaty, guaranteeing the free movement of goods, persons, services and capital across the Single Market and prohibiting discrimination. There is a substantive body of case law where the Court of Justice of the EU (CJEU) has ruled that individual provisions of a Member State's tax code fail this test. Member States' powers to act in relation to taxation must also be exercised in accordance with State aid rules.

Finally, there are a number of EU instruments relating to administrative cooperation to exchange information and help tackle tax evasion. In the latter case it seems likely that outside the EU the UK will seek to maintain some form of bilateral agreement akin to these provisions, given the growing consensus between governments that there is a very important international dimension to taxing multinational corporations fairly, and effectively tackling tax avoidance.<sup>89</sup>

In July 2013, as part of its Balance of Competences Review, the Coalition Government published a report on the respective powers of the UK and the EU with regard to taxation. This report found that:

... respondents and interested parties were content with the current balance of competence on taxation, taking account of the protections offered by unanimity voting. Whilst individual respondents suggested areas where existing measures could be updated to reflect modern business practice and development, no respondents identified any major gaps in the existing tax legislation.<sup>90</sup>

<sup>85</sup> For details see, [VAT: European law on VAT rates](#), Commons Briefing Paper SN2683, 20 May 2016.

<sup>86</sup> VAT receipts are projected to be £116 billion in 2015/16. Public sector receipts are set out in [table 4.6](#) of the Office for Budget Responsibility, [Economic and Fiscal Outlook, Cm 9212, March 2016](#).

<sup>87</sup> "Brexit: the tax issues at stake", *Tax Journal*, 15 June 2016. Mr Jones concluded, "the conclusion is that no conclusions can be drawn at this stage."

<sup>88</sup> "EU Referendum: Vote Leave wants power to axe fuel VAT", *BBC News online*, 31 May 2016.

<sup>89</sup> This issue is discussed at length in, [Corporate tax reform \(2010-2016\)](#), Commons Briefing Paper 5945, 20 June 2016 (see sections 5.3 & 6.2).

<sup>90</sup> HMG, [Review of the Balance of Competences between the United Kingdom and the European Union: Taxation](#), July 2013 p6.

Some respondents to the review cited proposals for an EU-wide financial transactions tax as an area “where they questioned the appropriateness and utility of EU-level action”. The European Commission had proposed an EU-wide tax on financial transactions in September 2011. As this failed to attract unanimity, in January 2013 eleven Member States, excluding the UK, agreed to pursue this option on a smaller scale. Negotiations have continued, although there has never been any question of the UK having to take part.<sup>91</sup>

Details of the areas of EU competence in taxation are given on the site of the Commission’s Taxation & Customs Union Directorate.<sup>92</sup>

## Reaction to Brexit vote

Following the referendum vote, there have been a number of statements by relevant organisations – such as the Bank of England – as well as some speculation about the possible impact of Brexit on the tax system.<sup>93</sup> No immediate changes have been made to taxes, as HM Revenue & Customs have been advising taxpayers on their helpline.<sup>94</sup>

On 27 June the then Chancellor, George Osborne, suggested that there was likely to be a Budget statement this autumn. Prior to the vote Mr Osborne had indicated that in the event of a vote to leave the EU, the Government would have to make immediate changes to its tax and spending plans.<sup>95</sup> In a statement Mr Osborne said:

... as I said before the referendum, this will have an impact on the economy and the public finances – and there will need to be action to address that. Given the delay in triggering Article 50 and the Prime Minister’s decision to hand over to a successor, it is sensible that decisions on what that action should consist of should wait for the Office for Budget Responsibility (OBR) to assess the economy in the autumn, and for the new Prime Minister to be in place.<sup>96</sup>

Subsequently Mr Osborne argued that as part of its ongoing strategy to attract business investment, the Government should aim to cut the rate of corporation tax further to its existing plans for a 17% rate from 2020.<sup>97</sup>

However, the new Chancellor, Philip Hammond, in his first interview ruled out an emergency Budget, while confirming that he would set out the Government’s revised economic strategy in the Autumn Statement.<sup>98</sup>

Beyond this, there does not appear to have been any substantive discussion of the implications of the referendum outcome for UK taxes.

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<sup>91</sup> For more details see, [The Tobin tax: recent developments](#), Commons Briefing Paper, SN6184, 15 May 2014. See also, [PQ22411, 18 January 2016](#).

<sup>92</sup> European Commission, [EU Tax Policy Strategy](#) [accessed 14/7/2016]. The site also provides a full list of [EU tax legislation](#).

<sup>93</sup> In the latter case see, “20 questions on Brexit”, *Tax Journal*, 1 July 2016 & “Breaking away”, *Taxation*, 30 June 2016.

<sup>94</sup> “EU referendum: HMRC issues ‘carry on’ message”, *BBC News online*, 27 June 2016.

<sup>95</sup> See, for example, “George Osborne: vote for Brexit and face £30bn of taxes and spending cuts”, *Guardian*, 15 June 2016.

<sup>96</sup> HM Treasury press notice, [Statement by the Chancellor following the EU referendum](#), 27 June 2016.

<sup>97</sup> “Osborne puts corporation tax cut at heart of Brexit recovery plan”, *Financial Times*, 2 July 2016. In answer to an urgent question on his plans, Mr Osborne said, “we should aim for a rate of 15% and preferably lower, because if we are pro-business, we are pro-jobs, pro-living standards and pro-working people” ([HC Deb 4 July 2016 c622](#)).

<sup>98</sup> “Philip Hammond: Financial markets ‘rattled’ by Out vote”, *BBC news online*, 14 July 2016; “New chancellor Philip Hammond to scale back austerity”, *Financial Times*, 14 July 2016.



## 4. Employment

### 4.1 Introduction

A substantial component of UK employment law is grounded in EU law. EU employment law provides a minimum standard below which domestic employment law must not fall. In some cases EU law has entrenched at an international level provisions that already existed in domestic law: sex and race discrimination and certain maternity rights, for example. In others, new categories of employment rights have been transposed into domestic law to comply with emerging EU obligations. These new rights were often resisted by the UK Government during EU negotiations; for example, agency workers' rights and limitations on working time.<sup>99</sup> Indeed, due largely to this resistance, proposals to expand the EU's competence to legislate in the social sphere were removed from the main body of the 1992 Maastricht Treaty and placed in a separate 'Social Chapter',<sup>100</sup> which did not apply to the UK until it was later incorporated into the Treaty of Amsterdam, which came into force in 1999. While any analysis of EU employment law or its history can provide only limited instruction as to what might happen to employment rights post-Brexit, the forgoing shows that EU law exhibits two broad modes of influence on domestic employment law - underpinning rights and creating new ones - by reference to which we can assess the potential implications of leaving the EU.

### 4.2 Underpinning rights

Subject to the provisions of the withdrawal arrangements or subsequent trade agreement, withdrawal from the EU will mean that UK employment rights currently guaranteed by EU law would no longer be so guaranteed; a post-Brexit government could seek to amend or remove any of these. The precise mechanism by which this could be achieved would vary depending on the right in question:

- some rights are enshrined in primary legislation, alterable only by primary legislation (e.g. discrimination law, codified in the *Equality Act 2010*);
- some EU-derived rights are located in secondary legislation, and are therefore susceptible to revocation by secondary legislation;
- some EU rights have direct effect, meaning that individuals can rely directly on EU law (for example the right to equal pay contained in the EU Treaty).<sup>101</sup> These rights would automatically cease to apply upon exit from the EU, absent any domestic legislation saving them, or new international obligation to maintain them.

The only relatively clear conclusion that can be drawn at this stage is that Brexit will allow for change to the following areas of employment law, which are underpinned by EU law:

- annual leave
- agency worker rights
- part-time worker rights

<sup>99</sup> Having negotiated concessions in the proposal that became the Working Time Directive and then abstaining in the final vote, the UK challenged the Directive's legal basis; see: [Case C-84/94 UK v. EU Council](#) [1996] ECR I-5755.

<sup>100</sup> The unofficial name for the Social Policy Agreement and Social Policy Protocol.

<sup>101</sup> [Treaty on the Functioning of the European Union](#), Article 157.

- fixed-term worker rights
- health and safety obligations
- state-guaranteed payments upon an employer's insolvency
- collective redundancy rights
- information and consultation rights
- the right to a written statement of terms and conditions
- posted worker rights
- paternity, maternity and parental leave
- protection of employment upon the transfer of a business
- anti-discrimination legislation

EU employment rights contained in primary legislation would be relatively insulated from the effect of leaving the EU, but would be newly susceptible to the possibility of change. This is because leaving the EU would not automatically repeal provisions in Acts of Parliament. Much greater uncertainty surrounds the implications of Brexit for secondary legislation, in which much employment law is contained.

### 4.3 Case law

A somewhat thornier but important question concerns the status of CJEU case law. There is a sizeable body of CJEU case law interpreting EU employment rights, which domestic courts are currently bound to follow. In many cases, the CJEU has enlarged the scope of rights beyond the limits that would have been set by domestic courts. Post-Brexit, UK courts may no longer be required to follow existing and future CJEU decisions, and may merely regard them as having persuasive force. An inevitable consequence of that approach would be the re-litigation of settled principle – for example, whether holiday pay needs to take account of non-guaranteed overtime and commission payments, or whether sleep-in shifts count as working time. Commentators have voiced uncertainty as to how best to prevent this. Some suggest that transitional legislation, dealing with the issues discussed above, could also freeze in place principles derived from case law. For example, Stephen Laws (First Parliamentary Counsel 2006-2012) wrote:

How far should UK law originally deriving from EU law, so far as it survives, continue to be construed in its EU context? What relevance should ECJ judgments, past and future, continue to have on the construction of law with an EU inspiration?

A single Bill could apply a transitory patch - keeping most things in place, with general transitional modifications - until later primary or secondary legislation can produce more comprehensive solutions. But there will undoubtedly be demands for more of the detail to be settled early. It will be difficult, in practice to prevent a consideration of the issues involved in any later legislation from arising during the passage of a paving, patching Bill; but, if the legislation is not to become totally unwieldy, some matters are bound to have to be postponed and so patched in the meantime.<sup>102</sup>

### 4.4 Creation of new employment rights

Once the UK withdraws from the EU it will no longer be required to transpose new EU law into domestic law. This, again, would be subject to the terms of any future legal

<sup>102</sup> Stephen Laws, ['Article 50 and the Political Constitution'](#) J.K. Constitutional Law Blog, 18 July 2016.

relationship with the EU. The employment law implications of this are twofold. First, the UK will not be required to implement new EU laws promulgated in the employment sphere. Secondly, new CJEU decisions interpreting Directives that have already been implemented in the UK will have no binding effect on UK law. In consequence, UK employment law and that of EU Members States could follow gradually diverging paths.

## 4.5 Comment

Prior to the referendum commentators took varying positions on the consequences of Brexit for employment law. While there was consensus as to the potential scope of change (i.e. all EU employment rights could be removed), views differed as to its likely magnitude. Some took the view that UK employment rights in many cases predate comparable EU rights and often exceed the minimum floor that they set, indicating that Brexit would be unlikely to result in a diminution in rights other than, perhaps, at their margins. Others argued that a deregulatory-minded UK government might seek to remove or limit certain rights, substantiating this view by reference to examples of the UK Government's resistance to new EU rights and hostility towards CJEU case law. These commentators tended to single out agency worker rights, working time rights and uncapped discrimination compensation as being likely candidates for change.<sup>103</sup>

The Leader of the Opposition, Jeremy Corbyn, suggested that Brexit might lead to a "bonfire of rights" for workers.<sup>104</sup> Others still argued that, on balance, the potential for reducing employment rights following Brexit pales in comparison to the impact of changes permissible under purely domestic legislation and already enacted, such as employment tribunal fees and the increased qualifying period for unfair dismissal claims.<sup>105</sup>

Inevitably, all these views were speculative and generally based on predications as to the political complexion of a post-Brexit government. The most recent indication from the Government as to the approach it might take came from David Davis MP, who wrote:

At the moment all businesses in the UK must comply with EU regulation, even if they export nothing to the EU. This impacts on our global competitiveness. Instead, we should look to match regulation for companies to their primary export markets.

To be clear, I am not talking here about employment regulation. All the empirical studies show that it is not employment regulation that stultifies economic growth, but all the other market-related regulations, many of them wholly unnecessary. Britain has a relatively flexible workforce, and so long as the employment law environment stays reasonably stable it should not be a problem for business.

There is also a political, or perhaps sentimental point. The great British industrial working classes voted overwhelmingly for Brexit. I am not at all attracted by the idea of rewarding them by cutting their rights. This is in any event unnecessary, and we can significantly improve our growth rate by stopping the flood of unnecessary market and product regulation.<sup>106</sup>

<sup>103</sup> See, for example, Ford, M., [Workers' Rights From Europe: The Impact of Brexit](#), March 2016.

<sup>104</sup> [Jeremy Corbyn: leaving EU would lead to 'bonfire of rights'](#), *Guardian*, 14 April 2016.

<sup>105</sup> [Brexit & workers' rights. Meh.](#), Labour Pains blog, 29 March 2016.

<sup>106</sup> [Trade deals. Tax cuts. And taking time before triggering Article 50. A Brexit economic strategy for Britain](#), Conservative Home, 14 July 2016.





## 5. Agriculture

### 5.1 Brexit: key issues

#### Agriculture and Brexit: Key Issues for the food and farming industry

##### Main areas of uncertainty

- Levels of direct financial support and rural development funding after 2020
- Trade models and level of continued access to the Common Market, degree of protection from cheap imports
- Provision of market safety nets
- Access to labour
- Overall national farm policy and regulation and approach across the Devolved Administrations
- Food labelling requirements
- Pesticides and GM food and crops approval approach
- What kind of future CAP UK farmers will be competing with as the policy is currently being simplified and will be reformed for 2021.

##### Potential areas of opportunity

- A simpler and more targeted approach to agricultural policy and support, incentivising farmers to UK priorities
- Potential for greater deregulation and innovation outside CAP.
- New trade deals
- New agri-environment schemes, tailored to UK needs and environmental priorities.
- No disallowance fines for incorrect CAP payments

For agriculture, the key impact of Brexit is the departure from the Common Agricultural Policy (CAP). This will occur whichever trading arrangement is sought with the EU.

Almost 40% of the EU's budget is related to agriculture and rural development through the CAP. It provides an EU framework of regulation for direct payments to farmers, market support measures and rural development programmes to support the wider rural economy.

House of Commons Library Briefing Paper [EU Budget and the UK's contribution](#) (August 2016) provides further details and trends.

In the UK, EU farm subsidies currently make up around 50-60% of farm income.<sup>107</sup> So the big question for farmers is the nature and scale of any further financial support for their industry.

The terms of a UK exit will also affect pesticides approval, approval for genetically modified organisms (GMOs) and plant and animal health regulatory regimes. All of these are currently harmonised at an EU level.

<sup>107</sup> Defra, [Total Income from Farming 2014 - 2nd estimate United Kingdom](#), 26 November 2015 shows that subsidies made up around 54% of UK Total Farm Income in 2014 and the Government's [Review of the Balance of Competencies between the UK and the EU: Agriculture](#), Summer 2014 paras 2.34 –2.38 indicated that in 2012 this figure had been as much as 58%.

This section sets out some of the current thinking that has been emerging since the EU referendum.

House of Commons Library Briefing Paper [EU referendum: Impact on UK agricultural policy](#) (May 2016) sets out the thinking and analysis that was available prior to the vote and further detail on the operation of CAP.

There is to some extent a blank page to be filled for UK agriculture policy and UK farming, and landowning bodies are starting to set out their wish list for the future. They are asking the Government to act quickly to reduce uncertainty and take the opportunity to devise simpler approaches to farming regulation which support competitiveness.

Before the referendum, the UK Government was clear that it had no 'Plan B' for agriculture and that EU exit was a "leap in the dark" for UK farmers.<sup>108</sup> The previous Prime Minister, David Cameron, had committed to ensuring that an agricultural support system is "properly maintained" in the event of a UK exit, but said that he could not make the same guarantee for future governments.<sup>109</sup>

More recent comments by farming Minister George Eustice indicate that the UK Government is considering a more outcome-focussed and targeted support system.

Farming unions across the UK had, pre-referendum, council resolutions supporting a 'remain' stance because the uncertainties on the 'leave' side were too great in terms of the future level of support for UK agriculture and the basis of future UK trade with the EU.

However, their members seemed to be more evenly split. A *Farmers Weekly* survey in April 2016 found that 58% of farmers planned to vote to leave and only 31% were planning to vote to remain.<sup>110</sup> This is in contrast to CBI reports at the same time that almost 80% of UK businesses wanted to remain in the EU.<sup>111</sup>

Although there is as yet no UK vision for an agricultural sector operating outside the CAP, successive UK governments have consistently sought to reduce the overall CAP budget and levels of direct subsidies, and to ensure that direct subsidies are linked to the delivery of wider public goods such as environmental protection to give value for money to the tax payer.<sup>112</sup>

Farming organisations are now taking a proactive approach to setting out their aims for a competitive and sustainable UK agricultural policy outside the EU.

The House of Lords [debated the impact of Brexit on farming](#) on 21 July 2016.

## 5.2 What does CAP currently provide?

The CAP gives direct support to UK farmers through the Basic Payment Scheme (Pillar 1 funding) and the wider rural economy through Pillar 2 funding for Rural Development Programmes.

<sup>108</sup> DEFRA Press Release, [Environment Minister addresses the NFU Conference](#), 23 February 2016.

<sup>109</sup> CLA, [PM David Cameron responds to CLA EU referendum concerns](#), 14 April 2016.

<sup>110</sup> 58% leave, 31% remain, 11% undecided, *Farmers Weekly*, 29 April 2016.

<sup>111</sup> CBI, [Two futures: What the EU referendum means for the UK's prosperity](#), April 2016, p.2.

<sup>112</sup> See for example, House of Commons EU Scrutiny Committee [Seventh Report of Session 2007-08](#), 9 January 2008 and overall explanation of the Health Check in National Assembly for Wales Members' Research Service, [EU Common Agricultural Policy 2008: CAP Health Check](#), February 2008.

Over 2014-2020 the UK is expected to receive €25.1 billion in direct payments (Pillar 1) and €2.6 billion in rural development funds (Pillar 2) for the environment and rural development.

This represents a reduction in real terms of 12.6% and 5.5% respectively compared with CAP payments to the UK in the period 2007-2013.<sup>113</sup>

The table below shows how the total UK CAP allocations for 2014-2020 have been allocated across the UK.

#### UK CAP allocations 2014-2020

	<b>Pillar 1 € million (approx. non-inflation adjusted)</b>	<b>% share</b>	<b>Pillar 2 € million (approx non-inflation adjusted)</b>	<b>% share</b>
England	16,421	65.5	1,520	58.9
Northern Ireland	2,299	9.2	227	8.8
Scotland	4,096	16.3	478	18.5
Wales	2,245	8.96	355	13.7
Total UK allocation	25.1 billion		2.6 billion	

Note: Figures are in nominal terms (i.e. they have not been adjusted for inflation over the period).

**Source:** UK Government, November 2013.<sup>114</sup>

Depending on how the UK Government chooses to continue and phase in its support to agriculture, leaving the regime would probably reduce farm incomes in the short term. This is because, based on past CAP reform negotiating positions, the UK Government and Devolved Administrations would be unlikely to match the current levels of subsidy and/or would require more 'public goods' in return for support, e.g. in environmental protection, which the UK Government views as the "overarching market failure in this sector".<sup>115</sup>

The Country Land and Business Association's March 2016 report, *Leave or Remain: The decisions that politicians must make to support the rural economy* suggested that the £3.87bn EU CAP spend in the UK in 2013 resulted in a £10bn contribution to the EU economy, including more than 350,000 jobs and £3.5bn in tax revenue.<sup>116</sup>

### Rural Development Programmes

The EU CAP subsidies are made up of direct payments (Pillar 1 funding) and payments for rural development programmes which benefit the wider rural economy (Pillar 2 funding).

Across the UK, a large component of these Pillar 2 Rural Development Programmes is directed at agri-environment schemes where farmers receive additional payments for practices which especially protect and enhance the environment. It is very likely that these

<sup>113</sup> GOV.UK Press Release, [CAP allocations announced](#), 8 November 2013.

<sup>114</sup> GOV.UK Press Release, [CAP allocations announced](#), 8 November 2013.

<sup>115</sup> Defra, [The Rural Development Programme for England 2014-2020: Final Impact Assessment](#), 10 April 2014.

<sup>116</sup> CLA, *Leave or remain: The decisions that politicians must make to support the rural economy*, March 2016.

would continue in some form across the UK outside a CAP regime, as they are well-established mechanisms to promote environmental policy objectives. The UK Government has opted to transfer almost maximum funds from the direct subsidies allocation (Pillar 1) for England to the Rural Development Programme for England (Pillar 2).

The RDP programmes in the UK also support the wider rural economy with priorities relating to tourism, rural broadband and SMEs. The Pillar 2 funding will be supporting various growth programmes across the UK for 2014-2020 with little additional Exchequer funding. For example, the £3.5bn RDP for England has around 15% Exchequer funding.<sup>117</sup> Thus, without CAP funding and a required RDP approved by the EU, it is not clear how much specific support would be prioritised and directed to rural areas.

### 5.3 Impacts of losing the CAP

The loss of the CAP and a future EU/UK trading relationship raise lots of uncertainties for farmers in terms of income, tariffs, commodity and consumer prices and environmental management requirements in the future. The likely impacts, trade-offs and potential scenarios are complex.

House of Commons Library Briefing [EU referendum: Impact on UK agricultural policy](#) (May 2016) discusses these topics in more detail.

A snapshot of some of the key analysis of Brexit's impact on farming is provided below:

#### **Worshipful Company of Farmers' analysis (February 2016)**

Professor Alan Buckwell produced a report for the Worshipful Company of Farmers, [Possible Agricultural Implications of Brexit](#) (February 2016).

He concluded that the EU trade question was fundamentally a choice between remaining close to the EU single market and therefore having to retain most existing EU regulation, or leaving the single market in order to allow some deregulation.

Whatever the outcome of the referendum, he predicts more customs controls and thus higher trading costs than now on trade with the EU (both ways). This could depress UK farm prices and raise some consumer costs. If the UK then chooses lower protection levels on agriculture with the rest of the world, this would also depress some UK farmer prices, but reduce consumer costs. Therefore, together, farmers might face weaker prices, whilst consumer food prices, on balance, may not be much affected.

#### **LEI for the NFU (April 2016)**

Detailed analysis was commissioned by the NFU before the referendum from a leading agricultural research institute, LEI at Wageningen University (The Netherlands).

This analysis, [Implications of a UK exit from the EU for British Agriculture](#) (April 2016) looked at three trade scenarios with different levels of agricultural support:

- 1) UK-EU Free Trade Arrangement (FTA)
- 2) WTO default position; and,
- 3) UK Trade Liberalisation (TL) scenario

<sup>117</sup> Defra, [The Rural Development Programme for England 2014-2020: Final Impact Assessment](#), 10 April 2014.

In each of these scenarios the effects of three different levels of agricultural support were estimated:

- status quo, i.e. a continuation of all direct payments
- 50% reduction of direct payments and
- no direct payments

It was assumed that there was no change in the level of environmental (Pillar II) payments to farmers.

The researchers found that:

- for most sectors the biggest driver of UK farm income changes was the level of public support payments available. The loss of these support payments offset positive price impacts in all of the scenarios.
- The positive price impacts seen through both the FTA and WTO default scenarios were offset by the loss of direct support payments.
- A reduction of direct payments, or a complete elimination, exacerbated the negative impact on farm incomes seen under the UK TL scenario.
- The UK TL scenario implied a lowering of the UK's external import tariffs by 50%. This scenario was found to have significant impacts on UK meat and dairy prices as current import rates are higher for these products. Consequently, the overall effect of the TL scenario was a price decline for animal products which leads to a reduction in meat and milk production in the UK.<sup>118</sup>

### **Agra Europe Analysis (October 2015)**

Agra Europe, an EU agriculture and food publication, prepared a detailed analysis of the impact of Brexit and likely farm policies on EU exit: [Preparing for Brexit: What UK withdrawal from the EU would mean for the agri-food industry](#) (October 2015).

This report highlights how an EU exit would be “traumatic” for the farming industry, with large cuts in farm incomes, bankruptcies, falling land prices and the elimination of small and medium sized farms, as well as increased barriers to exports and lost markets.<sup>119</sup>

### **IEEP: environmental concerns**

Although environmental NGOs have often been critical of the CAP and especially the latest reforms in terms of environmental benefits, there is also some concern that support for agri-environmental schemes and wider rural development funding will be reduced outside the EU.

The Institute for European Environmental Policy (IEEP) has said that it is “far from clear whether the UK environment would be better serviced by a new set of national agriculture policies which would follow from an EU Brexit”, especially as there would be major variations across the UK administrations.<sup>120</sup>

The IEEP highlights the following key environmental factors:

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<sup>118</sup> Berkum, S. van, et al, 2016, Implications of a UK exit from the EU for British agriculture; Study for the National Farmers' Union (NFU). Wageningen, LEI Wageningen UR (University & Research centre), LEI Report 2016-046.

<sup>119</sup> Analysis: *The CAP and its role in the UK's Brexit debate*, Agra Europe, 14 October 2015.

<sup>120</sup> IEEP, [The potential policy and environmental consequences for the UK of a departure from the European Union](#), March 2016.

- Established UK policy, strongly supported by the Treasury, is to cut expenditure on agriculture. Consequently, there are major questions about how far a future government would maintain funding for managing the rural environment as well as for agriculture.
- The majority of experts on the topic are sceptical and expect significant cuts.
- Incentives for greener farming could decline, and there are also concerns about the extent to which governments would be willing to impose environmental obligations on a sector subject to competition from more subsidised counterparts in the remaining EU Member States.

### Campaign to protect rural England

The [Campaign to Protect Rural England](#) is highlighting the need for farming in England to become more diverse, in terms of farm size and production and demographics, in order to prove environmentally resilient and publicly accessible in the future. Its August 2016 report, [New Model Farming: Resilience through Diversity](#), advocates that the Government should encourage a mix of farms. It advises:<sup>121</sup>

- redirecting funding to help smaller, more innovative and mixed farms;
- making land available for new farmers to enter the market;
- encouraging more dynamism and diversity in farming through a community right to bid, and a transparent register of landholdings;
- encouraging the use of low cost technologies and techniques to benefit all farmers;
- ensuring that a much higher proportion of public funds are directly linked to delivering public benefits.

The report has had a muted response from farming and landowner bodies. The CLA disputed the assumptions that smaller, mixed farms would have more positive environmental impacts.<sup>122</sup>

## 5.4 What has the UK Government said about EU exit and agriculture so far?

The UK Government has not yet given many clues as to how it is likely to approach UK agriculture policy outside the CAP.

However, in terms of financial support, the Chancellor of the Exchequer has given farmers a level of certainty by guaranteeing the current level of agriculture funding under Pillar 1 to 2020 as part of the “transition to new domestic arrangements”.<sup>123</sup> This has been welcomed by farming organisations.<sup>124</sup>

HM Treasury has also given assurances that all structural and investment fund projects, including agri-environment schemes, signed before the Autumn Statement will be fully

<sup>121</sup> CPRE, [New farmers and new small farms can kick-start agricultural revolution](#), 17 August 2016.

<sup>122</sup> CLA, [CLA responds to CPRE's report on the future of farming outside the EU](#), 17 August 2016.

<sup>123</sup> HM Treasury, [Chancellor Philip Hammond guarantees EU funding beyond date UK leaves the EU](#), 13 August 2016.

<sup>124</sup> See for example, NFU, [NFU says announcement from CAP is 'positive'](#), 15 August 2016.

funded, even in cases where these projects continue beyond the UK's departure from the EU.<sup>125</sup>

In July 2016 Lord Gardiner of Kimble gave some idea of the overall elements of the UK Government's future 'vision' for farming. Responding to the most recent parliamentary debate on agriculture and Brexit, the Defra Minister said that the Government was "committed to working with the industry and to developing an exciting new vision for British agriculture—a vision based on sustainable, productive and competitive industry".<sup>126</sup>

Defra's proposed 25-Year Food and Farming Plan is currently on hold following the referendum. George Eustice set out further detail in answer to a written question in July 2016:

We now have an opportunity to consider our long term vision for food and farming outside of the EU. We look forward to continuing to work with a wide range of interests to develop that vision and to work together to deliver it.

It remains essential that the UK has a thriving food and farming industry with high animal welfare and environmental standards, access to international markets and a long term commitment to boosting productivity through innovation and skills. We are now focused on taking forward the actions that support these objectives, and continuing to develop our long term vision, in a different context.<sup>127</sup>

In relation to a replacement for the CAP specifically he has said:

Defra is currently working on a range of proposals to inform discussions about the shape of a future agricultural policy to replace the CAP and we will be involving stakeholders in those discussions.<sup>128</sup>

At the Livestock Event in July 2016, George Eustice gave an indication of Defra's thinking so far. He said that the goal was to "unbundle farm policy objectives" so that it was clear which policies are required to deliver a productive, competitive and sustainable agricultural industry.

He identified the need to reassure people that the UK would not leave the EU's Single Market until a free trade agreement was in place.

He emphasised that the final shape of farm policy would be a matter for the new Prime Minister but that options already being discussed included:

- market measures
- renewed focus on agri-environment schemes with a more holistic approach to protecting the environment, perhaps on a catchment management basis to join up soil management with the UK's existing approach to managing water.<sup>129</sup>

He also said that Defra officials were looking at risk management tools such as futures markets and crop insurance.

The Rural Payments Agency has confirmed that the EU referendum result "does not mean there will be immediate changes" and that "until the UK formally leaves the EU, it still has

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<sup>125</sup> HM Treasury, [Chancellor Philip Hammond guarantees EU funding beyond date UK leaves the EU](#), 13 August 2016.

<sup>126</sup> [HL Deb 21 July 2016 c797](#)

<sup>127</sup> [HC Written Question 42061](#), 11 July 2016.

<sup>128</sup> [HC Written Question 43181](#), 22 July 2016.

<sup>129</sup> Defra signals shift away from direct payments, [Farmers Weekly](#), 8 July 2016.



a legal obligation to comply with the Common Agricultural Policy and all BPS scheme rules and regulations will apply".<sup>130</sup>

Past CAP negotiating positions and comments on future reform are the only other clues to the possible principles and overall approach that the UK Government might adopt given a free rein in agriculture.

UK policy over successive governments in the last 20 years has been to seek to reduce CAP direct subsidies in EU negotiations on CAP reform and to shift any support to farmers towards provision of public goods to provide more value for money for the UK tax payer, e.g. environmental benefits and services through habitat and farm management.

Overall, regardless of the referendum outcome, farming unions had been expecting support for farming to fall as a result of reducing budgets and changing policy thinking on subsidies at both EU and UK level.<sup>131</sup>

In the last CAP round (2014-2020), which was agreed at EU level in 2013, the UK sought cuts in the overall EU budget supporting the CAP. It also made clear that it wanted to see a more market-orientated policy with competitiveness at its heart, to ensure that farmers can prepare for a future without income support.

In January 2015 the UK Government's response to a written parliamentary question reiterated a commitment to moving away from farming subsidies in the long run:

We continue to believe that expenditure on market price support and direct payments to farmers under Pillar 1 of the CAP represents very poor value for money. The UK has always made clear that we would like to move away from subsidies in the long run. However, we recognise that there is scope for using taxpayers' money to pay farmers for public goods that the market otherwise would not reward, such as protecting the natural environment, supporting biodiversity and improving animal welfare.<sup>132</sup>

Northern Irish Farming Minister Michelle O'Neill also said in February 2016 that she did not believe the current UK Government would match the current level of subsidies if there was an EU exit:

The British Government have consistently pushed for reductions in the support going to farmers and rural development under the CAP. They do not regard that spending as value for money, so I believe that the Treasury would be unsympathetic to our calls for some of the money saved from withdrawing as a member state from the EU to be used to maintain support to farmers and rural communities. A significant reduction in direct support would leave many of our farmers in real and long-term financial difficulty. A reduction of funding for farmers and rural communities would have knock-on effects for the environment.<sup>133</sup>

In the last CAP round, the UK Government also secured the flexibility for the UK to effectively devolve CAP arrangements across the UK administrations. However, this devolution brings its own complications, as currently the Devolved Administrations shape their own CAP implementation decisions within the EU rules and have chosen very different paths. It is not clear how the UK would approach farming policy without common EU rules as the overall working framework for the UK Government and the Devolved Administrations.

<sup>130</sup> RPA, [RPA sets out plans for resolving farmers' BPS 2015 queries](#), 29 June 2016.

<sup>131</sup> The future for subsidies in and out of the EU, *Farmers Weekly*, 13 May 2016.

<sup>132</sup> HC Deb [Written Answer 221523](#), 27 January 2015.

<sup>133</sup> Northern Ireland Assembly, [Agriculture Questions](#), 2 February 2016.



## 5.5 EU Commission views

The NFU met EU Agriculture Commissioner Phil Hogan at the end of June 2016, seeking assurance that farmers would have the full CAP subsidies until 2020 - the end of this 'round'.<sup>134</sup>

Commissioner Hogan has clarified the Commission's position in a number of areas:

- The UK will have all CAP benefits until Article 50 negotiations are concluded.<sup>135</sup>
- Market access negotiations and negotiations for a bilateral trade agreement between the EU and UK will not commence until exit negotiations are completed.<sup>136</sup>

It is this potential gap between leaving the Single Market and starting a new free trade agreement which is of concern to farmers and economists alike.

## 5.6 Farmers want a "new vision for British Agriculture"

The [NFU](#) has called for Theresa May to "back a new vision for British agriculture". A letter to the new Prime Minister in July 2016 stressed the "historic opportunity to shape the future of British farming and food production" for generations to come and underlines the importance of the sector to the economy.<sup>137</sup> The NFU has described farming as "the bedrock for a vibrant supply chain" and "essential" for the UK's £108bn food and drink industry.<sup>138</sup> The farming union launched its biggest consultation of members "in a generation" in August 2016, which will conclude on 14 September 2016 after 50 meetings across the country.<sup>139</sup>

In a joint statement, the Scottish Land and Estates and Country Land and Business Association (CLA) have called for immediate action from all levels of government to provide some certainty and clarity for farming and other rural businesses.<sup>140</sup>

The [CLA](#) has expressed concern that agriculture was not mentioned in the new Department for International Trade's [announcement](#) of its responsibilities.<sup>141</sup> The Department has since clarified that agriculture would be part of Parliamentary Under Secretary Mark Garnier's portfolio, but the CLA is concerned that agriculture is being treated as an "after thought".

The CLA has acknowledged that leaving the EU creates a "chance for rural businesses to thrive" but highlights that it is "notoriously difficult to establish open trade deals for farming products" and that there was a history of agriculture being treated as a "low priority or excluded from international trade negotiations altogether".<sup>142</sup>

The NFU has set out its wish list for EU exit terms and the union has launched a consultation with their members about what the new UK farming policy should look like.<sup>143</sup>

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<sup>134</sup> NFU Online, [Commissioner Hogan's clarity for UK farmers](#), 4 July 2016.

<sup>135</sup> NFU Online, [Commissioner Hogan's clarity for UK farmers](#), 4 July 2016.

<sup>136</sup> UK is likely face tariffs on trade, warns EU, *Farmers Weekly*, 15 July 2016, p.6.

<sup>137</sup> NFU online, [NFU calls on new PM to champion a new vision for farming](#), 13 July 2016.

<sup>138</sup> NFU online, [NFU launches post-Brexit options paper and consultation](#), 15 August 2016.

<sup>139</sup> NFU online, [NFU launches post-Brexit options paper and consultation](#), 15 August 2016.

<sup>140</sup> [Landowners want CAP replacement action now](#), *The Scotsman*, 12 July 2016.

<sup>141</sup> Gov.uk [Ministerial portfolios at Department for International Trade confirmed](#), 4 August 2016.

<sup>142</sup> Food security at risk in future trade talks, *Farmers Weekly*, 12 August 2016, p.7.

<sup>143</sup> NFU online, [NFU launches biggest farming consultation for a generation](#), 8 July 2016.

The NFU is keen for the UK to take the opportunity of leaving the EU's "over-politicised approach and excessive use of the precautionary principle" in relation to product approvals, e.g. GM crops and pesticides.

### The key asks

Farming and landowning organisations realise that they need to have some commonality in their proposals if they are to get traction with Defra and the Treasury. Some common themes have been emerging and it has been reported that there are "fledgling" talks of farming organisations forming a coalition to support the Government's Brexit policy-making.<sup>144</sup>

So far farming and landowner bodies have been seeking the following outlook and reassurances from the UK Government:<sup>145</sup>

#### Farming support and regulation

- Swift action to develop a new domestic agricultural policy, with a long term approach, adapted to farmers' needs; easy to understand and administer.
- Guarantees that support given to UK farmers is on a par with that given to farmers in the EU, who will still be the UK's principle competitors.
- Ensuring that future arrangements for pesticide and GM approvals are proportionate and based on sound science.
- A UK-wide policy to be developed with all of the UK devolved administrations to take into account the differing characteristics and needs of the rural sectors in each country. Each administration would implement it in accordance with their own needs and aspirations, and there should be sufficient funds for the policy across the whole of the UK.
- Careful transitional arrangements to ensure that the uncertainty of future incomes does not lead to problems with lending and succession of ownership.

#### Trade and markets

- Best possible access to markets in the rest of Europe.
- Similar level of trade agreements as currently with the rest of the world (EU farmers benefit from over 50 such agreements at present).
- Assurances that the UK will not be open to imports which are produced to lower standards.
- Ensure that British agriculture does not become the lever used to develop export markets in non-farming areas by granting unfavourable market access deals which will impact upon domestic markets in agricultural produce.

#### Labour

- Access to migrant labour, both seasonal and full-time.

#### Rural Development Programmes

- A rural development policy which focuses on enhancing UK competitiveness, taking the opportunity to devise better agri-environment schemes.

<sup>144</sup> Single voice to yield best results, *Farmers Weekly*, 15 July 2016, p.16.

<sup>145</sup> Drawn from NFU online, [NFU launches biggest farming conversation for a generation](#), 8 July 2016; CLA and Scottish Land and Estates, [New opportunities for a world leading food and farming and environmental policy](#), July 2016.

## Suggested alternative models for farm support

Before the referendum farming minister, George Eustice, set out how a fresh approach to farm support and policy could look outside the EU.<sup>146</sup> UKIP did the same.<sup>147</sup> Both of these positions suggested maintaining some level of subsidies. Mr Eustice suggested that the UK Government could invest £2bn, compared with the £3bn that UK farmers receive today, towards a new policy because of the budget savings of leaving the EU.<sup>148</sup> He also suggested a more targeted policy focused on outcomes rather than blanket subsidies.

The [Tenant Farmers Association](#) has now also put forward a proposal for a three-pillar farm support. This assumes current levels of support, although these cannot be guaranteed if the UK Government maintains its last CAP reform negotiating position of wanting to reduce subsidies.

The Tenant Farmers Association has updated a plan for farming and agricultural policy in a leave scenario which it published before the referendum. Its proposal abolishes basic support for all farms and splits the current funding between:

- an outcome-focused agri-environment scheme
- an infrastructure grant scheme to encourage the development of farm businesses
- public funding to develop and promote British food both at home and abroad through market research and development and technology transfer.<sup>149</sup>

## 5.7 Wider EU agricultural policy issues

Although the CAP is a key feature of UK farming policy, there are a number of other important areas of EU regulation that will be affected by Brexit.

- The UK Government's [Review of the Balance of Competences between the UK and the EU](#) (Summer 2014) highlighted pesticides regulation and plant and animal health regulation as key areas of interest from stakeholders. The NFU has also highlighted EU funding of agricultural research and development.<sup>150</sup>
- *Farmers for In* argued before the referendum that it is "pointless" trying to tackle environmental threats, and animal and plant diseases at country level. The group highlighted that EU common standards and thresholds give farming the security that it needs in "today's uncertain landscape".<sup>151</sup>

### Pesticide Regulation

The regulation and licensing of pesticides has a major impact on agricultural and horticultural businesses and is currently undertaken on a pan-European basis, sharing the burden of evaluating scientific evidence through the European Food Safety Authority (EFSA) and through different Member States taking the lead in evaluating different applications.

<sup>146</sup> [Eustice outlines £2bn plan for farming as Defra Ministers stand divided on Brexit](#), *Farmers Guardian*, 25 February 2016.

<sup>147</sup> [Leaving the EU 'too risky' warn farm leaders](#), *Farmers' Weekly*, 5 March 2016.

<sup>148</sup> [Eustice outlines £2bn plan for farming as Defra Ministers stand divided on Brexit](#), *Farmers Guardian*, 25 February 2016.

<sup>149</sup> Tenant Farmers Association, [TFA promotes Brexit vision at the Great Yorkshire Show](#), 11 July 2016.

<sup>150</sup> NFU online, [NFU Council agrees resolution on the EU referendum](#), 18 April 2016.

<sup>151</sup> Britain Stronger In Europe, [Farmers for In launched](#), 5 March 2017.

The EEA agreement includes [Directive 91/414/EC on the placing of plant protection products on the market](#). However, other trade deals may not.

Even under current EU arrangements, the UK has its own machinery to provide consent for products containing EU approved active ingredients with a national risk assessment process. This could be used for a UK approach to pesticides regulation and approval.

The UK's pesticide authority is the Health and Safety Executive's Chemicals Regulation Directorate. The Expert Committee on Pesticides provides the Government with advice on this process.

Ultimately, the evaluation of an approval for a pesticide at EU level gets put to a vote by all Member States in the Standing Committee on the Food Chain and Animal Health. It is this politicisation of a science-based assessment that has frustrated the NFU.

Differences in opinion at this stage have delayed recent decisions on key pesticides (see below).

## Implications of Brexit

The NFU has raised concerns that UK crop production is "flatlining" because EU regulation is steadily reducing the range of crop protection products that farmers can use.<sup>152</sup>

The EU approval and assessment process has recently received a great deal of attention because of the European Commission's introduction of restrictions on a number of the most commonly used neonicotinoid insecticides, due to their negative impact on bees.

The UK Government does not agree that the scientific evidence supports the restrictions but the Commission had sufficient support to introduce them. These restrictions are currently being reviewed by the EFSA, which is expected to provide an assessment by 31 January 2017.<sup>153</sup>

In addition, the renewal of the approval for the herbicide glyphosate has been delayed at EU level after conflicting scientific assessments. It now has approval for 18 months pending a further study by the EU Chemicals Agency. The UK is arguing that the scientific assessments carried out so far do not suggest that certain uses of glyphosate should be restricted at EU level, and that it should be for Member States to consider whether restrictions are needed as part of their national re-approval processes.<sup>154</sup>

The UK resistance to these decisions indicates that there would be a very different approach to pesticides approval with more UK autonomy. Before the referendum, farming Minister George Eustice said that the EU's precautionary principle needed to be reformed in favour of a US-style, risk-based approach, allowing faster authorisation.<sup>155</sup>

## Genetically Modified Organisms (GMOs)

Outside the EU, the UK's regulation of genetically modified crops and products would depend on its future arrangements with the EU. For example, the EEA Agreement covers a wide range of food law, including biotechnology and GMOs.<sup>156</sup>

<sup>152</sup> NFU Online, [A healthy harvest?](#) Vice-President's blog, 1 June 2014 and NFU online, [Lobbying for a Healthy Harvest](#), 5 February 2015.

<sup>153</sup> [HC Written Answer 24715, 3 February 2016.](#)

<sup>154</sup> [HL Written Question HL8 171 11 May 2016.](#)

<sup>155</sup> Brexit [would free UK from 'spirit crushing green directives' says Minister](#), *The Guardian*, 30 May 2016

<sup>156</sup> EFTA, [Food safety: Food and Veterinary Matters](#) as viewed on 20 July 2016.

The UK regulatory process for approving GM crops is also part of an EU-wide system of evaluation and authorisation for Genetically Modified Organisms (GMOs) based on scientific evidence and evaluation. However, the final decision on authorisation rests with Member States in a vote which somewhat politicises the process (as per pesticides approval), as such votes can reflect the Member States' overall position on GM rather than the specific authorisation being considered.

Since 1990 only three GMOs have been authorised for cultivation in the EU and only one product (MON810 maize) is currently authorised. It is cultivated in five Member States (not the UK) on an area representing only 1.5% of the total area of maize production in the EU. This has implications for EU trade and innovation.

The European Commission has acknowledged this shortfall in the authorisation process and has been seeking to address it. For example, since April 2015 Member States have had more discretion to restrict or prohibit the use of GM crops in their own jurisdiction, even if EU-authorised, without having to vote against the whole authorisation of a particular GM crop to achieve this. The EU Commission has also reviewed the whole decision-making process for authorising GMOs and has proposed that this approach should also be taken for GM food and feed (which is more widely authorised).<sup>157</sup>

However, in October 2015 the European Parliament voted against these plans on the grounds that they were unworkable and could lead to border controls between countries that disagree on GMOs, which would affect the internal market. The EP asked the Commission to come forward with new ideas.<sup>158</sup>

## Plant and Animal Health and Food Safety

As noted by the UK Government's 2013 Balance of Competences Review, there is an extensive body of EU legislation on animal health, veterinary medicines, medicated feeding stuffs, animal welfare, food and feed safety and hygiene, food labelling and compositional standards. This is mainly to facilitate trade and to provide the EU with comprehensive disease and food safety alert systems.<sup>159</sup>

Many of these areas have international standards, food for example, where an EU exit would not greatly change standards. Some also already allow Member States to maintain stricter rules if they have them, e.g. UK slaughter rules and animal welfare. However, Member States also share expertise, intelligence and resources to support these systems.

Without access to such resources the UK will have to replicate some of the services currently provided or seek to participate in them on other terms.

<sup>157</sup> COM (2015) 176 final, 22 April 2015, [Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Reviewing the decision-making process on Genetically Modified Organisms \(GMOs\)](#).

<sup>158</sup> European Parliament News, [Eight things you should know about GMOs](#), 27 October 2015.

<sup>159</sup> HM Government, [Review of the balance of competency between the UK and EU: Animal Health and Welfare and Food Safety report](#), July 2013.



## 6. Fisheries policy

This chapter describes the views of different stakeholders on the implications of Brexit for UK fisheries. It also seeks to draw on evidence from non-EU European countries, such as Norway, to give an indication of possible outcomes for the UK.

It is important to note that the outcomes will in large part depend on the nature of the UK's withdrawal and the negotiations that will take place.

There is significant uncertainty.

### 6.1 The Common Fisheries Policy

Fisheries in the EU are managed under the Common Fisheries Policy (CFP). The policy aims to ensure that fishing is “environmentally, economically and socially sustainable” and to allow fair competition between fishers.<sup>160</sup>

The CFP covers a number of policy areas including:

- **Fisheries management:** controls on how fish can be taken, with the goal of ensuring that fish stocks are healthy enough that the maximum sustainable amount of fish possible can be caught. The measures include technical regulations on what kinds of gear can be used and quotas for the amount of fish landed.
- **Funding:** The CFP provides funding to fishers and fishing communities for a number of purposes including supporting sustainable fishing and helping coastal communities to diversify their economies. The UK was allocated €243.1 million in fisheries funding from 2014-2020.<sup>161</sup>
- **Market organisation:** the CFP puts into place measures such as common marketing standards, common consumer information rules and competition rules, and provides market intelligence via the European Market Observatory for Fishery and Aquaculture Products.
- **Import tariffs:** the CFP allows for import tariff reductions for certain fish and fish products from outside the EU to help increase supply at times when EU supply cannot meet the demand of fish processors.

### 6.2 Fisheries post-Brexit

The analysis below seeks to consider the main CFP policy areas and how they might change in the UK post-Brexit.

#### Fisheries management

Brexit will have a number of implications for fisheries management. While it is possible to identify some possible broad implications, the specific outcomes are highly uncertain.

The following issues are likely to be important during and after the negotiations:

- Control over a greater area of sea
- Renegotiating the UK's share of fish quotas
- The power to walk away from negotiations

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<sup>160</sup> [The Common Fisheries Policy \(CFP\)](#), European Commission, 29 May 2015.

<sup>161</sup> Ibid.

- The degree to which the UK could exclude non-UK vessels
- Cooperation with the EU and other countries on setting quotas
- UK influence on the management of stocks shared with the EU, and
- A new UK fisheries policy and management system.

These points are elaborated on below.

### **Control over a greater area of sea**

Norway and Iceland are responsible for fishing in their Exclusive Economic Zone (EEZ) up to 200 nautical miles from the coast. This is the norm in international law.

This contrasts with the situation in the EU, where Member States share access to fishing grounds from 12-200 miles from the coast (see box 1 below).

Following Brexit the UK could take full responsibility for fisheries in the UK's EEZ. However, this does not necessarily mean that the UK will as a result have greater access to fish. This point is elaborated on below.

In addition, there could be legal arguments under international law about the extent to which the current fishing rights of foreign fishers could be abolished.<sup>162</sup>

#### **Box 1: Why do we not control fisheries out to 200 miles from the UK coast?**

When the UK joined the EEC in 1973 the Member States agreed to exclusive national fishing rights to 12 nautical miles, unless another Member State could prove historic fishing activity between 6 to 12 miles.<sup>163</sup> This was broadly in line with international law at the time. As a result, UK fishing fleets have access to some fishing grounds within 6-12 miles of four other Member States, and five Member States have access to fishing grounds within 6-12 miles of the UK.

The seas further than 12 miles from the coast were considered 'high seas', and not under the control of anyone. However, this changed in the late 1970s, when it was agreed under international law that countries had rights over the sea up to 200 nautical miles from their shores.<sup>164</sup>

When these new Exclusive Economic Zones (EEZ) were introduced, EU competence for fisheries was extended to 200 miles off the coast. The principle of equal access was applied to this new area.

### **Renegotiating the UK's share of fish quotas**

George Eustace, arguing for Brexit, stated that "outside the EU [we would be] in the strongest possible position to re-open the issue of 'relative stability' and argue for a fairer share of quota allocations in many fish stocks".<sup>165</sup> He said that this could be conducted

<sup>162</sup> [Traditional fishing rights: analysis of state practice](#), Polite Dyspriani, published by Division for ocean affairs and the law of the sea office of legal affairs, the United Nations, 2011.

<sup>163</sup> House of Lords European Union Committee, [The Progress of the Common Fisheries Policy](#), 22 July 2008, HL 146-i.

<sup>164</sup> Ibid.

<sup>165</sup> [The Fishing Industry and Brexit](#), George Eustace MP, 17 April 2016.



on the basis of an “assessment of spawning grounds and this science would help inform a new settlement”.<sup>166</sup>

Mr Eustace said that Brexit would enable the UK Government to represent itself at quota negotiations. This would mean that UK interests could not be bargained with in order to “give advantages to other EU countries”.<sup>167</sup>

The current agreement between the EU and Norway provides that quotas are shared on the basis of ‘zonal attachment’. This is the extent to which a stock is distributed in an area over time.

However, changes in “fish distribution, abundance and migration patterns can be caused by changing environmental conditions and increases or decreases in spawning stock biomass (among other factors)”. This fact can “cause problems for agreements based on zonal attachment” as disagreements can occur over the sharing of fish stocks as they change.<sup>168</sup>

Others have questioned the extent to which the UK will be in a position to renegotiate greater quotas outside the EU.<sup>169</sup> Elizabeth Truss MP, who was Secretary of State for Environment at the time and who campaigned to remain, questioned the impact of losing “the collective bargaining power of the EU”. She believed the UK “would be hard-pressed to get agreements as favourable as those we currently enjoy with third countries like Norway, Iceland, Russia, the Faroe Islands and Greenland”.<sup>170</sup>

The National Federation of Fishermen's Organisations noted that “we can certainly seek to renegotiate quota shares as well as access arrangement but it is realistic to expect that there will be a price of some sort. Who will pay that price is a critical question”.<sup>171</sup>

### **The power to walk away from negotiations**

Perhaps an additional bargaining tool available to the UK post-Brexit will be the ability to “walk away” from negotiations if it is unhappy with its share of quota.

Dr Bryce Stewart from the University of York said that “although this may sound appealing, it is likely to result in the setting of unsustainably high catch limits, as occurred during the recent ‘Mackerel Wars’ when Iceland, Norway and the Faroes all argued for (and set) a higher quota / share of the catch than that advised by the EU”.<sup>172</sup>

If the UK chose to walk away from negotiations, and unilaterally set higher quotas, the EU could respond harshly. For example, when a dispute emerged between the EU and the Faeroes regarding herring quotas, the EU responded with trade sanctions, introduced a ban on Faeroese herring imports and prohibited the entry into European ports of Faeroese fishing vessels.<sup>173</sup>

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<sup>166</sup> Ibid.

<sup>167</sup> [The Fishing Industry and Brexit](#), George Eustice, 13 April 2016.

<sup>168</sup> [Brexit: Where next for UK fisheries?](#), Marine Environmental Research, July 2016.

<sup>169</sup> [Brexit](#)”, The National Federation of Fishermen’s Organisations, 24 June 2016.

<sup>170</sup> [We must not lose our voice in EU fishing policy](#), Elizabeth Truss, The National Federation of Fishermen’s Organisations, 13 May 2016.

<sup>171</sup> [What would Brexit really mean for the UK's fishing industry?](#), The UK in a Changing Europe, 24 March 2016.

<sup>172</sup> Ibid.

<sup>173</sup> [EU lifts fish sanctions on Faroe Islands, WTO dispute closed](#), International Centre for Trade and Sustainable Development, 27 August 2014.

Ultimately the Faeroes agreed to reduce its quota from 100,000 tonnes to 40,000 tonnes (albeit up by 9,000 tonnes from a previous agreement).<sup>174</sup> This was much less than the Faroese believed they should have been entitled to on the basis of the science related to the distribution of herring in its waters, and in spite of the Faroese Government claiming that the EU's actions were illegal under international law.<sup>175</sup>

There appears to be significant uncertainty about the implications of Brexit in terms of the UK's bargaining power in fish quota negotiations.

### Box 2: Relative stability

In 1983, after seven years of negotiations, it was agreed that fisheries and quotas in the EEZ would be shared on the basis of who was already fishing in those areas (the principle of relative stability). This meant that when the EEZ was introduced, there would not be any dramatic consequences for any Member State.<sup>176</sup> It was also felt that this would help to "prevent repeated arguments over how quotas should be allocated, and to provide fishers with an environment which [was] stable relative to the overall state of the stock in question".<sup>177</sup>

Relative stability also gave certain fishing-dependent communities in the UK and Ireland special protection in the form of additional quotas that would be taken from other Member States in the event of quotas falling below certain levels.<sup>178</sup>

In retrospect it could be argued that this situation disadvantaged the UK, which might have asserted control over a greater proportion of the EU's catch through enforcement of a 200-mile EEZ. However, the UK government may have accepted the terms because:

- the agreement had little effect on UK fisheries at the time, as the UK fleet was focused on other areas ([see Library briefing on the Cod Wars](#) for more information);
- enforcing the EEZ might have led to significant conflict with other Member States;
- enforcing the EEZ might have been incompatible with EU membership;
- some UK fishing communities were given special protections.<sup>179</sup>

### Excluding foreign vessels from UK waters

Aside from giving the UK the ability to walk away from talks, an argument for Brexit has been that it would enable the UK to exclude EU fishers from the UK's EEZ.<sup>180</sup>

Some have questioned the extent to which that option would be feasible. Issues that might arise include:

- increased political tensions during a time when the UK will be negotiating EU market access. The Danish fish producer organisation stated that the UK should only be granted access to the EU market on the basis that it still permitted access to UK waters;<sup>181</sup>

<sup>174</sup> Ibid.

<sup>175</sup> [Government of the Faroes: Coercive economic measures are illegal and 26.07.2014 counterproductive](#), The Government of the Faroe Islands, 26 July 2014

<sup>176</sup> Ibid.

<sup>177</sup> [How we manage our fisheries](#), European Commission, viewed 27 May 2015.

<sup>178</sup> [HC Deb 16 December 2004](#) c1220W.

<sup>179</sup> House of Lords European Union Committee, [The Progress of the Common Fisheries Policy](#), 22 July 2008, HL 146-i.

<sup>180</sup> Burns, C., A. Jordan, V. Gravey, N. Berny, S. Bulmer, N. Carter, R. Cowell, J. Dutton, B. Moore S. Oberthür, S. Owens, T. Rayner, J. Scott and B. Stewart, [The EU Referendum and the UK Environment: An Expert Review. How has EU membership affected the UK and what might change in the event of a vote to Remain or Leave?](#), UK in a Changing Europe, 2016.

<sup>181</sup> [UK market access has to mean fishing access](#), *Fisherjournal*, 28 June 2016.

- the possible retaliatory exclusion of UK vessels from EU waters. That could be “a major concern in the fishing industry as 20% of the fish caught by the UK fleet is landed elsewhere in the EU”, and because the UK fleet currently has access to areas outside the UK’s EEZ;
- a ban possibly contravening international law;
- the implications of damaging fish trading relationships with Europe, as “at present the UK exports around 80% of its wild-caught seafood, with four of the top five destinations being European countries”.<sup>182</sup>

Other non-EU European countries have granted access to EU vessels (including UK vessels) to their EEZ as part of negotiations on fisheries. For example, when Greenland left the European Economic Community in 1982 it negotiated “tariff-free access to the EEC market for fisheries products” and in return “it allowed continued European access to its waters”.<sup>183</sup>

Norway also has mechanisms for allowing access to its EEZ by EU (and therefore UK) vessels. These long-standing arrangements were put into place to enable fishers from both the EU and Norway to maintain access to historic fishing grounds in each other’s EEZ.<sup>184</sup>

<sup>185</sup>

It therefore seems possible that some form of agreement on continued EU access to UK waters, and vice versa, could be part of a post-Brexit negotiated settlement.

### **Cooperation with the EU and other countries on setting quotas**

After Brexit the UK would need to cooperate with the EU on quota setting. Cooperation on sharing stocks is required, as many fish stocks are migratory and therefore cross EEZ boundaries. Fish populations could be damaged if countries failed to coordinate on fishing effort.

Such cooperation is enshrined in international law. The UN Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks and the UN Convention on the Law of the Sea in 1996<sup>186</sup> require cooperation on the conservation and management of fish stocks that straddle national jurisdictions. The UK has ratified these agreements.

This kind of cooperation is currently seen in Norway and other non-EU European countries. Around 90% of Norway’s fisheries are shared with other countries,<sup>187</sup> even though it is much more geographically isolated than the UK. The Norwegians set fish quotas and management strategies for important fish stocks in negotiation with other countries, including the EU and Russia. Norway and the EU have developed management strategies for several joint stocks including cod, haddock and herring.<sup>188</sup>

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<sup>182</sup> [What would Brexit really mean for the UK’s fishing industry?](#), The Conversation, 24 March 2016.

<sup>183</sup> [Reality Check: How would Brexit affect the UK’s fishing waters?](#), BBC News, 31 May 2016.

<sup>184</sup> [Committee on Fisheries: Hearing CFP reform; the external dimension by Johán H. Williams, Director General, Norwegian Ministry of Fisheries and Coastal Affairs](#) European Parliament, viewed 14 July 2016.

<sup>185</sup> [Fisheries cooperation with the EU](#), Norwegian Ministry of Trade, Industry and Fisheries, 8 March 2010.

<sup>186</sup> [Fishery and Aquaculture Country Profiles: The Kingdom of Norway](#), Food and Agriculture Organization of the United Nations, 14 July 2016.

<sup>187</sup> Ibid.

<sup>188</sup> [Norwegian fisheries management](#), The Ministry of Fisheries and Coastal Affairs, 2007.

The EU cooperates and negotiates with non-EU countries on behalf of Member States. The outcome of negotiations on one stock may be influenced by negotiations on another.<sup>189</sup>

Following Brexit the UK will have to:

- maintain a close working relationship with the EU to enable the effective management of fisheries;
- agree a mechanism for agreeing quotas and management measures with the EU and other countries. This could be a bilateral mechanism between the UK and EU “in the case of stocks that are shared only between the EU and UK”, or through the North East Atlantic Fisheries Commission (NEAFC) for stocks shared with other countries “as is currently the case with mackerel, which is negotiated between the EU, Norway, Iceland and the Faroe Islands”.<sup>190</sup>

### A new UK fisheries policy and management system

George Eustace, arguing for Brexit, thought the UK Government would seek to retain a number of fisheries management measures, such as fishing within sustainable limits through a quota system, and that the UK “would still strive to eliminate the wasteful practice of discarding dead fish back into the sea”.<sup>191</sup>

“Managing cod stocks is not rocket science—it is much more complicated than that.”

Brexit could also help to address cases where it is argued that the EU has taken decisions on fisheries management that may be inappropriate to UK circumstances.<sup>192</sup>

The experience from Norway and other countries would suggest that the UK will need to introduce a potentially complex system of fisheries management.<sup>193</sup>

Management will need to be well-coordinated with the EU, given the extent to which stocks are shared. But the UK might have less influence over the management measures of some stocks, as it may be less able to participate in discussions with EU Member States.

A Norwegian marine scientist commented that “managing cod stocks is not rocket science—it is much more complicated than that”.<sup>194</sup> In many cases the management system may need to be negotiated and agreed with the EU. Key elements of the Norwegian approach to fisheries management include:

- limiting access to fisheries;
- basing quotas on scientific evidence about the maximum amount of fish that can be sustainably caught;
- reducing overcapacity in the sector (i.e. limiting or reducing the number of vessels);
- abandoning subsidies for fishing;
- controls on the types of fishing gear permitted;

<sup>189</sup> [Committee on Fisheries: Hearing CFP reform; the external dimension by Jóhán H. Williams, Director General, Norwegian Ministry of Fisheries and Coastal Affairs](#), European Parliament, viewed 14 July 2016.

<sup>190</sup> [Brexit: Where next for UK fisheries?](#), Marine Environmental Research, July 2016.

<sup>191</sup> [The Fishing Industry and Brexit](#), George Eustice, 13 April 2016.

<sup>192</sup> [Drift Net Ban pushed onto back burner](#), The National Federation of Fishermen's Organisations, 22 September 2014.

<sup>193</sup> [Cod almighty: the secret of Norway's monster fish bonanza](#), The Guardian, 25 April 2016.

<sup>194</sup> Ibid.

- a discard ban;
- control and enforcement measures at port and at sea to ensure compliance;
- measures to protect marine habitats and biodiversity.<sup>195</sup>

It seems likely that the UK will develop a domestic system for managing fisheries, which will broadly reflect the system adopted in Norway and which may largely reproduce the existing EU arrangements.

## Funding

The CFP provides funding to fishers and fishing communities for a number of purposes, including supporting sustainable fishing and helping coastal communities to diversify their economies. The European Commission [consulted](#) in early 2016 on a possible post-2020 fisheries fund, although no decision has yet been made.

The UK was allocated €243.1 million in fisheries funding for 2014-2020.<sup>196</sup> These funds are then matched by the UK Government. The Government's strategy for spending these funds can be found [here](#). The strategy provides for funding to be available for a range of projects, including those related to:

- innovation and training;
- economic growth;
- environmental sustainability;
- port and equipment upgrades;
- health and safety on vessels; and
- financing of small and medium enterprises.

Questions have been asked as to whether future UK governments would continue to make these funds available after Brexit.<sup>197</sup> If as a result of Brexit there is a contraction in the economy, fewer funds may be available for fisheries.<sup>198</sup>

The EU provides substantial scientific funding, of which the UK is one of the largest recipients, and also supports joint marine science activities. Dr Bryce Stewart from the University of York indicated that the "UK's involvement in such programmes would likely be limited after a Brexit".<sup>199</sup>

Following Brexit, spending decisions on fisheries support or science would become a decision solely for the UK Government.

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<sup>195</sup> [Changing attitudes 1970 – 2012. Evolution of the Norwegian management framework to prevent overfishing and to secure long-term sustainability](#), Norwegian Directorate of Fisheries, 4 November 2015.

<sup>196</sup> [European Maritime and Fisheries Fund \(EMFF\)](#), European Commission, 22 June 2016.

<sup>197</sup> Burns, C., A. Jordan, V. Gravey, N. Berny, S. Bulmer, N. Carter, R. Cowell, J. Dutton, B. Moore S. Oberthür, S. Owens, T. Rayner, J. Scott and B. Stewart, "[The EU Referendum and the UK Environment: An Expert Review. How has EU membership affected the UK and what might change in the event of a vote to Remain or Leave?](#)", UK in a Changing Europe, 2016.

<sup>198</sup> <http://www.bbc.co.uk/news/uk-politics-eu-referendum-36527323>.

<sup>199</sup> Burns, C. et al, "[The EU Referendum and the UK Environment: An Expert Review. How has EU membership affected the UK and what might change in the event of a vote to Remain or Leave?](#)", UK in a Changing Europe, 2016.

## Market access

The EU is “the largest single fisheries market in the world and a net importer of fish and fish products”.<sup>200</sup> Tariffs on fish imports are applied on a range of fisheries products from non-EU European countries such as Norway.

According to the think tank Civitas, while Norway does not benefit from completely free trade in fisheries products, it has managed to agree “preferential or tariff-free access to EU markets” for many of its products. As a result, Civitas argued that Norway had successfully defended its interests and market access, even though it is outside the EU.

However, the CBI noted that tariffs have had an impact on fish processing in Norway. It stated that tariffs had led to “most of Norway’s fish-processing industry relocating within the EU, principally to Scotland, to continue to benefit from full market access”.<sup>201</sup>

It is also relevant to note that Norway has provided reciprocal access to its waters and contributes to the EU Budget. In order to negotiate reduced or tariff-free access to the EU, it is possible that the UK would need to make concessions on fisheries or in other areas unrelated to fisheries.<sup>202</sup> The Danish fish producer organisation has stated that the UK should only be granted access to the EU market on the basis that it still permits access to UK waters for EU vessels.<sup>203</sup>

Outside the EU the UK may no longer have tariff-free access to the EU market, although access to the market would depend on the negotiations and the future nature of UK-EU relations. The UK, as in other trade areas, would still in all likelihood have to comply with any EU market regulations to export fishery products to the EU. But the UK may have less influence over what those regulations would be.

## Environmental management

A number of EU laws relate to the protection of the marine environment. The protection of the environment can deliver benefits to the management of fish stocks.

For example, the Birds and Habitats Directives have contributed to the creation of a network of marine protected areas around the UK. According to Dr Bryce Stewart, such areas can “have a direct influence on fisheries (by restricting where they can operate) but are also likely to be beneficial to fisheries in the long run”.<sup>204</sup> Such European protected areas “have generally offered much higher levels of protection” than marine protected areas created by the Government under domestic legislation.<sup>205</sup>

If the UK negotiates membership of the EEA, it may be required to continue to apply the Marine Strategy Framework Directive and Water Framework Directive, but not the Birds or Habitats Directives.<sup>206</sup> The Government’s nature conservation advisors, the Joint Nature Conservation Committee, have said that the Birds and Habitats Directives have helped the UK to effectively coordinate with other EU countries on conservation action and science.<sup>207</sup> The extent to which Brexit will effect coordination on marine conservation is not clear.

<sup>200</sup> [Fishing outside the EU](#), European Commission, 10 December 2015.

<sup>201</sup> [The Norway Option](#), CBI, viewed 14 July 2016.

<sup>202</sup> [Norway wants to remove trade barriers for seafood exports to the EU](#), Undercurrent News, 13 January 2015.

<sup>203</sup> [UK market access has to mean fishing access](#), Fisker Forum, 28 June 2016.

<sup>204</sup> Dr Bryce Stewart, Personal Communication, 13 July 2016.

<sup>205</sup> Burns, C. et al, “[The EU Referendum and the UK Environment: An Expert Review. How has EU membership affected the UK and what might change in the event of a vote to Remain or Leave?](#)”, UK in a Changing Europe, 2016.

<sup>206</sup> Ibid.

<sup>207</sup> [Directive 2009/147/EC on the conservation of wild birds \(codified version\)](#), JNCC, October 2014.





## 7. Environment

This section describes broad environmental issues possibly arising from Brexit. More detailed consideration of specific environment-related issues is given in following chapters.

### 7.1 The environment and EU law

The environment and energy are two key areas of competence where either the EU or Member States may act. The EU was given authority to legislate in this area “in the recognition that there were significant benefits to solving some environmental problems multilaterally”.<sup>208</sup> The EU has legislated on a range of environmental issues including air quality, climate change, water quality, species protection and habitats protection.

The environment was added specifically as an EU competence in the Single European Act of 1986, and energy in the Lisbon Treaty of 2008. However, the EU adopted many environmental measures before there was any specific legal base, in order to facilitate the operation of the Common Market.<sup>209</sup>

The environmental principles enshrined in the Single European Act are now central to EU environmental law and provide that environmental action by the EU aims “to preserve, protect and improve the quality of the environment; to contribute towards protecting human health; and to ensure a prudent and rational utilization of natural resources”.<sup>210</sup> In addition, EU law provides that “preventive action should be taken, that environmental damage should as a priority be rectified at source, and that the polluter should pay... [and that] environmental protection... shall be a component of the Community’s other policies”.<sup>211</sup>

### Concerns that environmental standards may be lowered after Brexit

Following Brexit it may be easier for the government of the day to lower environmental standards.

Evidence was given to the Environmental Audit Committee in which stakeholders said that the UK Government had sought to slow or block EU environmental protection legislation where it considered that it was not in the UK’s interest.<sup>212</sup> Some witnesses thought, therefore, that “if the UK were free to set its own environmental standards, it would set them at a less stringent level than has been imposed by the EU”.<sup>213</sup>

It has also been noted that EU enforcement mechanisms provide a strong incentive for the UK Government to take action on the environment where it might otherwise not.<sup>214</sup>

Similar concerns were raised by a number of Members during an Opposition Day debate on 12 July 2016. Some Members asked for guarantees from the Government that environmental standards would not change following Brexit. Geraint Davies MP, for Labour/Co-operative, said that the Government should “give a cast-iron guarantee that

<sup>208</sup> Environmental Audit Committee, *EU and UK Environmental Policy*, 23 March 2016, HC 537, 2015–16.

<sup>209</sup> Department for Environment, Food & Rural Affairs and Department of Energy & Climate Change, *Environment and climate change: review of balance of competences*, February 2014.

<sup>210</sup> Ibid.

<sup>211</sup> Ibid.

<sup>212</sup> Environmental Audit Committee, *EU and UK Environmental Policy*, 23 March 2016, HC 537, 2015–16.

<sup>213</sup> Ibid.

<sup>214</sup> “Brexit an ‘opportunity’ to improve water quality”, *INDS Report*, 6 July 2016.



they will honour, post-Brexit, the environmental standards and undertakings that we have made in the EU to date".<sup>215</sup> Calum Kerr for the SNP said that "Ministers must do everything in their power to clarify how they will take forward the protection of the UK's environment in this new political situation. There is so much about the EU that we do not want to abandon".<sup>216</sup>

### Environmental standards may remain the same or increase

During the Opposition Day debate on 12 July 2016, the then Secretary of State for Energy and Climate Change, Amber Rudd, said that the Government's commitment to "protect the environment, tackle climate change and provide homes and businesses across the country with secure and clean energy... has not changed and will not change". She went on:

While much remains the same, there is no point pretending that the vote to leave the EU is not of huge significance. There are risks for us to overcome, but this Government will continue to do our part to deliver on the energy and environmental challenges our country faces.<sup>217</sup>

Some commentators have made the case that future governments could increase standards in comparison to the EU. A witness to an Environmental Audit Committee inquiry noted that in the past the UK had pushed the EU to adopt tougher environmental standards in some areas.<sup>218</sup> A commentator noted that Brexit may create "opportunities" to improve water management in a replacement for the CAP.<sup>219</sup> Peter Lilley MP said that EU biofuels subsidies had had a negative environmental impact and that outside the EU the UK would "probably abandon this policy".<sup>220</sup>

There are other reasons why a post-Brexit government may not reduce environmental standards in comparison with the EU. These include:

- If the UK remains in the EEA, it may need to comply with elements of EU environmental law, such as the Water Framework Directive.<sup>221</sup> The UK would have less influence over the determination of such standards, as it would be obliged to accept EU standards in order to obtain access to the internal market;<sup>222</sup>
- The UK is a signatory to a number of international agreements. EU and UK law reflect these agreements. The UK would still be bound to meet its international obligations following Brexit, and therefore certain standards may not change;<sup>223</sup>
- Many environmental measures pre-date EU legislative arrangements, which may indicate broad political and public support for the maintenance of some environmental standards;
- The desire to maintain policy stability for business. Stability has benefits related to investor confidence and it can enable "a degree of long-term planning".<sup>224</sup>

<sup>215</sup> [HC Deb 12 July 2016 vol 613](#), c 177.

<sup>216</sup> *Ibid*, c 212.

<sup>217</sup> *Ibid*, c 183.

<sup>218</sup> Environmental Audit Committee, *EU and UK Environmental Policy*, 23 March 2016, HC 537, 2015–16

<sup>219</sup> "Brexit an 'opportunity' to improve water quality", ENDS Report, 6 July 2016.

<sup>220</sup> Environmental Audit Committee, *EU and UK Environmental Policy*, 23 March 2016, HC 537, 2015–16.

<sup>221</sup> "Environmental sector faces huge challenge from Brexit", ENDS Report, 24 June 2016.

<sup>222</sup> "Brexit an 'opportunity' to improve water quality", ENDS Report, 6 July 2016.

<sup>223</sup> Environmental Audit Committee, *EU and UK Environmental Policy*, 23 March 2016, HC 537, 2015–16.

<sup>224</sup> *Ibid*

## Updating the UK legislative framework

Questions have been raised about how the UK environmental legislative framework will be updated following Brexit, and how laws would be consistent with the UK's position outside the EU.

Kerry McCarthy MP for Labour said that EU Regulations posed a particular challenge:

Many EU directives have been transposed into UK law through primary or secondary legislation under Acts other than the European Communities Act 1972, and that legislation would continue to apply until it was changed by Parliament. EU regulations would present a different problem for the Government, however. They are directly applicable in the member states, so they could immediately cease to apply.<sup>225</sup>

She called for "a thorough audit" of the legislation to be carried out and "clear guidance given to the House and the general public" on this matter.<sup>226</sup> DEFRA faced challenges in conducting this work as a result of large budget and staff cuts.<sup>227</sup>

## Enforcement of EU law

Following Brexit there may be a less far-reaching judicial process to enforce the implementation of environmental policy and to challenge its interpretation. The CJEU can issue fines to Member States that fail to comply with EU laws.

In the debate on 12 July Rachael Maskell MP, Shadow Secretary of State for Environment, Food and Rural Affairs, asked: "how will we regulate, police and enforce the new UK-based law system as it affects the environment in respect of what currently occurs in the EU courts?"<sup>228</sup> Caroline Lucas, for the Green Party, said that following Brexit "we will need to create a new enforcement mechanism that is as rigorous as possible".<sup>229</sup>

## Coordination on transboundary issues

Barry Gardiner MP, Labour, highlighted the importance of the EU in coordinating the management of transboundary environmental issues:

The fact is that fish and birds and insects do not carry passports; pollution is oblivious to the strictures of national airspace or inshore waters. If we wish to manage all of these, whether as pests, problems or resources, then it is better to do so in concert with our regional neighbours. The vote to leave the EU has made that harder.<sup>230</sup>

Two examples of the role of the EU in coordinating action are the Birds and Habitats Directives. These have helped to coordinate the creation of a pan-EU network of protected areas. The Government's nature conservation advisors, the Joint Nature Conservation Committee, have said that the Birds and Habitats Directives have helped the UK to effectively coordinate with other EU countries on conservation action and science.

The extent to which Brexit will effect coordination on these matters is not clear. Barry Gardiner MP called on the Government to "outline how they propose to overcome that problem".<sup>231</sup>

In addition to EU coordination, coordination between the four UK nations would need to be considered. Various aspects of environmental policy, such as waste, have been

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<sup>225</sup> HC Deb 12 July 2016 v613 c209.

<sup>226</sup> Ibid.

<sup>227</sup> Ibid, c 180.

<sup>228</sup> Ibid, c 217.

<sup>229</sup> Ibid, c 193.

<sup>230</sup> Ibid, c 181.

<sup>231</sup> Ibid.

devolved from Westminster. The different governments across the UK could take distinct approaches in future, without the more uniform approach provided under an EU framework.

## 7.2 Air Quality

EU legislation sets limits for a range of air pollutants and requires Member States to have plans in place setting out how they will be met. They are required to prepare adequate plans to reduce NO<sub>2</sub> to acceptable levels by 2010, or 2015 at the latest. The UK failed to do so. Currently, legal limits for NO<sub>2</sub> will not be met in 16 of the UK's 40 air quality zones until after 2020, including Greater Manchester and Leeds. In London the limits will not be met until after 2025. The Government's failure to meet NO<sub>2</sub> targets led to a unanimous judgement of the Supreme Court that the Government had to submit new air quality plans to the European Commission no later than 31 December 2015.<sup>232</sup> The Government has [published a new plan](#)<sup>233</sup> but a further legal case was launched this year by the organisation ClientEarth, with support from the Mayor of London, Sadiq Khan.<sup>234</sup> This challenges the Government to change its plans in order to reduce air pollution more quickly.

The UK is not the only country struggling to meet targets and the air quality agenda has been strongly driven by the European Commission rather than Member States. The impact of leaving the EU on air quality regulation will depend on negotiations, including whether the UK remains in the EEA.<sup>235</sup> An EU exit could allow the UK to relax air quality standards and review any deadlines for meeting them. The UK is currently subject to CJEU infringement proceedings but following Brexit (and not becoming part of the EEA), the threat of fines for non-compliance will be removed. However, the increasing awareness in the UK of the broad range of adverse health effects and increased mortality resulting from air pollution exposure could make any substantial watering down of targets politically sensitive.

Following the referendum result, some Members of Parliament from each side of the House have highlighted the importance of improving air quality, and have called on the Government to uphold standards. The Chair of the Environmental Audit Committee, Mary Creagh, reported that EU membership had been key for air quality, and had allowed campaigners to hold the Government to account. She said there were "question marks about what will happen to air pollution standards in the brave new Brexit world".<sup>236</sup> The then Secretary of State for Energy and Climate Change, Amber Rudd, stated that the Government remained committed to a clean environment and its climate change commitments.<sup>237</sup>

<sup>232</sup> The Supreme Court, [Press Summary, R \(on the application of ClientEarth\) \(Appellant\) v Secretary of State for the Environment, Food and Rural Affairs \(Respondent\) \[2015\] UKSC 28 On appeal from \[2012\] EWCA Civ 897](#), 29 April 2015.

<sup>233</sup> Defra, [Air quality plan for the achievement of EU air quality limit values for nitrogen dioxide \(NO<sub>2</sub>\) in the UK, 2015](#).

<sup>234</sup> ClientEarth, [Mayor of London joins our air pollution case](#), 26 May 2016.

<sup>235</sup> IEEP, [The potential policy and environmental consequences for the UK of a departure from the European Union](#), March 2016.

<sup>236</sup> [HC Deb 12 July 2016, c193](#)

<sup>237</sup> [HC Deb 12 July 2016, c183](#)

Some environment and health organisations have expressed concerns that policies on air pollution could be weakened following Brexit. ClientEarth has challenged the Government to affirm its commitment to environmental laws such as those on air pollution.<sup>238</sup> The Institute of Environmental Management and Assessment has reported that a poll of their members prior to the referendum showed that:

Half of environment and sustainability professionals believe that legal standards for UK air quality would be reduced if the UK were to leave the EU. 88% of respondents think that the EU policy approach is needed to complement and support national level policies in addressing air pollution.<sup>239</sup>

## Emissions Trading Scheme

The [EU Emissions Trading Scheme](#) (ETS) sets a decreasing cap for emissions from energy intensive sectors, and allocates or auctions EU Emissions Allowances (EUAs), which can be traded on the open market. Phase II, which imposed reductions of 6.8% compared to 2005 emissions, ended in 2012. Phase III will run from 2013 to 2020, when over half of allowances will be auctioned, and will set an overall reduction in emissions of 1.74% per year compared to Phase II levels. This will represent a 21% reduction by 2020 in emissions for all sectors in Europe covered, compared to 2005 levels.

The last recession and over-allocation of allowances in phase 2 resulted in a collapse of the price of EUAs. As a result the EU is taking [several measures](#) to reduce the supply of allowances going forward, including removing surplus allowances from the market. In the meantime, the UK introduced a floor price for carbon in April 2013 by amending the climate change levy to apply to fossil fuels used for energy generation, which applies when the EUA price falls below a certain level. The projected increases in [floor price](#) were reduced in the 2014 UK Budget and the price was set at £18 per tonne until 2020. At Budget 2016 the Government stated the £18 per tonne would be maintained and then uprated by inflation in 2020-21. Budget 2016 also stated that the Autumn statement would set out the 'long-term direction' for the Carbon Price Support rate.<sup>240</sup>

Revenue from both EUAs and the Carbon Floor Price are retained by the Treasury, which could be viewed as an incentive to continue with both measures. Receipts from ETS auctions were £0.6 billion in 2014-15, but this is expected to fall to £0.5 billion in 2015-16 and 2016-17, and to £0.4 billion in the years that follow through to 2020-21.<sup>241</sup>

Leaving the EU does not automatically remove the floor price, as this is a UK measure; neither would it necessarily mean the UK would have to leave the EU ETS, but it would depend on the approach to exit the UK chooses to take. EU Membership is not a prerequisite of participation: Switzerland is in negotiations to join the scheme, as was Australia until there was a change of government. Following the [Paris Climate Agreement](#) in December 2015, there is an added impetus for the expansion of emissions trading. The UK has been directly involved in this process, with the [announcement](#) in January 2016 that UK Government officials are working with China to ensure the Chinese carbon cap-and-trade system is compatible with the EU ETS.

<sup>238</sup> ClientEarth, [Brexit "challenge" to politicians over UK environmental laws](#), 24 June 2016.

<sup>239</sup> IEMA, [Our third and final EU referendum poll shows 86% of members believe that voters have insufficient information to be able to take environment and sustainability issues into account when they cast their vote](#), 9 June 2016

<sup>240</sup> HM Treasury, [Budget 2016](#), HC901, March 2016.

<sup>241</sup> Ibid. Table B5.

Following the referendum the price for carbon allowances fell; BusinessGreen reported this was due to uncertainty over UK policy towards the ETS in the future.<sup>242</sup>

### 7.3 Habitats Protection

The UK is currently subject to the requirements of the [Habitats Directive](#) and [Wild Birds Directive](#), collectively known as the 'Nature Directives'.

- **The 'Habitats Directive' (92/43/EEC)** aims to ensure the protection of species and habitat types of EU conservation concern.
- **The 'Birds Directive' (2009/147/EC)** is the codified version of Directive 79/409/EEC as amended. This Directive provides a legal framework for the conservation of all wild bird species naturally occurring in the EU.

The Commission has described these as the "cornerstone of Europe's nature conservation policy".<sup>243</sup> They provide protection for designated sites and can require mitigation measures in terms of alternative habitats for development on or near these sites. These requirements can be a deal-breaker in small and large development projects, but a government review found that the requirements have largely worked well in the UK.

The Nature Directives represent a significant EU environmental policy instrument and one which is not covered by the EEA Agreement.<sup>244</sup>

Outside the EU, the UK would not be bound to continue these requirements which are implemented in UK law via a range of regulations. It is also unlikely to be a requirement of any UK trade deal with the EU.

So far the UK Government has given little indication of how far it might maintain the protections and processes currently required by these Directives but has said that they would be considered as part of a long term vision for the environment.

However, the UK has a strong legislative framework for wildlife and habitat protection and not all protection is completely entangled with EU requirements; e.g. the UK system of Sites of Special Scientific Interest (SSSIs). The UK is also a signatory to the [Bern Convention](#), an international agreement on nature conservation across Europe.

#### What protection do the Nature Directives currently provide?

The Nature Directives provide for a network of Member State designated conservation areas across Europe relating to specified habitats and birds known as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) respectively.<sup>245</sup>

In the UK, SACs and SPAs correspond to domestic Sites of Special Scientific Interest (SSSIs). The Directive requires these sites to be suitably managed and protected by Member States, and certain assessments have to be carried out if there would be any significant impact on such a site from a proposed plan or project. If there would be, mitigation measures have to be put in place before plans or projects can proceed. If such measures are not possible, the project can only proceed if there are 'Imperative Reasons of

<sup>242</sup> BusinessGreen, [EU carbon price tumbles in wake of Brexit uncertainty](#), 24 June 2016.

<sup>243</sup> *Europa*, [About the Habitats Directive](#) 20 June 2013.

<sup>244</sup> Paper prepared for Friends of the Earth by Dr Charlotte Burns, University of York, [Implications for UK Environmental Policy of a vote to exit the EU](#), 20 June 2013.

<sup>245</sup> [Council Directive 92/43/EEC](#) of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora. Directive includes measures to establish sites to protect wild birds under the Birds Directive (Council [Directive 79/409/EEC](#) of 2 April 1979).

Overriding Public Interest' (IROPI), and then compensatory measures are required, such as the creation of an alternative habitat elsewhere. Meeting these requirements is often a major consideration in large infrastructure projects such as the High Speed Two rail network (HS2) and potential tidal barrage schemes, as well as smaller, localised development proposals.

### **EU Fitness Check of the Directives**

The European Commission is currently undertaking an [in-depth evaluation of the Habitats Directive and the Birds Directives](#), as part of its Smart Regulation policy and its Regulatory Fitness and Performance Programme (REFIT).<sup>246</sup> The review – known as a 'fitness check' – started in January 2015 and is due to conclude in the last quarter of 2016.<sup>247</sup>

The Commission will be assessing the potential for merging the Directives into a more modern piece of legislation, but it is not yet clear whether this is going to lead to any major changes in the detail of the Directives' requirements.<sup>248</sup>

An initial evaluation report for the Commission, drawing on Member State input and that of wider stakeholders, has indicated that the principles and approach of the Directives remain valid and in line with EU objectives on biodiversity and wider economic objectives. However, it also highlights that implementation is complex and challenging. It shows that businesses and environmental groups differ in their views about whether the associated administrative burdens are unnecessary, but share the view that burdens are often caused by "inefficient implementation at national, regional and local level".<sup>249</sup>

The Royal Society for the Protection of Birds (RSPB) is among 100 organisations across the UK who are collaborating, along with international networks such as the European Environmental Bureau, to warn that this review is the "single biggest threat to UK and European nature and biodiversity in a generation".<sup>250</sup> These organisations are concerned that a Commission focused on growth and jobs will be seeking to weaken the Directives.

### **How are the Nature Directives currently enshrined in UK law?**

The Nature Directives have been transposed into UK law by a range of regulations since 1994.

The [Joint Nature Conservation Committee](#) (JNCC), the Government's nature conservation advisor in European and global fora, oversees their implementation and reports to the European Commission on UK compliance with the Directives. If the UK leaves the EU, these laws will remain part of UK legislation until or unless they are revoked, replaced or amended.

UK domestic laws refer to the Directives in references to lists of protected species in Annexes to the Directives. After Brexit the laws will need to be updated to be consistent with the UK's position outside the EU.

<sup>246</sup> European Commission, [Fitness Check of the Birds and Habitats Directives](#) as viewed on 19 July 2016.

<sup>247</sup> HC Deb 29 January 2014 c.989.

<sup>248</sup> Cloud Sustainability, [European Commission to review Habitats and Birds Directive](#) as viewed on 11 February 2015.

<sup>249</sup> European Commission, [Evaluation study to support the Fitness Check of the Birds and Habitats Directives: Draft Final Report](#), 4 January 2016.

<sup>250</sup> RSPB, Martin Harper's Blog (Head of Conservation), [Defend the laws that defend our nature](#), 12 May 2015.



If the UK wishes to keep the definitions and EU terms in the Directives, the wording could be taken from the Directives and put into UK legislation. This happens with legislation implementing international treaties, which are not automatically part of UK domestic law.

In England and Wales, the Nature Directives have been implemented mainly by the [Conservation of Habitats and Species Regulations 2010](#) (the Habitats Regulations) and [The Conservation of Habitats and Species \(Amendment\) Regulations 2012](#), which consolidate earlier legislation. The Wildlife & Countryside Act 1981 (as amended) also implements the Wild Birds Directive across the UK, as amended – in particular by various orders and regulations in Northern Ireland.

In Scotland, the Habitats Directive is transposed through this combination where there are reserved matters. This is the same for Northern Ireland, where these regulations update The Conservation (Natural Habitats, &c) Regulations (Northern Ireland) 1995 (as amended).

For UK offshore waters (i.e. from 12 nautical miles from the coast out to 200nm, or to the limit of the UK Continental Shelf Designated Area), the Habitats Directive is transposed into UK law by the Offshore Marine Conservation (Natural Habitats & c.) Regulations 2007 (as amended).

A very wide range of other statutory and non-statutory activities also support the implementation of the Birds Directive in the UK. This includes national bird monitoring schemes, bird conservation research, and the UK Biodiversity Action Plan which involves action for a number of bird species and the habitats which support them.

## What is the UK Government's Brexit position on the Nature Directives?

The UK Government has said that until the UK leaves the EU "current arrangements for our environment remain in place" and that "Defra will continue to ensure the right policies are in place for a cleaner, healthier environment for everyone".<sup>251</sup>

In terms of the sites protected by the Nature Directives, the UK Government has said:

The Government will wish to consider the Impacts of the decision to leave the EU, including for the UK's Natura 2000 and other protected sites, We have a manifesto commitment to produce a 25 Year Plan for the Environment. We all now have an opportunity to consider our long-term vision for the environment following the referendum vote.<sup>252</sup>

Past evaluation of the Nature Directives from a UK perspective provides some evidence base for future approaches.

A Coalition Government implementation review of the Habitats and Wild Birds Directives (November 2011 - March 2012) found that implementation generally works well with minimal burdens, whilst maintaining environmental integrity. It identified necessary improvements relating to facilitating nationally significant infrastructure projects, data sharing and quality, streamlining guidance and generally improving the customer experience.

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<sup>251</sup> [HC Written Question 42311 14 July 2016.](#)

<sup>252</sup> Ibid.

A key outcome of the review was the establishment of the cross-Government [Major Infrastructure and Environment Unit \(MIEU\)](#) to help to quickly resolve any issues arising from the Directive at pre-application stage.

The [UK Government's contribution](#) to the EU review (April 2015) supported continued EU habitats legislation as a helpful means to ensure parity across Member States and co-ordinated action. It indicated that there could be scope for greater flexibility in how Member States achieve the required outcomes and also that the legislation could be updated to account for new approaches being pursued under the Water Framework Directive and the Marine Strategy Framework Directive (MSFD).<sup>253</sup>

## Impact of Brexit

### Potential change in the UK's approach to wildlife and habitats protection

It is not clear how far the UK might withdraw from the Nature Directives' requirements outside the EU because the UK has a heritage in this policy area and the UK Government has previously expressed "strong support" for its aims.<sup>254</sup>

The Coalition Government's Habitats and Wild Birds Directives Implementation Review found that implementation generally works well with minimal burdens, while maintaining environmental integrity.

When the EU requirements were introduced, the UK was one of only a few Member States which already had a long legislative history of designating and protecting specific areas dating from 1949. Hence, although the *Habitats Directive* introduced some new concepts and higher protection levels for species, the UK's existing legislative arrangements for Sites of Special Scientific Interest and Town and Country Planning already imposed specific management requirements and restrictions on development in protected areas.

In the last 15 years a number of Member States, including the UK, have been challenged domestically and in the CJEU regarding their interpretation of the Directive. These challenges have usually been brought on grounds of alleged insufficient protection of wildlife under the Directive. UK cases have concerned the responsibilities of planning authorities to account for the requirements in considering planning permission and economic trade-offs - areas where the UK Government might perhaps like greater freedom.<sup>255</sup>

The [Review of the balance of competencies between the UK and EU: Environment and Climate Change](#) (February 2014) set out examples of where business found that the costs of meeting the Directives has been disproportionate to the environmental benefits. The requirements relating to bat and newt relocation were identified as being particularly difficult. Outside the EU, the UK will be freer to decide how to respond to these practical issues.

Depending on the terms of exit, the UK will no longer face the potential for infraction proceedings from the EU for failing to comply with the Nature Directives. While the UK

<sup>253</sup> 150430 Final, [Evidence gathering questions for the Fitness Check of the Nature Directives: United Kingdom](#), April 2015.

<sup>254</sup> GOV.UK, Defra page on [Report of the Habitats and Wild Birds Directives Implementation Review](#), 22 March 2012, viewed 2 June 2015.

<sup>255</sup> See for example case of Lappel Bank (April 2004) and EU Commission Press Release IP/03/1109, [Wild Birds and Habitats Directives: Commission pursues legal action against Member States](#), 24 July 2003.



will still be subject to international conservation and biodiversity conventions, these tend not to have associated enforcement processes.

The UK has a strong international reputation for ratifying international environmental requirements. However, it is not clear how far the considerable threat of EU fines has previously ensured relatively strong compliance.

Countries that are only signatories to Bern have been found to have less successfully implemented its provisions.<sup>256</sup>

### **New approach to conservation co-ordination with the EU**

The continued protection of UK and Europe-wide wildlife and habitats will require some future co-ordinated conservation action with the EU, not least to meet international commitments, e.g. the Bern Convention to which the UK is a signatory. Conservation is more successful with a network of habitat and species protections over a large range of countries and this is the basis of current UK, EU and international conservation policy.

The Birds and Habitats Directives help the EU to meet its obligations under the Bern Convention and Norway already co-ordinates on nature conservation with the EU under this convention.<sup>257</sup>

The European Commission's current [fitness check of the Nature Directives](#) may lead to key changes in their form and implementation. The UK has contributed to this review process so far but may have limited influence now and in the future, and this will affect its own conservation efforts and approach if European conservation policy starts to diverge greatly from the UK's preferred direction.

### **Revision of role of the UK Major Infrastructure and Environment Unit (MIEU)**

The UK Major infrastructure and Environment Unit (MIEU) was set up specifically to resolve issues relating to the Habitats Directive at infrastructure projects pre-application stage. Its future role will depend on how much of the Nature Directives the UK maintains.

## **7.4 Water quality**

Water quality legislation and policy in the UK is largely driven by EU law. Of particular note are the Urban Waste Water Treatment Directive and the Water Framework Directive, but a large number of other areas are also regulated at EU level, including drinking water, bathing water and priority substances. Some key examples are discussed below:

- The [Urban Waste Water Treatment Directive \(91/271/EEC\)](#) (UWWTD) aims to protect the environment from the adverse effects of discharges of urban waste water from public sewers and treatment plants. In March 2016, the European Commission referred the UK to the CJEU over failures to meet the UWWTD in 17 areas and this case is ongoing.<sup>258</sup> Separately, in 2012, the CJEU found that the UK was in breach of the UWWTD as a result of frequent and large spillages of waste water in London. In order to address the infractions in London, Defra is currently involved with the Thames Tideway Tunnel – a large sewer running under the River Thames. The project has been underway for a number of years with preliminary

<sup>256</sup> Consortium led by Mileu Ltd, [Evaluation Study to support the fitness check of the Birds and Habitats Directives. Draft Final Report](#), January 2016.

<sup>257</sup> Norwegian Environment Agency, [Norway helps preserve European biodiversity](#), 19 March 2015.

<sup>258</sup> European Commission Press release, [Commission refers the UK to Court over poor waste water collection and treatment](#), 26 March 2016 [accessed 29 June 2016].

construction planned for 2016. The project aims to tackle the problem of waste water overflows for the next 100 years.

- The [European Water Framework Directive \(2000/60/EC\)](#) (WFD) provides a common framework for water management and protection in Europe. The WFD established a system for the protection and improvement of all aspects of the water environment including rivers, lakes, estuaries, coastal waters and groundwater. The Directive requires all inland and coastal waters to reach at least “good status” by 2015 (or later if relevant waivers are relied on). In 2012 only 36% of water bodies in the UK were classified as ‘good’ or better. More information is set out in the Library Briefing Paper on the [EU Water Framework Directive: achieving good status of water bodies](#).
- The EU has had rules in place to safeguard public health and clean bathing waters since the 1970s. The revised [Bathing Water Directive \(2006/7/EC\)](#), replacing Directive 76/160/EEC) requires the UK to monitor and assess beaches and inland sites used by large numbers of bathers (referred to as bathing waters) for certain parameters of bacteria. It includes a classification and notification system so the public are aware of the status of the bathing water. In 2015 the UK reported 4.9% (31) of bathing water were in poor quality and 0.5% (3) were not possible to classify. All others were of sufficient, good or excellent quality.<sup>259</sup>

### The impact of Brexit on water quality

In general, the impact of Brexit on water quality will depend on the deal that is negotiated by the UK Government, in particular whether the UK negotiates membership of the EEA.

Most EU water legislation would continue to apply if the UK remained in the EEA.<sup>260</sup> Any infractions would be subject to EEA enforcement processes. However, the Bathing Water Directive is excluded from the EEA agreement, so the UK Government would be able to amend or repeal the domestic legislation that implements its requirements. Opposition Members have urged the Government to clarify whether the UK’s beaches and bathing water quality will still receive the same standard of protection after Brexit.<sup>261</sup>

If the UK does not stay in the EEA, then the Government and devolved administrations will be able to amend and/or repeal the domestic legislation that gives effect to the full range of EU water legislation. However, as the majority of EU water law has been transposed directly into domestic law, the relevant legislation will not be automatically or immediately affected by Brexit. Any potential amendment or repeal of domestic law is likely to be very complicated and prolonged.

Outside the EEA the UK will no longer be subject to a threat of large infraction fines. In addition, different governments across the UK could take even more distinct approaches without the uniform approach of the EU framework, as water is largely a devolved area. This would require discussions regarding any diverging approaches and possible cross-border impacts.

Some are concerned that exit from the EU and the EEA might result in a loss of impetus for action on improving water quality in the UK. The Government will be able to relax

<sup>259</sup> European Environment Agency Report No 9/2016, [European bathing water quality in 2015](#), Annex 2 [accessed 13 July 2016].

<sup>260</sup> Political Studies Association, [What does Brexit mean for the UK's environment?](#) 28 June 2016 [accessed 29 June 2016].

<sup>261</sup> HC Deb 12 July 2016, [Col 181](#).

water quality standards and/or review any deadlines for meeting them. EU reporting requirements will fall away and this could mean that less information is available in the public domain. Since the referendum, ClientEarth has warned that bathing water and waste water regulations could be “scrapped or weakened”.<sup>262</sup>

Specifically in relation to the Thames Tideway Tunnel, its scale and importance could mean that Brexit will not impact its future, particularly as it is already a major ongoing project. However, the former Prime Minister warned that its financing may be impacted, on the basis that Brexit would terminate Britain’s link with the European Investment Bank, which had confirmed a £700 million injection of loan finance.<sup>263</sup>

But leaving the EU and the EEA will not necessarily mean action taken at a national level will be halted or reversed. Any such decisions may be met with political resistance, given the importance of good quality water across many sectors, including health, farming, food and leisure. Following the referendum, the RSPB’s Chief Executive called on the UK Government to “improve the implementation of existing legal protection and, where necessary, to increase it”.<sup>264</sup> In some cases (such as drinking water standards) existing UK requirements are stricter, or in addition to those required by the EU, which may make it difficult for the UK to retreat too far from these requirements.

International guidelines will continue to apply to the UK following Brexit. For example, the World Health Organisation publishes international guidelines on water quality (specifically for drinking water). But these are guidelines rather than legal requirements and not subject to the same enforcement or compliance standards as the EU Directives.

## 7.5 Waste

UK waste policy and legislation is largely driven by EU law, which seeks to prevent the production of waste where possible and to reduce its overall environmental impact.

The key piece of EU waste legislation is the [Waste Framework Directive \(2008/98/EC\)](#), which includes key definitions, sets a hierarchy for how waste should be managed, introduces the “polluter pays principle” and “extended producer responsibility”, and sets targets for recycling by 2020. There is a suite of EU waste legislation which supplements the framework Directive, including Directives on packaging and packaging waste, landfill, end-of-life vehicles, waste batteries, and waste electrical and electronic equipment. This is an area which has also been the subject of a great deal of case law, both in European and domestic courts. Until the date of a formal exit from the EU, the UK remains subject to EU requirements and any relevant court judgments.

### The impact of Brexit on waste

The majority of EU waste management law has been transposed into domestic law in the UK. This means that the relevant legislation will not be automatically or immediately affected by the UK’s exit from the EU. As almost all UK waste law derives from the EU, any potential amendment or repeal of domestic law is likely to be very complicated and prolonged. As with the other areas of environmental policy, the impact of Brexit will depend on the deal that is negotiated by the UK Government, in particular whether the

<sup>262</sup> ClientEarth, [Brexit “challenge” to politicians over UK environmental laws](#), 24 June 2016 [accessed 29 June 2016].

<sup>263</sup> Water Briefing, [Brexit: Prime Minister warns UK will lose £billions in infrastructure funding](#), 16 May 2016 [accessed 29 June 2016].

<sup>264</sup> RSPB, [A reaction from the RSPB’s Chief Executive, Dr Mike Clarke, to the result of the referendum](#), 24 June 2016 [accessed 29 June 2016].

UK negotiates membership of the EEA. Most waste management legislation will continue to apply if the UK remains in the EEA<sup>265</sup> and any infractions will be subject to EEA enforcement processes.

Outside the EU and the EEA, the UK Government and devolved administrations will be able to amend and/or repeal the domestic legislation that gives effect to EU waste legislation. As waste is largely a devolved area, different governments across the UK could take distinct approaches without the uniform approach of the EU framework.

The benefits of effective waste management to both the environment and the economy may mean that an EU exit will not lead to a substantial change in approach by the UK Government. Global law firm Norton Rose Fulbright suggests that there are “very few positive messages central Government could make for moving significantly away from EU targets in [waste] without impacting on other environmental policies”.<sup>266</sup>

However, the referendum result has raised questions about the longer-term approach to waste policy in the UK. Leaving the EU and the EEA could reduce the impetus to meet legislative targets within clear timeframes, as the threat of legal challenge for any failure will be removed. Commentators have suggested that in this scenario it is likely that legislators would repeal or weaken EU requirements with the objective of reducing the regulatory burden on businesses.<sup>267</sup>

In 2013 an economist from the Environmental Services Association (ESA) stated that an EU exit “would leave a huge void for the industry as it would be unclear to what degree we would retain any elements of the European path towards higher levels of environmental sustainability” and “billions of pounds of fresh investment in green jobs and growth [could dry] up overnight”.<sup>268</sup> Brexit could therefore undermine economically efficient decision-making in the sector due to the long term planning needed for investment in waste infrastructure and innovation.

In a press statement following the referendum result, the ESA’s Executive Director warned that “the danger now is that the waste and recycling sector is placed at the bottom of the Government’s in-tray”.<sup>269</sup> Recent analysis has identified recycling policy as an issue which may be weakened at a domestic level following Brexit, which in turn could “blunt the incentive for UK firms to develop programmes” in this area.<sup>270</sup> The Guardian also reported that “two-thirds of the professionals” in the sector think progress in recycling and waste will “go into reverse, with 30% saying it will stay the same and just 4% thinking it will improve”.<sup>271</sup>

In relation to future policy, the waste debate in Europe has shifted to keeping resources in use for as long as possible and reducing waste’s negative implications for the environment and the economy (a ‘circular economy’ rather than a traditional ‘linear economy’). The European Commission adopted a new Circular Economy Package in December 2015 to

<sup>265</sup> Institute for European Environmental Policy, *Brexit – the implications for UK Environmental Policy and Regulation*, March 2016 [accessed 29 June 2016].

<sup>266</sup> Norton Rose Fulbright, *Impact of a Brexit on infrastructure, mining and commodities*, June 2016 [accessed 12 July 2016].

<sup>267</sup> See: Cornerstone Barristers, *Brexit: Planning and the Environment outside the EU*, July 2016 [accessed 12 July 2016].

<sup>268</sup> MRW, Waste sector warns of EU referendum danger, 23 January 2013.

<sup>269</sup> ESA, *Referendum result must be taken as an opportunity*, 24 June 2016 [accessed 29 June 2016].

<sup>270</sup> Sustainalytics, *Brexit: Assessing the ESG Implications Report*, June 2016 [accessed 29 June 2016].

<sup>271</sup> Guardian, *UK’s out vote is a ‘red alert’ for the environment*, 24 June 2016 (Damien Carrington’s blog) [accessed 29 June 2016].

stimulate and harmonise the transition towards a circular economy across Europe.<sup>272</sup> The Commission stated that the measures could bring net savings of €600 billion or 8% of annual turnover for businesses in the EU and would reduce total annual greenhouse gas emissions by 2-4%. The package includes a number of new EU legislative waste proposals, an Action Plan and funding support at both EU and national level. These proposals will be agreed at EU level over the coming years.

The waste industry has called on the UK Government, in the absence of an EU framework, to put in place a long-term framework of policy and legislation consistent with circular economy principles, so that the industry can invest in waste and resource management.<sup>273</sup> Opposition Members have also called for the Government to reassure Parliament that Brexit will not derail progress on the circular economy.<sup>274</sup> This may be an area where different governments across the UK diverge to a greater extent in future approach - for example, the Scottish Government introduced its own national circular economy strategy in February 2016 in advance of any EU-wide approach.<sup>275</sup>

## 7.6 Chemicals regulation

Regulating the safe use of chemicals is undertaken at EU level. The REACH (Registration, Evaluation, Authorisation and restriction of Chemicals) Regulation, which came into force on 1 June 2007, provides the over-arching framework. REACH applies to substances manufactured or imported into the EU in quantities of 1 tonne or more per year and generally applies to all individual chemical substances on their own or in preparation. It requires that substances are registered and tested and evaluated for safe use. A major part of REACH is the requirement for manufacturers or importers of substances to register them with a central [European Chemicals Agency \(ECHA\)](#) which administers much of the registration process.

Some substances, such as human medicines (see section 16.6), are covered by specific legislation. Pesticides and other products that protect plants/crops are regulated by [Regulation \(EC\) 1107/2009](#). Biocides (wood preservatives and insect repellent, for example) are regulated by the [Biocidal Products Regulation \(EU\) 528/2012](#). Other legislation requires that food additives must be authorised, following advice by the European Food Standards Authority (EFSA), before they can be used in foods.

The Classification, Labelling and Packaging Regulation (CLP) provides a standardised system for classifying and labelling chemicals in the EU. The Regulation adopts the United Nations' [Globally Harmonized System of Classification and Labelling of Chemicals](#) (GHS) across all EU Member States, including the UK.<sup>276</sup> The CLP Regulation ensures that the hazards presented by chemicals are clearly communicated to workers and consumers in the EU through the classification and labelling of chemicals. As a result, standard systems are in place that Member States rely on to ensure chemicals are safe for use. If the UK no longer participated in these systems, the burdens applied to industry might be reduced, there might be more flexibility in testing the risks presented by some substances and a reduction in the administrative burden of registering these with the European Agencies.

<sup>272</sup> More information is available in the [Library Briefing Paper on the EU Circular Economy Package](#).

<sup>273</sup> ENDS Report, [Brexit uncertainties plague the waste sector](#), 1 July 2016 [subscription needed] [accessed 4 July 2016].

<sup>274</sup> HC Deb 12 July 2016, [Col 210](#).

<sup>275</sup> The Scottish Government, [Making Things Last – A Circular Economy Strategy for Scotland](#), 23 February 2016 [accessed 13 July 2016].

<sup>276</sup> HSE, [The CLP Regulation](#), [website as of] 6 July 2016.

However, some form of safety testing would probably have to take its place. Any benefits would have to be balanced against the inconvenience both to local and international industry caused by a UK withdrawal from these established systems. A substantial investment has been made by industry during the transition to the new harmonised European systems. Further changes, and in particular any reversal, might prove unpopular. The most realistic result of EU withdrawal would see the UK adopting similar positions to Norway, Iceland and other non-member States which have chosen to adopt EU REACH legislation independently.

Considering health and safety legislation more generally, it is the case that over the last quarter century much of this has originated in the form of EU Directives – Article 118A of the Treaty of Rome gave health and safety prominence in the objectives of the EU. These Directives have built on the pre-existing UK safety systems underpinned by the [Health and Safety at Work etc. Act 1974](#) and associated secondary legislation. Over the years there have been concerns over the potential for overzealous application of modernised health and safety law, be it the result of “gold-plating” when transposing the Directives into UK law or of misunderstandings as to what the law actually requires. These concerns prompted reviews by Lord Young of Graffham and Professor Ragnar Löfstedt, and subsequent reforms by the Coalition Government.<sup>277</sup> In his report, Löfstedt commented: “Many of the requirements that originate from the EU would probably exist anyway, and many are contributing to improved health and safety outcomes. There is evidence, however, that a minority impose unnecessary costs on business without obvious benefits”.<sup>278</sup>

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<sup>277</sup> DWP, [2010 to 2015 government policy: health and safety reform](#), 8 May 2015.

<sup>278</sup> DWP, [Reclaiming health and safety for all: An independent review of health and safety legislation](#), Cm 8219, November 2011.



## 8. Energy and Climate Change

### 8.1 Government energy policy

The Coalition Government said that one of its priorities was to widen and deepen the single market in energy.<sup>279</sup> The larger the market and the fewer the barriers to trade, in theory the higher the level of competition and the lower the prices for consumers should be. A single market in energy and greater harmonisation would be likely to increase security of supply, as would greater physical interconnection. Many of the UK's large suppliers are multinationals and they are also looking for a stable investment regime. Article 194 of the [Treaty on the Functioning of the European Union](#) (TFEU) sets out EU competence for energy policy, which includes the functioning of an Energy Market, security of supply, energy efficiency and promoting interconnection. These are all subject to a Member State's right to "to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply".

The report by the House of Lords EU Sub-Committee D, *No Country is an Energy Island: Securing Investment for the EU's Future*, considered the role of an EU market and concluded that there are "clear benefits to be derived from working within the EU on the energy challenge".<sup>280</sup> Prior to the referendum, companies in the energy industry indicated elements of the industry would see negative impacts from an exit.<sup>281</sup> After the vote *The Guardian* reported that a number of industry commentators and companies felt that an exit may damage investment in the sector and that the impact would depend on the UK's future involvement in the Internal Energy Market (IEM).<sup>282</sup>

During the campaign it was suggested that leaving the EU could cost consumers £500 million a year in rising energy bills. This was examined by *Full Fact* which found that this estimate might not be accurate, that any cost depended on the reaction to Brexit of investors in the UK energy sector and the position within the IEM.<sup>283</sup> Leave campaigners suggested energy bills may fall as a result of changing energy policy and potential reductions in VAT on domestic energy.<sup>284</sup>

### 8.2 EU energy policy

EU energy policy is currently being implemented by the Commission's [Third Energy Package](#) (2009) and the Commission's 2015 [Energy Union Package](#). The framework has five elements: energy security, a fully integrated European energy market, energy efficiency, carbon reduction, and research, innovation and competitiveness. This 2015 framework follows three liberalisation packages since the 1990s.<sup>285</sup> Ofgem set out on its

<sup>279</sup> HM Government [Review of the Balance of Competences: Energy](#) Summer 2014.

<sup>280</sup> 14<sup>th</sup> Report of Session 2012–13 [No Country is an Energy Island: Securing Investment for the EU's Future](#) HL Paper 161, 2 May 2013.

<sup>281</sup> [Brexit bad for UK energy system, says industry](#), *Daily Telegraph*, 15 June 2016.

<sup>282</sup> [Leave vote makes UK's transition to clean energy harder, say experts](#), *The Guardian*, 28 June 2016.

<sup>283</sup> [Energy bills and Brexit](#), *Full Fact*, 16 May 2016.

<sup>284</sup> See Vote Leave, [The EU has forced up the price of energy](#) [accessed 25 July 2016] and BBC News, ["EU Referendum: Vote Leave wants power to axe fuel VAT"](#), 31 May 2016.

<sup>285</sup> European Parliament Research Service, [Energy supply and energy security](#), 30 June 2016, p2. Further information on EU energy policy and legislation is available from [European Parliament Fact Sheet: Internal Energy Market](#), May 2016.

website how European policy impacts on UK policy.<sup>286</sup> In withdrawing from the EU, the UK will need to consider how the UK energy market interacts with the EU's internal energy market. Examples of policy that would need to be considered are interconnector regulation and energy efficiency labelling and eco-design.

The impact of withdrawal depends on the relationship formed with the EU. Given the increasingly multinational nature of energy markets and companies, withdrawal from the EU would probably not affect the direction of travel towards a more integrated energy economy, although differences in approach may emerge. Energy projects are typically capital intensive, and following the Brexit vote, investor confidence and access to finance will be key issues for the industry in the coming years. For example, the *Financial Times* raised the potential for uncertainty over future energy investment in the UK, particularly for renewables, but reported that projects were continuing after the vote, noting the argument that investment was driven by the UK's need for new generation capacity.<sup>287</sup> There have been some suggestions that uncertainty in energy markets since the referendum could increase prices.<sup>288</sup>

The Select Committee on Energy and Climate Change has recently launched an inquiry [exploring the implications for UK energy policy of leaving the EU](#).

### 8.3 Impact of Brexit

The impact of withdrawal depends on the future relationship formed with the EU. Given the increasingly multinational nature of energy markets and companies, withdrawal from the EU will probably not affect the direction of travel towards a more integrated energy economy, although differences in approach may emerge. Energy projects are typically capital intensive, and following the Brexit vote, investor confidence and access to finance will be key issues for the industry in the coming years. For example, the *Financial Times* raised the potential for uncertainty over future energy investment in the UK, particularly for renewables, but reported that projects were continuing after the vote, noting that some argued that investment was driven by the UK's need for new generation capacity.<sup>289</sup> There have been some suggestions that uncertainty in energy markets since the referendum could increase prices.<sup>290</sup>

The UK's [Carbon Plan](#) identified climate change impacts and energy security - neither of which are necessarily EU-driven - as the drivers for focusing on emissions reduction.

(DECC, [The Carbon Plan: Delivering our Low Carbon Future](#), December 2011)

The Select Committee on Energy and Climate Change has recently launched an inquiry [exploring the implications for UK energy policy of leaving the EU](#).

### Energy security and supply

The EU Large Combustion Plants Directive (2001/80/EC – LCPD), and its successor the Industrial Emissions Directive (2010/75/EU – IED) require new power plants to comply with stricter emission limits on pollutants, while older plants have to close or clean up (by 2015 under the LCPD and by 2023 for the IED). The Directives are transposed into UK law via Environmental Permitting Regulations. The closure of plants coincides with warnings from Ofgem on the UK's decreasing capacity margins (the surplus of energy supply over

<sup>286</sup> [Ofgem, European Market](#).

<sup>287</sup> [Brexit doubt weighs on green energy groups](#), *Financial Times*, 3 July 2016 [subscription required].

<sup>288</sup> [Brexit to add £350m to energy bills](#), *Daily Telegraph*, 16 July 2016.

<sup>289</sup> [Brexit doubt weighs on green energy groups](#), *Financial Times*, 3 July 2016 [subscription required].

<sup>290</sup> [Brexit to add £350m to energy bills](#), *Daily Telegraph*, 16 July 2016.



demand); the closures thus have implications for UK energy security as generating plants come to the end of their life under the Directives.

Power stations are shortly due to close in many Member States, but since coal is attractive at the moment,<sup>291</sup> some still have new coal fired plants under construction. These will need to be 'clean' coal. Outside the EU, the Government might choose to allow longer lifetimes, given falling capacity margins and, to date, no demonstration of carbon capture and storage at scale.

Beyond determining environmental standards for generation, the EU plays a broader role in determining the security of the UK energy supply. At one level, government support for generation technologies must be approved under state aid rules. More broadly, responses in the Energy Report of the Review of the Balance of Competences demonstrated the complexity of EU energy policy and the conflicts with external policies. For example, in the petroleum sector stakeholders were split on the role of the EU. Respondents from the oil sector considered that EU legislation had been unnecessary and duplicative of world-leading UK controls. On shale gas exploitation, whilst some stakeholders felt there was no need for additional EU legislation, others representing environmental groups suggested that existing national or EU controls were not sufficient to mitigate the potential environmental impacts.<sup>292</sup> An EU exit will need to take these views into account, depending on the shape of any trade deal with the EU.

A further dimension is the flow of oil and gas imports into and within Europe. The EU imports over half of the energy it consumes and dependency is particularly high for oil and gas. Many countries are also heavily reliant on Russia for their natural gas. In response to concerns, the European Commission released its [Energy Security Strategy](#) in May 2014. In terms of UK security of supply, a report for the National Grid on Brexit in March 2016 found that in the near-term there were unlikely to be issues for UK gas as it has strong security of supply from diverse sources; there could be 'exposure' to greater risks in the longer run.<sup>293</sup>

## Renewable Energy

The UK's existing renewables targets are set by the 2009 [Renewables Directive](#).<sup>294</sup>

Some statistics:

- In 2008 renewables constituted 2.25% of energy sources in the UK.
- Under the Directive, we have a target for renewable energy use of 15% by 2020, to fit within the EU's overall target of 20%.
- In 2015 renewable energy use in the UK increased to 8.3%, up from 7.1% in 2014.<sup>295</sup>
- The renewable electricity share of total generation in 2015 (measured on the basis required by the 2009 Renewables Directive) was 22.3%, up from 17.9% in the previous year.<sup>296</sup>

EU targets have driven the focus on renewables in the UK. It is difficult to say how much would change if those targets disappeared as a result of Brexit.

<sup>291</sup> Gloystein, H. and J. Coelho, [European slump leads utilities to burn more coal](#), Reuters, 8 May 2012.

<sup>292</sup> HM Government [Review of the Balance of Competences: Energy](#) Summer 2014.

<sup>293</sup> Vivid Economics, [The impact of Brexit on the UK energy sector](#), 29 March 2016.

<sup>294</sup> 2009/28/EC.

<sup>295</sup> DECC, [Renewable Energy in 2015, Table 3](#).

<sup>296</sup> DECC, [Renewable Energy in 2015, Table 4](#).

For a realistic chance of meeting the EU target, this last figure will need to rise to around 30% by 2020. The previous Government was confident of meeting these targets and identified nine renewable technologies that it considered would help achieve the target in the [Renewable Energy Roadmap](#).<sup>297</sup>

## Emissions Trading Scheme

The [EU Emissions Trading Scheme](#) (ETS) sets a decreasing cap for emissions from energy intensive sectors, and allocates or auctions emissions allowances (EUAs), which can be traded on the open market. Phase II, which imposed reductions of 6.8% compared to 2005 emissions, ended in 2012. Phase III will run from 2013 to 2020, when over half of allowances will be auctioned, and will set an overall reduction in emissions of 1.74% per year compared to Phase II levels. This will represent a 21% reduction by 2020 in emissions for all sectors in Europe covered, compared to 2005 levels.

The last recession and over-allocation of allowances in phase 2 resulted in a collapse of the price of EUAs. As a result the EU is taking [several measures](#) to reduce the supply of allowances going forward, including removing surplus allowances from the market. In the meantime, the UK introduced a floor price for carbon in April 2013 by amending the climate change levy to apply to fossil fuels used for energy generation, which applies when the EUA price falls below a certain level. The projected increases in [floor price](#) were reduced in the 2014 Budget and was set at £18 per tonne until 2020. At Budget 2016 the Government stated that the £18 per tonne would be maintained and then uprated by inflation in 2020-21. Budget 2016 also stated that the Autumn statement would set out the “long-term direction” for the Carbon Price Support rate.<sup>298</sup>

Revenue from both EUAs and the Carbon Floor Price are retained by the Treasury, which could be viewed as an incentive to continue with both measures. Receipts from ETS auctions were £0.6 billion in 2014-15, but this is expected to fall to £0.5 billion in 2015-16 and 2016-17, and to £0.4 billion in the years that follow through to 2020-21.<sup>299</sup>

Leaving the EU would not automatically remove the floor price, as this is a UK measure; neither would it necessarily mean the UK would have to leave the EU ETS, but it would depend on the approach to exit the UK chooses to take. Membership of the EU is not a prerequisite of participation: Switzerland is in negotiations to join the scheme, as was Australia until there was a change of government. Following the [Paris Climate Agreement](#) in December 2015, there is an added impetus for the expansion of emissions trading. The UK has been directly involved in this process, with the [announcement](#) in January 2016 that UK government officials are working with China to ensure that the Chinese carbon cap-and-trade system is compatible with the EU ETS.

Following the referendum the price for carbon allowances fell; BusinessGreen reported this was due to uncertainty over UK policy towards the ETS in the future.<sup>300</sup>

## Climate targets

An EU exit would not remove the legally binding UK climate targets under the [Climate Change Act 2008](#), but it could increase the focus on all aspects of UK-based generation, especially if exit resulted in poorer security of supply through decreased interconnectivity

<sup>297</sup> DECC, [UK Renewable Energy Roadmap Update](#), 2012.

<sup>298</sup> HM Treasury, [Budget 2016](#), HC901, March 2016.

<sup>299</sup> Ibid. Table B5.

<sup>300</sup> BusinessGreen, [EU carbon price tumbles in wake of Brexit uncertainty](#), 24 June 2016.

to Europe, reduced harmonisation of EU energy markets or less investment into the UK by multinational companies.

Brexit would also affect the UK's international climate targets under the United Nations Conference on Climate Change (UNFCCC). Currently the UK negotiates as a part of the EU block and has internally set targets that together with those of other Member States aim to meet the EU's overall target. An EU withdrawal would have to address that lack of a UK-specific target under UNFCCC. It was also widely recognised in the Competency Review that negotiating as part of an EU block was beneficial, as the EU had more influence at an international level than individual Member States acting alone.<sup>301</sup>

More recently, ministers have reiterated the UK's commitment to tackling climate change but giving somewhat mixed messages about whether Brexit will make any difference at all.

The former Secretary of State for energy and climate change, Amber Rudd, [was quoted](#) as suggesting that Brexit would not lessen the UK's commitment to tackling climate change, but may make it more difficult for the UK to act internationally.<sup>302</sup> Andrea Leadsom, the then energy minister, took a different view, arguing that nothing would change.<sup>303</sup>

The UK Government has also expressed strong ambitions for the growth of sectors such as offshore wind to 2020 and beyond.<sup>304</sup> An EU exit could create further uncertainty in the renewables sector, following early closure of the Renewables Obligation to onshore wind and other recent changes. The stability provided by EU long-term renewables targets was something identified as very helpful by a wide range of respondents to the [Review of Balance of the Competences on Environment and Climate Change](#).<sup>305</sup>

## The Paris Agreement

One currently unresolved question is how Brexit would affect the UK's ratification of the Paris Agreement, which the UK signed in April 2016. **The UK's vote to leave the EU has the potential to affect progress towards ratification.**

Ministers have made no recent comment on when the UK might ratify the Paris Agreement, beyond indicating that it will be "as soon as possible". Some commentators have suggested that Brexit may mean that the Agreement itself has to be recalibrated.<sup>306</sup>

Amber Rudd said in early June 2016 that the UK would ratify the Agreement "as soon as possible", possibly after the summer when the European Commission published legislation on the 2030 climate and energy framework.<sup>307</sup> In the debate on the *Finance Bill* in July

<sup>301</sup> HM Government, [Review of Balance of Competences on Environment and Climate Change](#), February 2014.

<sup>302</sup> Adam Vaughan, "[Climate change: Leaving EU will make it harder for UK to tackle climate change, says minister](#)", *Guardian* online, 29 June 2016.

<sup>303</sup> *Ibid.*

<sup>304</sup> UKTI, [UK Offshore Wind: opportunities for trade and investment](#), December 2014.

<sup>305</sup> HM Government, [Review of Balance of Competences on Environment and Climate Change](#), February 2014.

<sup>306</sup> A lengthy discussion of the issues can be found in the Commons Library briefing [Climate change: Ratifying the Paris Agreement](#) (CBP 7393, 15 July 2016).

<sup>307</sup> [PQ 38382, 7 June 2016](#)

2016, the Exchequer Secretary, Damian Hinds, drew attention to the UK's role in securing the Paris Agreement but made no further comment about ratification.<sup>308</sup>

Most recently, some commentators have asked whether - with the demise of DECC and climate change not appearing in the title of the new Department for Business, Energy and Industrial Strategy (BEIS) - climate change might receive less government attention. But Baroness Neville Rolfe, minister of state at BEIS, said that climate change will be at the heart of BEIS and that [the UK intends to ratify the Paris Agreement](#) as soon as possible:

The title of a department matters far less than its DNA and what it does ... Energy and climate change will be at the heart of the new department. For example, I can confirm that this Government remain committed to ratifying the Paris agreement, which was agreed last year by 195 countries, as soon as possible. Our policy will also look at affordable and reliable energy, and generally join things up in the way that I described in my opening remarks.

At the heart of our commitment is the Climate Change Act. While the vote to leave the European Union is hugely significant, the Government will continue to play their part in tackling the energy and environmental challenges our country faces.<sup>309</sup>

In its [most recent report](#), the Committee on Climate Change (CCC) has commented on both the Paris Agreement and the UK's vote in favour of leaving the EU. It notes that the latter does not alter the need to reduce emissions or the scale of that reduction, but might have an impact on how the UK's carbon budgets are met.<sup>310</sup>

The *Financial Times* has suggested that the long-term implications of Brexit for energy are "highly uncertain" and quoted the view of Christiana Figueres (the executive secretary of the UNFCCC) that the Agreement might need to be recalibrated.<sup>311</sup>

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<sup>308</sup> [HC Deb 27 June 2016, c109](#)

<sup>309</sup> [HL Deb 19 July 2016 c618](#)

<sup>310</sup> CCC, [Meeting Carbon Budgets – 2016 Progress Report to Parliament: Executive Summary](#), June 2016.

<sup>311</sup> Ed Crooks, "Brexit and Brent", *FT Energy Source*, 24 June 2016.



## 9. Transport

### 9.1 EU's current role in UK transport policy

Competence for transport is 'shared', meaning that either the EU or the Member States may act, but Member States may be prevented from acting once the EU has done so.<sup>312</sup>

The development of the EU's Common Transport Policy (CTP) has resulted in the focusing of action in a number of policy areas, specifically:

- **Economic** – including the creation of a single market in transport services that facilitates the free movement of goods, services and people, and the creation of an integrated transport system;
- **Social** – including the promotion of high safety standards, security and passengers' and workers' rights;
- **Environmental** – including ensuring that the transport system works in a way that does not impact negatively on the environment (including reducing the impact of noise, pollution, harmful emissions and greenhouse gases);
- **Infrastructure** – including the creation of a trans-European transport network (TEN-T) connecting national networks together, making them interoperable and linking outside regions of the EU; and
- **External relations** – including developing relations with third countries and, in some cases, allowing the EU to act collectively at an international level.<sup>313</sup>

The specific provisions of the CTP are contained in Title VI TFEU on Transport (Articles 90 to 100).

Broadly, there is a balance between the common perceived benefits of EU Membership (e.g. the single market for transport services which has brought down costs through liberalisation and competition) and the burdens (e.g. disproportionate or excessive regulation). There have long been concerns about EU regulatory burdens and the costs these impose, and about the difficulties in finding the right level of legislative prescription which achieves the stated aims without being disproportionate. This is particularly important in an area like transport, which is heavily regulated at a European level.

One of the common issues discussed with relation to specific examples below is how much Brexit will impact the standards and regulations the UK chooses to apply in its transport sector. In many instances they are likely to be similar if not identical to the EU's. This is because of the role the UK played in establishing those standards to our own satisfaction in the first place. For example, the UK has been a leading advocate for the development of the single market in transport across all modes; to which end the UK has usually found itself aligned with the European Commission in promoting liberal market-based aviation and maritime sectors. In rail, UK domestic policy was often seen as one of the models for EU proposals, given the experience of the market reforms and liberalisation introduced in the UK twenty years ago.

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<sup>312</sup> HMG, *Call for Evidence on the Government's Review of the Balance of Competences between the UK and the EU: Transport*, 14 May 2013, p5.

<sup>313</sup> *Ibid*, pp9-10.

All of this suggests that transport post-Brexit may not look wildly different from how it looks now; but much remains unclear and will continue to do so until negotiations are at a much more mature stage.<sup>314</sup>

## Switzerland, Norway & elsewhere

Switzerland has two bilateral agreements on aviation and land transportation (road and rail). Broadly, these apply the rules, regulations and their associated costs and benefits of the European Common Aviation Area to Switzerland and much of the common rules on road and rail without the market pillars.<sup>315</sup>

Annex XIII of the EEA Agreement covers all methods of transport, including road, rail, aviation, maritime transport and horizontal transport issues.

## 9.2 Impact of Brexit

- **State aid** is any advantage granted by public authorities through state resources on a selective basis to any organisations that could potentially distort competition and trade in the EU.<sup>316</sup> For transport state aid rules are particularly pertinent in aviation and maritime and effectively allow the state to subsidise routes and services that would not otherwise be available commercially. They also create a 'level playing field' across the EU and helps to prevent anti-competitive practices. Others have argued that they are not tough enough and allow states to support failing companies with subsidy which creates an unfairness.<sup>317</sup> Out of the EU, the UK could provide subsidies at its own discretion, in line with national competition and procurement regimes.
- **Passenger rights & compensation:** there has long been a 'patchwork' approach across transport modes towards passenger rights and compensation. The UK has long-established domestic rules which have gradually been supplanted by European ones in rail, bus and coach, air and sea (ferries and cruise ships). However, the UK has 'opted out' of or applied exemptions from a number of EU requirements on different modes. It may well be that these will be maintained at the current level after Brexit. The sector most likely to see change is aviation. Responses to the Government's 2013-14 Balance of Competences review reflected wide-spread concerns amongst the travel industry that obligations must be proportionate and not unduly prescriptive.<sup>318</sup> The UK will almost certainly develop its own system of passenger rights and compensation in the aviation sector post-Brexit but how similar these would be to current arrangements or how it would affect non-UK airlines or passengers is unknown.
- **Aviation:** throughout Europe there is a move to restructure European **airspace**, add capacity, improve safety and increase the overall efficiency of the European air transport network through the Single European Sky (SES) project. The UK and

<sup>314</sup> Further details on how Brexit might affect transport can be found in HC Library briefing paper [CBP7633, Brexit: how will it affect transport?](#) 25 July 2016.

<sup>315</sup> [Agreement between the European Community and the Swiss Confederation on Air Transport](#), 30 April 2002; and [Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road](#), 30 April 2002. Information on Switzerland and Norway's relationships with the EU can be found in two HC Library papers: [Switzerland's relationship with the EU](#) (SN6090), 20 October 2011, and [Norway's relationship with the EU](#) (SN6522), 14 January 2013.

<sup>316</sup> BIS, [State Aid Guidance](#), 10 July 2015.

<sup>317</sup> DfT, [Review of the Balance of Competences between the UK and the EU: Transport](#), February 2014, p57.

<sup>318</sup> Op cit., [Review of the Balance of Competences between the UK and the EU: Transport](#), p43



Ireland is planning to meet the SES requirements through the Future Airspace Strategy (FAS) which sets out a plan to modernise airspace by 2020.<sup>319</sup> There is general support for proceeding with this work at a European level.<sup>320</sup> Norway and Switzerland, which are both outside of the EU, are a part of SES so this may be something to which the UK would want to be party even after Brexit. The liberalisation of air transport across the EU and the **single aviation market** created a number of ‘freedoms’ for EU-registered airlines which have allowed them to have a base on one Member State and operate on a ‘cabotage’ basis between other Member States.<sup>321</sup> Respondents to the Government’s Balance of Competencies Review generally were of the view that liberalisation had broken down restrictive trade and operating barriers that had previously existed, and was credited with encouraging growth in the sector.<sup>322</sup> Airlines clearly want the UK Government to negotiate continuing access to this liberalised regime. The most obvious way of doing this would be by becoming part of the European Common Aviation Area (ECAA).<sup>323</sup> Liberalisation has helped bring down **fares** across the EU at a much greater rate than in other parts of the world.<sup>324</sup> It may be that if the UK is unable or unwilling (for whatever reason) to replicate the existing market access arrangements for airlines post-Brexit, this could potentially lead to higher air fares.<sup>325</sup> Fares could also be affected by dramatic currency fluctuations. However, higher fares are by no means a certainty and it will depend on the deal the UK secures.<sup>326</sup>

- **Railways:** the main legislation as it relates to railways is contained in the three ‘rail packages’ that have been passed; the fourth is in the process of being agreed at the moment.<sup>327</sup> The individual pieces of legislation which make up these packages are far-reaching and, for example, legislated for the [European Railway Agency](#) – with extensive powers – and the detailed [Technical Standards of Interoperability \(TSIs\)](#) which set out the technical requirements for the whole railway. They also prescribe how railways can be structured, financed and run. The Balance of Competencies review revealed some, though not a great deal of, dissatisfaction with interoperability.<sup>328</sup> There is a commonly-held belief that EU law ‘bans’ the **renationalisation** of the rail network. This is a misconception: the current laws do not prevent the state owning and managing the rail infrastructure and (separately) operating train services – this model is commonly employed in other Member States.<sup>329</sup> That said, the ‘market pillar’ of the fourth rail package is slightly ambiguous. Brexit would make all of this irrelevant and would mean that a future government that was so inclined could renationalise the railways. It would also allow a Government that no longer applied EU procurement rules to award rail services,

<sup>319</sup> CAA, [Future Airspace Strategy for the United Kingdom 2011 to 2030](#), June 2011.

<sup>320</sup> Ibid., p33

<sup>321</sup> More details are given in HC Library briefing paper [SN182](#)

<sup>322</sup> Op cit., [Review of the Balance of Competences between the UK and the EU: Transport](#), p24.

<sup>323</sup> CAPA, [Brexit and aviation Part 1: Open Pandora’s box and anything can happen. But status quo is likely](#), 27 June 2016.

<sup>324</sup> Op cit., [Review of the Balance of Competences between the UK and the EU: Transport](#), p25.

<sup>325</sup> CAPA, [Brexit and aviation Part 2: lower air traffic, economic uncertainty. UK-EU relations up in the air](#), 28 June 2016.

<sup>326</sup> [The boss of one of Europe’s biggest budget airlines says Brexit would not end cheap fares](#), *ITV News*, 31 March 2016.

<sup>327</sup> The main legislation is summarised on the [ORR’s website](#).

<sup>328</sup> Op cit., [Review of the Balance of Competences between the UK and the EU: Transport](#), p28.

<sup>329</sup> For a summary of the infrastructure management of and private sector involvement with other EU rail systems, see annexes 18 and 19 of: EC, [Fourth report on monitoring development in the rail market](#), COM(2014) 353 final, 13 June 2014.



train contracts etc. to British-based companies. There is no reason why Brexit should have significant impact on **HS2**. However, some have suggested that, given the financial uncertainty caused by Brexit a big expensive project like HS2 may no longer be a priority and could be scaled back.<sup>330</sup> Regulated rail **fares** could rise as a result of Brexit if it leads to an uptick in inflation.<sup>331</sup>

- **Roads, driving and vehicles:** there are potentially a lot of uncertainties for **UK haulage** companies as a result of Brexit, particularly in terms of employment, drivers' hours rules, access to markets and border controls.<sup>332</sup> The Agreement on the EEA basically extends the EU internal market to Norway, Iceland and Liechtenstein. As regards road transport, this entails that these three countries apply the EU road transport rules just like EU Member States. The EU has a separate agreement with Switzerland.<sup>333</sup> The UK might find itself in a similar situation to one of these countries. Legislation on **driver licensing and testing** derives from EU law. The collected European Driving Licence Directives require Member States to adopt a common format licence, to harmonise categories and to provide common standards of competence and fitness to drive. While the benefits of Common forms of licensing and testing insofar as they have helped the single market are clear, there are some concerns in specific areas. For example, the Certificate of Professional Competence (CPC) for HGV and bus drivers was heavily criticised by the industry for its inconsistent application and enforcement.<sup>334</sup> There is also the issue of automatic driving licence exchange if you permanently move from one EU state to another.<sup>335</sup> The setting of common standards in many areas of EU legislation, such as **vehicle standards**, has generally had positive impacts in terms of helping to reduce costs and allowing for the free flow of vehicles.<sup>336</sup> Further, harmonisation of vehicle design and construction standards helps with economies of scale, thus keeping costs down. While there has been some criticism of the EU-wide type approval process for vehicles in the wake of the VW emissions scandal, a return to UK-only type approval, with some sort of mutual recognition scheme for all other countries, seems unlikely and has not been suggested.<sup>337</sup>
- The **Blue Badge** scheme provides a national arrangement of parking concessions for disabled people. A separate scheme operates in London. There are reciprocal arrangements for disabled drivers allowing them to park across the EU. The Blue Badge scheme does not apply to off-street car parks, whether local authority- or privately-owned.<sup>338</sup> In 1998 EU Member States made an informal agreement to recognise badges of a common format issued in EU countries.<sup>339</sup> It seems unlikely

<sup>330</sup> E.g. "Heathrow runway ruling may come in weeks, says Grayling", *The Times*, 18 July 2016.

<sup>331</sup> See, e.g. [Rail fares will rise more than £100 a year after Brexit, Remain campaigners say](#), *The Independent*, 21 June 2016.

<sup>332</sup> Some of these are explored in: [Brexit: What next for the road transport industry?](#), *The Lorry Lawyer*, 27 June 2016.

<sup>333</sup> EC, [Roads: non-EU countries](#) [accessed 29 June 2016].

<sup>334</sup> Op cit., [Review of the Balance of Competences between the UK and the EU: Transport](#), pp45, 52 & 56

<sup>335</sup> Details of these countries can be found in DVLA, [Driving in Great Britain \(GB\) as a visitor or a new resident \(INF38\)](#) [accessed 29 June 2016].

<sup>336</sup> Op cit., [Review of the Balance of Competences between the United Kingdom and the European Union Transport](#), p38.

<sup>337</sup> E.g. this is not suggested in the Transport Select Committee's recent report: [Volkswagen emissions scandal and vehicle type approval](#) (third report of session 2016–17), HC 69, 15 July 2016.

<sup>338</sup> More details can be found in HC Library briefing paper [SN1360](#).

<sup>339</sup> [Recommendation 98/376/EC](#), as amended by [Recommendation 2008/205/EC](#); and DfT, [The Blue Badge Scheme Local Authority Guidance \(England\)](#), February 2012, section 8.3.

that Brexit would necessitate the UK changing the format of the Blue Badge, so there is no obvious reason why it would not continue to be recognised across Europe in the same way as those issued in Switzerland and Norway.

- **Shipping and ports:** At present, over 90% of UK trade is handled by ports and the EU is the UK's largest trading partner. Much **shipping** law is derived from international forums such as the IMO, the ILO, the OECD and UNCITRAL, but undoubtedly access to the European single market has benefitted the UK shipping industry. UK shipping post-Brexit is likely to be concerned about general policy areas such as employment law, immigration, border controls and contract law. More specifically on transport issues, it is likely to be concerned about securing freedom to trade; safety and the environment; tonnage tax and security. The UK **ports** sector, being largely privately owned and competitively run, is very different to those of many other EU Member States. Consequently, it has long had concerns about public subsidy in other EU countries distorting competition, particularly between the larger international ports.<sup>340</sup> The greatest concern for UK ports over the past decade or so has been the repeated attempt by the EU to legislate on port services, which they have argued would impose disproportionate and potentially harmful regulation in an area where the UK is already competitive.<sup>341</sup> The proposed 'Port Services Regulation' was cited several times during the referendum campaign as a reason to leave the EU.<sup>342</sup>

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<sup>340</sup> [Report of the exchange of views between ports CEOs and Transport Commissioner Bulc 19 January 2015 Brussels](#), p7.

<sup>341</sup> More details can be found in HC Library briefing paper [CBP7457](#).

<sup>342</sup> E.g. [It's not just the plot to let in 1.5 million Turks.. Daniel Hannan outlines ten bombshells the EU's keeping secret until after you've voted](#), *Daily Mail*, 14 June 2016.

## 10. Immigration

At the moment, it is very unclear what kind of future relationship the UK might have with the EU and EEA/Swiss states after leaving the EU. A key question, when considering the impact of leaving the EU on immigration policy and the immigration rights of British and EU/EEA citizens, is to what extent the UK might remain bound by EU free movement of people laws post-Brexit. There is unlikely to be any clarity about this until the withdrawal negotiations are underway.

### 10.1 Controlling EU immigration

Depending on the nature of any future EU-UK relationship, leaving the EU could have significant implications for the rights of UK citizens to travel to and live in EU/EEA Member States, and for EU/EEA (hereafter, 'EU') nationals wishing to come to the UK.

Changing the immigration entitlements of citizens from 27 Member States would have significant implications for the workload (and required resourcing) of the UK's border agencies. One very visible consequence is that EU nationals travelling to the UK (and British citizens travelling to European countries) might find themselves queuing at passport control alongside non-EU nationals, rather than in the same category as returning national citizens.

On the other hand, if the UK were to negotiate a relationship with the EU similar to the non-EU EEA states or Switzerland, the immigration rights of UK and EU citizens might not change very much. Switzerland and the non-EU EEA states are both bound by free movement of people laws, although the EEA Agreement does give them some scope to apply some safeguarding measures unilaterally, "If serious economic, societal or environmental difficulties of a sectorial or regional nature liable to persist are arising."<sup>343</sup>

#### The pre-Brexit position

##### EU 'Free movement' rights

For as long as the UK remains a Member State of the EU, it is subject to EU free movement of people laws.

The [right to move and reside freely](#) in another Member State is one of the rights granted by EU citizenship (as per Article 21 of TFEU). Anyone who has nationality of an EU Member State is also an 'EU citizen', and as such, has '[free movement' rights across the EU](#) (subject to certain restrictions, as set out in the 'Free Movement of Persons'/'Citizens' Directive).<sup>344</sup>

The 'free movement of people' principle entitles citizens of EU Member States and their families to reside and work anywhere in the EU. This right also applies to citizens of non-EU EEA States (Iceland, Norway and Liechtenstein) and Switzerland.<sup>345</sup>

As well as the freedom to "move and reside freely" throughout the EU under EU citizenship provisions, the TFEU contains Articles specifying the free movement rights of

<sup>343</sup> [Agreement of the European Economic Area](#) OJ No L 1, 3.1.1994 page 3, (as amended), Article 112

<sup>344</sup> Directive 2004/38/EC.

<sup>345</sup> The EEA includes EU countries and also Iceland, Liechtenstein and Norway. It allows them to be part of the EU's single market. Switzerland is neither an EU nor EEA member but is part of the single market. GOV.UK at <https://www.gov.uk/eu-eea>.

workers and self-employed persons.<sup>346</sup> Free movement is supported by a broader set of rights, such as protection against discrimination on the grounds of nationality for employment, and provisions to co-ordinate social security so that people do not lose entitlements when they exercise their free movement rights.

In practice, free movement law means that EU nationals do not require a visa in order to come to the UK, and no time limit may be placed on their stay. Exclusion must be justified on the grounds of public policy, public security or public health. All EU nationals (and their family members) have an 'initial right to reside' in another Member State for up to three months for any purpose. They have a right to reside for longer than three months if they qualify as a worker, job-seeker, student, or self-employed or self-sufficient person (or a family member of one of those), and are not subject to knowledge of English requirements. A 'right of permanent residence' is acquired after five continuous years with a right to reside in the host Member State.

### **Comparison with controls for non-EU nationals**

The comparable provisions for non-EU nationals, including British citizens' family members, are specified in the [UK's Immigration Rules](#) and are significantly more restrictive.

For example, opportunities for non-EU nationals to come to work in the UK under the [points-based system](#) are generally restricted to skilled migrants who already have a job offer. Non-EU national spouses of British citizens must satisfy various visa eligibility criteria, including that their British partner has an annual income of at least £18,600 (or a higher amount in savings).

Most non-EU visa categories require that applicants already have some English language skills, and only give temporary permission to stay in the UK initially. The scope to extend the permission, switch into a different immigration category, or stay in the UK permanently, varies depending on the visa category.

The differences between EU free movement rights and visa restrictions for non-EU nationals have become more striking in recent years, as the UK's Immigration Rules have become more restrictive. The UK and its European partners have recognised the potential for exploitation of EU free movement law, for example, through 'sham marriages' between EU and non-EU nationals who would otherwise struggle to qualify for entry under national immigration legislation. The proposed new settlement for the United Kingdom within the European Union agreed in February 2016 included some proposals to clarify and extend the scope to prevent non-EU national family members from using EU law to obtain a right of residence.<sup>347</sup> However these measures will not come into force, due to the UK's vote to leave the EU.

### **How might exit affect UK and EU citizens' immigration rights in the long-term?**

Leaving the EU means that the UK could set its own criteria for deciding which EU citizens can be admitted to the UK. This is assuming that it did not negotiate a future agreement with the EU (or certain Member States) which required the continued application of free movement law.

The UK's approach to controlling EU migration is likely to be informed by broader considerations of the national interest, including the extent to which it wants to continue to attract certain types of migrant to the UK and ensure that British citizens have

<sup>346</sup> Articles 45-48 TFEU and Articles 49-53 TFEU respectively.

<sup>347</sup> European Council, [European Council meeting \(18 and 19 February 2016\) Conclusions](#), 19 February 2016.

continued access to EU states, and whether it wants to continue to have access to the single market.

Will the UK be able to apply different visa requirements to different EU nationalities (as it currently does for visitors from non-EU states, for example)? Some experts noted in advance of the referendum that the EU's strong preference is for its third-country partners to apply the same visa conditions to all EU Member States. That makes a 'pick and mix' approach potentially difficult to achieve.<sup>348</sup>

### **Harmonising the visa rules for European and non-EU nationals**

Broadly speaking, if EU nationals become subject to the same visa rules and requirements that currently apply to other nationalities, they would only be able to come to the UK if they qualified individually for a visa as a visitor, student, worker, or family member of someone already settled here.

No longer being bound by free movement law could give the UK more powers to prevent the presence of certain categories of EU migrant. For example, European foreign offenders would no longer have a greater degree of protection from removal/deportation than other nationalities. The proposed new settlement for the UK in the European Union had included a pledge to clarify the scope for excluding EU national offenders, and to give further consideration to the issue in the event of a future revision of the Free Movement Directive, although there was some ambiguity over when that might have been done.<sup>349</sup>

The Coalition Government's Balance of Competences Review on free movement of people noted that the majority of EU migrants come to the UK to work.<sup>350</sup> EU free movement law has ensured that UK employers have relatively easy access to labour from EU states. This has offset some of the obstacles to non-EU economic immigration imposed by the UK's Immigration Rules. For example, successive governments have taken action to ensure that [the points-based system](#) only caters for skilled non-EU workers, and it does not generally cater for job-seekers.<sup>351</sup> It has been assumed that any need for lower-skilled labour can be met by workers from within the UK and EU. If EU nationals become subject to similar controls as non-European nationals, it is possible that there will be some pressure to relax some visa restrictions or expand certain categories, depending on the needs of the economy.<sup>352</sup>

Just as the UK would be able to impose its own controls on EU immigration, so the rights of UK citizens to visit or move to an EU Member State would depend on what visa requirements those states chose to apply. The EU tends to require reciprocity from its third-country partners, so the extent of access/control that the UK wants to apply to EU nationals could affect British citizens' opportunities to travel to or live in Europe.

### **What other options might be available?**

As commentators have noted, there are any number of options between maintaining full free movement rights and introducing full visa restrictions for EU nationals, which the

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<sup>348</sup> Steve Peers, EU Law Analysis, [What happens to British expatriates if the UK leaves the EU?](#), 9 May 2014; Helena Wray, EU Law Analysis, [What would happen to EU nationals living or planning to visit or live in the UK after a UK exit from the EU?](#), 17 July 2014.

<sup>349</sup> European Council, [European Council meeting \(18 and 19 February 2016\) Conclusions](#), 19 February 2016

<sup>350</sup> HM Government, [Review of the Balance of Competences between the United Kingdom and European Union Single Market: Free movement of people](#), summer 2014, paragraph 2.29.

<sup>351</sup> Library briefing [The UK's points-based system for immigration](#) has more information about current controls on non-European economic immigration.

<sup>352</sup> See, for example, Migration Watch UK, [UK immigration policy outside the EU](#), 27 January 2016, Annex A.

Government may wish to consider when preparing its negotiation strategy. Some of these are similar to previous ideas for free movement reform raised by UK Government Ministers.<sup>353</sup> Proposals which have attracted some attention in the immediate aftermath of the referendum result include:<sup>354</sup>

- Allowing for the free movement of workers only, as originally provided for in the 1957 Treaty of Rome.
- The “EEA option”, i.e. free movement rights with scope to unilaterally apply restrictions in the event of “serious economic, societal or environmental difficulties”. Furthermore, Liechtenstein has a special ‘Sectoral Adaptations’ agreement with the EU, which enables it to apply a quota system to control the number of EEA citizens given permission to reside in the country. The agreement is based on a recognition of Liechtenstein’s ‘specific geographic situation’, and is subject to review every five years.<sup>355</sup>
- An “EEA minus” option – some restrictions on free movement rights, such as quotas for work permits, in return for restricted access to the single market.

The advantages and disadvantages of different models, and prospects for securing agreement from the EU, are likely to continue to generate considerable commentary and debate in the months ahead.

### **Might the implications for Irish nationals be different?**

[Irish nationals have a special status](#) in UK law as “non-alien”. They also enjoy free movement rights between Ireland and the UK, under the Common Travel Area arrangements. Both of these pre-date Ireland and the UK’s EU memberships. It is therefore possible that Brexit might have different implications for Irish nationals than other EU citizens. Equally, there has been some speculation that Brexit might lead to some changes to those special arrangements.<sup>356</sup>

### **How might people exercising free movement rights at the point of UK exit be affected?**

One of the most prominent questions to arise in the immediate aftermath of the referendum result is how leaving the EU will affect the legal status and entitlements of British citizens living in other EU Member States, and EU nationals living in the UK.

For the time being, the UK remains a Member State of the EU, and these rights are unaffected.

The post-Brexit legal status of British and EU expats will be one of the issues to be discussed during the course of the UK’s exit negotiations. A Cabinet Office statement of 12 July set out the Government’s initial position:

The legal status of British and EU expats post-Brexit will be one of the issues to resolve during the UK’s withdrawal negotiations

<sup>353</sup> See, for example, BBC News [online], [‘Theresa May: Free EU movement ‘for those with jobs’](#), 30 August 2015, FT.com, David Cameron, ‘Free movement within Europe needs to be less free’, 26 November 2013

<sup>354</sup> See, for example, IPPR, [‘Beyond free movement? Six possible futures for the UK’s EU migration policy](#), July 2016; NIESR blog, [‘The “EEA minus” option: amending not ending free movement’](#), 3 July 2016; FT.com, [‘Brexit: Silence from Leave camp leaves options in the air’](#), 27 June 2016; EU Law Analysis, [‘What next after the UK vote to leave the EU?’](#), 24 June 2016.

<sup>355</sup> See European Commission Communication COM(2015) 411 final, [‘Liechtenstein Sectoral Adaptations – Review’](#), 28 August 2015.

<sup>356</sup> Professor Bernard Ryan, [‘ILPA EU Referendum Position Papers 8: The implications of UK withdrawal for immigration policy and nationality law: Irish aspect’](#), 18 May 2016.



When we do leave the EU, we fully expect that the legal status of EU nationals living in the UK, and that of UK nationals in EU member states, will be properly protected.<sup>357</sup>

There will be no certainty on this until a deal is reached between the UK and EU. On the other hand, there is widespread agreement that sudden curtailments of immigration status or mass expulsions would be impractical, undesirable and legally dubious.

One possibility is that EU citizens could continue to be allowed to live in the UK (and vice versa) after the UK's exit on the same basis as now, if they had a 'right to reside' in the UK on a certain cut-off date. This would mean that EU free movement laws would continue to be a significant influence over UK immigration controls for years after the UK's exit.<sup>358</sup>

Some of the practical issues to consider in such a scenario include:

- What cut-off date will be used to determine expats' rights? E.g. the date of the referendum? The date of UK withdrawal from the EU?
- Will people who have already acquired a right to permanent residence under EU law be treated differently to those who have moved more recently, or who move after the withdrawal negotiations begin? Or would all EU nationals present on that date be given a permanent immigration status, irrespective of length of residence?
- Would certain categories, such as EU nationals with a history of offending, be treated differently?
- Would EU migrants with a 'right to reside' need to apply to transfer to a different immigration status category under the UK Immigration Rules, such as Indefinite Leave to Remain, or would they retain their rights and status under EU law?
- If EU migrants are required to apply for documentation confirming their status in the UK, what evidential requirements would apply, given that EU citizens have not been obliged to apply for documentary proof of their right to reside in the UK under EU law, and there are no comprehensive records of EU nationals' movements to/from the UK?
- If EU migrants retain their status under EU law, would this continue in the event of a change in their circumstances in the future (e.g. if they ceased to be a worker)?
- How will the status of EU migrants who do not have a right to reside be resolved?
- Will EU migrants continue to have the same entitlements to welfare benefits, healthcare, etc. as they currently do?
- Will non-EU national family members similarly retain their rights under EU law?

## 10.2 Border controls, non-EU immigration and asylum

### The pre-Brexit position

The UK has not been automatically bound by EU legislation on border controls, non-EU immigration and asylum. Under special Treaty-based arrangements, the UK has been able to participate in measures selectively, deciding on a case-by-case basis whether opting in would be in its best interests. Successive UK governments took the view that it was

<sup>357</sup> GOV.UK, Cabinet Office, *News*, '[The status of EU nationals in the UK](#)', 12 July 2016.

<sup>358</sup> Helena Wray, EU Law Analysis Blog, '[What would happen to EU nationals living or planning to visit or live in the UK after a UK exit from the EU?](#)', 17 July 2014.

preferable for the UK to retain responsibility for its own borders and have flexibility to adjust its immigration policy in response to the circumstances in the UK.

The 2014 Balance of Competences Review on asylum and non-EU migration concluded that the balance of competence on these matters lay “predominantly with the UK”.<sup>359</sup>

The UK has opted-in to around a third of all EU legislative measures on migration.<sup>360</sup> In recent years, the UK has tended to favour measures which enhance practical co-operation between Member States, rather than further EU legislation in this area.

The Government’s response to the European Commission’s ‘[European Agenda on Migration](#)’, published in May 2015, reflected this approach.<sup>361</sup> The Agenda proposed some immediate measures in response to increases in irregular migration flows in the Mediterranean, as well as longer-term solutions to better manage all types of migration to the EU. The UK has been giving practical support for some of the measures, such as those directed against people smugglers and traffickers, and action to establish ‘hotspot’ registration centres in Italy and Greece. It declined to participate in other measures, notably legislation establishing an emergency relocation scheme for asylum seekers in Europe.

### **Home Office funding from the EU**

The UK has received approximately £240 million from current EU migration funding streams. This has included funding for Assisted Voluntary Returns schemes, which facilitate irregular migrants’ departure from the UK, as well as projects to support refugee resettlement and community integration in the UK.<sup>362</sup>

### **How might UK border controls be affected by exit?**

The UK has not been part of the internal border-free Schengen Area (unlike the non-EU EEA states and Switzerland). Border Force officers conduct checks on EU travellers crossing UK ports of entry, as well as on British citizens and non-EU nationals.

It has been recognised that there have been some significant security benefits to not participating in the border and visa aspects of the Schengen body of law.<sup>363</sup> However it does mean that the UK has been missing out on some potentially useful opportunities to share data on people travelling within the EU. For example, it has been excluded from the EU’s Visa Information System, which is used by Member States and Europol to exchange information about visa applications in order to combat abuse and prevent crime.<sup>364</sup>

The UK has had access to non-immigration parts of the Schengen Information System database (SIS-II) since April 2015. This access could be lost when it leaves the EU. The database gives UK law enforcement agencies (including some border control staff) access to real-time information about wanted or missing people, public security threats, and missing or stolen property. The Home Office said at the time of joining the database that

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<sup>359</sup> HM Government, [Review of the Balance of Competences between the UK and the EU: Asylum & non-EU Migration](#), February 2014, paragraph 1.8.

<sup>360</sup> Ibid, paragraph 1.17.

<sup>361</sup> European Commission, *press release*, ‘[Managing migration better in all aspects: A European Agenda on Migration](#)’, IP/15/4946, 13 May 2015.

<sup>362</sup> [Review of the Balance of Competences between the UK and the EU: Asylum & non-EU Migration](#), February 2014, paragraph 1.20.

<sup>363</sup> Ibid, paragraph 2.14.

<sup>364</sup> Ibid, paragraph 9.



this information would ensure that “more foreign terrorists, murderers and paedophiles will be kept out of the country”.<sup>365</sup>

The collection and screening of Advance Passenger Information has become an integral part of UK border security mechanisms over the past decade. The UK has opted-in to EU legislation on collecting passenger data from transport carriers from outside the EU, and is a strong advocate for the EU to adopt similar measures to collect passenger data on intra-EEA journeys.<sup>366</sup> It is likely to be keen to ensure continued access to such information.

As an EU Member State, the UK has been lending some informal support to Frontex, the EU’s agency for co-ordinating the management of the EU’s external borders. For example, it provided some staff and assets to assist the Operation Triton mission in the Mediterranean Sea.<sup>367</sup> It has been unable to fully participate due to having exercised related opt-out rights.<sup>368</sup> The EEA states participate in Frontex, but this is in the context of their membership of the Schengen Area.

## What will happen to the juxtaposed border controls in northern France?

Leaving the EU does not automatically terminate the [Treaty of Le Touquet](#), which established the ‘juxtaposed’ immigration controls for France and the UK. The Treaty is a bilateral agreement between the UK and French governments, rather than a matter of EU law.

There was some speculation in the run-up to the referendum that France would terminate these arrangements in the event of a UK vote to leave the EU. Some commentators suggested that the arrangements benefit the UK more than France, and that Brexit would provide France with a useful opportunity to terminate them.<sup>369</sup> Others suggested that this was less likely, for example because doing so would have adverse economic consequences for the port of Calais and France. It has also been argued that ending the Le Touquet Treaty arrangements could encourage greater numbers of irregular migrants to gather in northern France and attempt to enter the UK.<sup>370</sup>

Mixed views have been expressed about the likely future of the Treaty in the aftermath of the referendum result (so far).<sup>371</sup>

Article 23 of the Treaty of Le Touquet contains specific rules on how it can be terminated, modified or revised. Either France or the UK can terminate the arrangements at any time, although the time-scales and conditions for doing so need to be agreed with the other country. The two parties can also agree (by exchanging diplomatic notes) to modify the treaty (apart from those provisions that need the approval of parliament). And either party

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<sup>365</sup> GOV.UK, *news*, [UK joins international security alert system](#), 10 February 2015.

<sup>366</sup> Written Statement [HCWS425](#) [Justice and Home Affairs post-Council Statement], 19 March 2015.

<sup>367</sup> Written Question [HL5863](#) [on Mediterranean Sea], answered on 24 March 2015.

<sup>368</sup> [Case C-77/05](#).

<sup>369</sup> See, for example, Open Europe, [Would Brexit leave the UK better able to control the Calais crisis?](#), 4 August 2015; Rt Hon Damian Green MP, ‘From Africa to Calais: Britain, the EU, and the Refugee Crisis’, in Conservative European Mainstream for Europe, [The UK and EU: Making Britain Stronger](#), 1 September 2015; BBC News [online] [‘EU referendum: PM says Brexit could bring Calais ‘Jungle’ to UK’](#), 8 February 2016.

<sup>370</sup> Stevenwoolfe.uk, [Beware #BREXIT scaremongering, misinformation on French renegeing on UK Border Calais agreement](#), 16 July 2015; Migration Watch UK Blog, [The Future of Juxtaposed Controls in Calais](#), 8 February 2016; Migration Watch Briefing Paper MW376, [The implications of Brexit for Border Controls in Calais](#), 14 March 2016

<sup>371</sup> International Business Times [online], [Francois Hollande rejects suspension of Le Touquet treaty at Calais despite UK Brexit](#), 30 June 2016

can ask for consultations if they want to revise the treaty “in the light of new circumstances or needs”.

There is also a provision which allows the ‘local representatives of the authorities concerned’ to agree to a temporary change in the area where juxtaposed controls are operated (Article 1.5).

Moreover, under Article 24 “Each of the Contracting Parties reserves the right to take any measures necessary for the safeguarding of its sovereignty or security”.

UK-French cooperation on border security matters has extended beyond the agreements establishing the juxtaposed controls. See, for example, the [joint statement](#) agreed in September 2014, which outlined a “comprehensive action plan” in response to the growing migrant population in Calais, and the further [joint declaration agreed on 20 August 2015](#). Both of these were made in the context of both countries’ membership of the EU, and included expressions of support for broader EU action to manage migration flows in Northern Europe and across the EU.

### **What would be the consequences of ending juxtaposed controls?**

UK immigration officers would no longer be able to conduct immigration checks on travellers, and potentially deny them entry to the UK, whilst they are still in French territory.

Instead, UK immigration controls would be applied to cross-Channel passengers upon their arrival in the UK (as was the case prior to the introduction of juxtaposed controls, and as already happens with arrivals to the UK from other departure points).

Immigration officers would be able to refuse entry to people found ineligible for entry to the UK and return them to their country of departure. But not if they claimed asylum upon arrival - the claim would have to be processed in the UK.

Other obstacles to gaining irregular entry to the UK would also remain, since French border controls and carriers’ liability legislation would continue to apply.

### **What will happen to the border in Northern Ireland and the Common Travel Area?**

Mixed opinions expressed by commentators in the run-up to the referendum about the future of the [Common Travel Area between Ireland and the UK](#) in the event of a Brexit.<sup>372</sup> The UK and Irish governments also indicated uncertainty, whereas ‘Leave’ campaigners did not generally envisage a need for significant changes.<sup>373</sup>

The Common Travel Area pre-dates the UK (and Ireland)’s membership of the EU. EU law recognises Ireland and the UK’s right to maintain the special arrangements with the UK.<sup>374</sup>

Professor Bernard Ryan, who has written extensively on the Common Travel Area, has said that there is “no obvious legal reason” why Ireland could not retain this benefit after the UK leaves the EU.<sup>375</sup>

<sup>372</sup> Library briefing [The Common Travel Area, and the special status of Irish nationals in UK law](#), considers the potential implications of Brexit in more detail.

<sup>373</sup> *The Guardian*, [Irish prime minister says border controls could return if Britain exits EU](#), 29 May 2016; Cabinet Office, [The process for withdrawing from the European Union](#), Cm 9216, February 2016, p.19; HM Government, [Alternatives to membership: possible models for the United Kingdom outside the European Union](#), March 2016, p.16

<sup>374</sup> [TFEU](#), Protocol 20

The Northern Ireland Affairs Committee received evidence (before the referendum), including from the EU's Brexit Taskforce, which led it to believe that there may be some doubt as to whether the current arrangements could continue, and that a future agreement between the UK and Ireland may need to be agreed by the whole of the EU.<sup>376</sup>

Since the referendum result, the Irish and UK governments have confirmed a shared intention to preserve the benefits of the Common Travel Area.<sup>377</sup> The Irish Government has said that this will be a "key priority" in the context of UK-EU negotiations.

### 'Hard' border controls?

There are mixed views about whether Brexit might lead to more cross-border customs and immigration controls, and how easily these could be implemented. Again, the nature of the UK's future relationship with the EU/EEA is a relevant consideration.

One of the potential difficulties is that, if EU nationals no longer have the same 'free movement' rights in both countries, the land border between the Republic of Ireland and Northern Ireland could become a weak spot in the UK's ability to control EU immigration.

The Northern Ireland Affairs Committee considered three possible scenarios in the event of a significant change to UK immigration controls towards EU/EEA nationals post-Brexit. It recognised that each of these have certain disadvantages and limitations:<sup>378</sup>

- **A harder land border between the Republic of Ireland and Northern Ireland** – this would cause significant disruption to cross-border travellers, and it is doubtful how effective and comprehensive the controls could be in practice, considering the nature of the border.
- **A harder border between the island of Ireland and Great Britain** – this would imply imposing checks on people travelling between different parts of the UK.
- **A harmonised approach to UK and Irish immigration and border controls** – whilst this would overcome the need for hard border controls, Ireland's continued membership of the EU might restrict the policy options available.

### How might UK asylum policies be affected?

Although various parts of EU law commit Member States to adhering to the terms specified in the 1951 *Geneva Convention on the Status of Refugees* and its 1967 Protocol, the UK is a signatory to the 1951 Convention (and other related pieces of international law) in its own right.<sup>379</sup> It will continue to be bound by these after leaving the EU, unless it decides to withdraw from them.

On a practical level, EU law on asylum is interwoven into the UK's asylum system. The 2012 Balance of Competences Review concluded that the UK has been most affected by EU action on non-EU migration in the field of asylum.<sup>380</sup>

The EU has been developing a Common European Asylum System (CEAS) since the 1990s. The UK opted into the six pieces of legislation adopted during CEAS' first phase (2000-

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<sup>375</sup> Professor Bernard Ryan, *ILPA EU Referendum Position Papers 8: The implications of UK withdrawal for immigration policy and nationality law: Irish aspects*, 18 May 2016

<sup>376</sup> Northern Ireland Affairs Committee, *Northern Ireland and the EU referendum*, HC 48, 26 May 2016, para 74

<sup>377</sup> [Written Question 41433](#), answered on 7 July 2016; Irish Government News Service, *Appendix: summary of key actions to manage contingencies*, 24 June 2016

<sup>378</sup> Northern Ireland Affairs Committee, *Northern Ireland and the EU referendum*, HC 48, 26 May 2016, paras 75-80.

<sup>379</sup> For example, TFEU Article 78, EU Charter of Fundamental Rights, Article 18.

<sup>380</sup> HM Government, *Review of the Balance of Competences between the UK and the EU: Asylum and non-EU Migration*, February 2014, paragraph 3.7.

2005). There were four directives specifying minimum standards for processing asylum claims and the treatment of asylum seekers, and two sets of regulations establishing the 'Dublin system' for determining which Member State is responsible for processing an asylum claim.<sup>381</sup>

In recent years there has been less UK engagement in new EU initiatives on asylum, as a consequence of the UK exercising its special 'opt-out' rights in this area.

For example, the UK did not adopt the recast asylum directives introduced over 2011-2013, due to concerns that they would have undermined the UK's asylum system (particularly efforts to deter abuse).<sup>382</sup> Similarly, as previously noted, the UK has only selectively engaged with the EU's response to the 'migration crisis' over the past year or so.

### **Could the UK continue to participate in the 'Dublin' system?**

One of the issues which the Government will need to consider during the EU withdrawal negotiations is whether it will seek continued UK participation in the Dublin system.

#### **Box 3: What is the Dublin system?**

The Dublin system was intended to prevent the phenomena of 'asylum shopping' (asylum seekers lodging multiple claims in several EU Member States) and 'refugees in orbit' (no state taking responsibility for an asylum claim). The EURODAC fingerprint database enables Member States to check whether an asylum seeker has previously claimed asylum in another Member State. The Dublin III Regulation identifies a hierarchy of criteria for determining which Member State is responsible for the asylum claim and sets out the process for handling requests to transfer responsibility between Member States. Put simply, this hierarchy prioritises family reunion considerations, followed by which Member State issued a visa to the applicant or was the first state entered by the applicant (in the case of irregular arrivals). In practice, most transfer requests are based on the irregular entry criterion. This has led to criticisms that the current Dublin arrangements place an unfair burden of responsibility on a few states at the EU's external borders.

### **Are any other non-EU Member States currently part of the Dublin system?**

Norway, Switzerland, Liechtenstein and Iceland participate in the Dublin III Regulations (but not other pieces of legislation related to the CEAS), via separate agreements with the EU.

### **Would the Government want to seek continued participation?**

Successive UK governments have been strong supporters of the Dublin system. The UK has opted-in to all of the revised versions of the Dublin regulations.<sup>383</sup> However, the ongoing 'migration crisis' in Europe has highlighted the vulnerabilities and imbalances within the system. There is some doubt over the long-term future of the Dublin system in its current form, although the UK Government does not favour major changes to it.

The Dublin system has been regarded by successive UK governments as greatly beneficial to the UK. The system has enabled the removal of over 12,000 individuals from the UK to

<sup>381</sup> Namely, the Asylum Procedures Directive, the Qualifications Directive, the Reception Conditions Directive, the Temporary Protection Directive, the Dublin II Regulation and the EURODAC Regulation.

<sup>382</sup> [HC Deb 13 October 2011 cc44-5WS](#); [HL Deb 12 January 2012 cc495-7](#).

<sup>383</sup> [Regulation 604/2013](#) of 26 June 2013 *establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*.

other EU Member States between 2003 and January 2015.<sup>384</sup> In the Government's view, it has generated significant financial savings and contributed to efforts to deter abuse of the UK's asylum system.<sup>385</sup>

In May 2016 the European Commission published some proposals for recast Dublin regulations, as part of a wider set reforms of the CEAS.<sup>386</sup> The proposals include:

- Shorter timescales for Member States to process transfer requests
- Introducing a "corrective allocation mechanism" to be automatically activated in the event that a State receives a disproportionate number of asylum claims, in order to ensure more equitable sharing of responsibilities between Member States
- Measures to discourage abuse and prevent secondary movements of asylum seekers within the EU

The Government had not confirmed before the referendum vote whether it would opt-in to the recast Directive. It had previously indicated a preference for retaining the principles of the existing Dublin regulation.<sup>387</sup>

Furthermore, it is not clear whether the UK could choose to selectively apply the Dublin regulations but not other parts of the CEAS in the future as a non-Member State. As a briefing published in advance of the referendum vote by an immigration law practitioner noted:

... the European Commission announced in April 2016 that it would be proposing a new consolidated instrument on asylum bringing all the CEAS measures into one Directive. It has also proposed substantial changes to the system with a view to creating a more regulated and coherent asylum system across the continent. If the UK wants to participate in this new system, it will only be able to do so if it remains in the EU.<sup>388</sup>

## How might the UK's approach to non-EU immigration, irregular immigration and removals be affected?

As discussed earlier in this chapter, the UK's approach to controlling non-European immigration is already determined by domestic legislation, including the UK's Immigration Rules, rather than EU law. The UK chose not to opt in to EU measures facilitating legal migration of third-country migrants (e.g. directives establishing common eligibility rules and entitlements for certain categories of immigrants, such as workers, students, migrants' family members, and long-term residents).<sup>389</sup>

This approach protected UK governments' flexibility to adjust immigration policy in response to changing UK requirements.<sup>390</sup> For example, a points-based system for non-EU labour and student immigration was introduced from 2008/9, and limits have been

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<sup>384</sup> Written Statement [HCWS219](#) [on EU opt-in decision], 23 January 2015.

<sup>385</sup> [HC Deb 25 February 2013 c86W](#).

<sup>386</sup> [COM \(2016\) 270 final](#), 4 May 2016.

<sup>387</sup> [HCWS708, 28 April 2016](#)

<sup>388</sup> Elspeth Guild, *ILPA EU Referendum Position Paper 10: The UK Referendum on the EU and the Common European Asylum System*, 29 April 2016.

<sup>389</sup> However, the UK does apply EU regulations establishing a uniform format for residence permits for third-country nationals.

<sup>390</sup> There are some EU competences which indirectly impact on UK immigration policy, such as the EU-Turkey Association Agreement, Erasmus student exchange programme, and EU Free Trade Agreements, as briefly discussed in Home Office, [Call for evidence, Review of the Balance of Competences: Asylum and Immigration](#), May 2013.

introduced on the number of visas available in various categories, including those for sponsored skilled workers and migrants with 'exceptional talent'.

There has been some practical co-operation between the UK and other Member States on the removal of irregular migrants, such as through the use of shared charter flights. Also, the UK has opted into some of the EU's Readmission Agreements with third countries. The Balance of Competences Review cited this as an example of how the UK was able to secure more advantageous outcomes by working with other Member States:

On Readmission Agreements, working as a bloc with other Member States rather than independently has often resulted in a better deal for the UK, with Member States acting as a bloc able to wield greater leverage against third countries than when acting individually.<sup>391</sup>

More generally, the UK has recognised that there are benefits to practical co-operation and information-sharing with other Member States, for example to strengthen responses to organised immigration crime and current and future migratory pressures.

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<sup>391</sup> HM Government, [Review of the Balance of Competences between the UK and the EU: Asylum and non-EU Migration](#), February 2014, paragraph 1.10.

# 11. Justice and Home Affairs

## Summary

The UK currently has an opt out arrangement with the EU on policing and criminal justice measures, whereby it can choose which measures to opt in to. The UK has chosen, with parliamentary approval, to opt in to a number of measures, the most significant of which is the European Arrest Warrant. Others relate to information sharing and participation in EU law enforcement agencies.

## 11.1 Police and Justice Cooperation

Between 1995 and 2009, the Member States of the EU agreed on 130 measures relating to police and judicial cooperation in criminal justice matters. These covered aspects of the substantive criminal law (the definition of crimes); mutual recognition in criminal matters; harmonisation of criminal procedure; exchange of information; and EU law enforcement agencies. These measures, known as the 'third pillar' of EU law, were subject to a different legal framework in which the role of EU institutions was more restricted.

The Treaty of Lisbon incorporated these pre-2009 third pillar measures into the main body of EU law, to which the powers of the Commission and EU Court of Justice (CJEU) apply. From this point the UK had the ongoing option of opting in to any new measures in this area, and of opting out of any laws that were adopted before the Treaty.

### The block opt-out decision

The UK notified the Council in July 2013 of its decision to opt out of these measures. It immediately sought to opt back in to 35 of the same measures, accepting the enforcement powers of Commission and CJEU jurisdiction with regard to them.<sup>392</sup>

Prior to the vote in Parliament, the Government published its [\*Decision pursuant to Article 10\(5\) of Protocol 36 to the Treaty on the Functioning of the European Union\*](#),<sup>393</sup> setting out the 35 measures that the UK was seeking to opt back in to.

In November 2014 the House of Commons voted to endorse the Government's formal application to re-join the 35 Home Affairs and Justice measures by 421 votes to 29.<sup>394</sup>

### Measures in which the UK currently participates

Some of the more significant measures in which the UK participates are considered below.

#### European Arrest Warrant

The Government highlighted the importance of the European Arrest Warrant (EAW) in setting out its case to remain in the EU:

<sup>392</sup> The Commons Library briefing [The UK block opt-out in police and judicial cooperation in criminal matters: recent developments](#) (November 2014) provides further context.

<sup>393</sup> Cm 8897, HM Government, July 2014.

<sup>394</sup> For further detail of the debate around whether or not to opt back in to the EAW, see Commons Library Briefing Paper 7016 [The European Arrest Warrant](#), Part 6.



4.10 The European Arrest Warrant (EAW) makes it easier to extradite foreign suspects back to where they are wanted for crimes – and bring suspects back to the UK to face justice for crimes committed here. Since 2004 the EAW has allowed 7,000 people to be extradited from the UK to face trial or serve a sentence and has resulted in just over 1,000 people being returned to the UK to face justice.<sup>395</sup>

The EAW is given effect in domestic law by the *Extradition Act 2003*. The scheme is managed by the National Crime Agency (NCA). The NCA issued 219 EAWs in 2013 and 228 EAWs in 2014. It received 5,522 EAWs in 2013 and 13,460 EAWs in 2014.<sup>396</sup>

The EAW is based on the principle of mutual recognition of Member States' legal systems within the EU. Unlike extradition arrangements with countries outside the EU, the EAW requires acceptance of a foreign warrant by national judicial authorities without an inquiry into the facts or circumstances giving rise to the warrant. It also limits the grounds on which extradition may be refused. It was intended to streamline the process of extradition and relies on trust between Member States.

The EAW has faced criticism in the past. Opponents have argued that it is used too frequently and favours procedural simplicity over the rights of suspects and defendants. A review conducted under the Coalition Government resulted in amendments to the *Extradition Act 2003* aimed at addressing concerns about proportionality and other matters.

### **Schengen Information System**

The Schengen Information System II (SIS II) is another measure highlighted by the Government as significant for domestic security. SIS II is a large-scale database that supports external border control and law enforcement cooperation. It enables police and border guards to enter and consult real time alerts on certain categories of wanted or missing persons or objects (such as documents or vehicles).

The Government's Impact Assessment on the opt-in decision provided the following reasoning as to why SIS II was deemed necessary:

#### Improving law enforcement access to real time information on persons and objects of interest

The UK currently receives and shares law enforcement information with European partners through bilateral arrangements and through Interpol channels. Processes rely on Member States directing information to appropriate law enforcement agencies in the UK in order for action to be taken. These processes do not allow for real time access to alerts and rely on UK law enforcement manually updating systems (e.g. the PNC). This incurs significant resource burdens on law enforcement agencies as well as impairing the UK's ability to detect individuals and objects of interest.

#### Secure the UK Border

Securing the border is a key priority for the Government and security is a primary focus. Over 100 million passengers arrive in the UK each year and in total there are around 200 million passenger journeys across the UK border. Providing border staff with the right information to stop potential threats before they can enter the UK is vital. [...]

SISII, through the use of real-time information, will enable the UK to better combat domestic and transnational crime and protect the border. It will also strengthen public

<sup>395</sup> [The best of both worlds: why the UK should remain a member of a reformed EU, February 2016](#)

<sup>396</sup> [PQ 22922 of 22 January 2016](#)



protection by extending the reach of UK law enforcement across Europe through enhanced information sharing and increased operational effectiveness.<sup>397</sup>

The Home Secretary made a statement to the House on 5 January 2016 on the Government's counter-terrorism work, in which she mentioned SIS II as one of the measures taken by the UK to combat the threat of terrorism:

In addition, the UK has joined the European watch list system—so-called SIS II—meaning we are now alerted when any individual is stopped at a border checkpoint or by police anywhere in Europe and is checked against the system.<sup>398</sup>

## Europol

Europol is the European Union's law enforcement agency. It assists EU Member States to conduct investigations in relation to terrorism and organised crime by providing intelligence exchange and support, and analysis.

The Government's Impact Assessment on the opt-in decision pointed to the strategic importance of Europol in combatting cross-border threats:

It also has a vital role in assessing threats from a cross-border perspective, producing relevant threat assessments and strategic analyses. This is important in identifying priority threats at EU level, which informs the coordination of practical cooperation amongst Member States. The agency acts as an analysis hub for data and information on serious international crime and terrorism and takes a key role in working with national law enforcement agencies to coordinate action between Member States.<sup>399</sup>

## Brexit consequences

Predictions about the consequences of Brexit are of course speculative at this stage and depend on the outcome of negotiations. However, it is likely that the UK would wish to recreate at least some of the existing arrangements.

Some issues are covered by Council of Europe treaties,<sup>400</sup> although in practice these are generally less detailed and may prove to be less effective.

In other areas it may be possible to negotiate bilateral treaties with individual Member States, or with the EU as a whole. For example, a form of the EAW has been agreed with Norway and Iceland (although this is not yet in force).

It is possible that, without the mutual recognition and trust between EU Member States that underpins the EAW and other measures, these arrangements would be more complicated, expensive or time consuming. In [Alternatives to membership: possible models for the United Kingdom outside the European Union](#), the Government suggested that the outcome of any future negotiation is uncertain:

1.4 Under any of these alternatives, there would also be a non-economic cost, in terms of the UK's security and strength. The European Arrest Warrant and the Schengen Information System, for instance, allow our law-enforcement agencies to obtain and act on information from their EU counterparts. Even if over time we manage to negotiate replacement bilateral agreements, there is no guarantee that we could fully replace our access to current EU measures for police and security cooperation.

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<sup>397</sup> [Decision pursuant to Article 10\(5\) of Protocol 36 to The Treaty on the Functioning of the European Union](#), Cm 8897, July 2014, page 54.

<sup>398</sup> [HC Deb 5 January 2016, c57](#)

<sup>399</sup> Page 149

<sup>400</sup> See for example the [Convention on the Transfer of Sentenced Persons](#).

With respect to EU agencies, the UK may be able to enter into agreements to cooperate, as other non-EU countries have done. Although Europol's role and remit are focussed on EU member states it does work with partners outside the EU. The Europol website points out that organised crime does not stop at international boundaries and so cooperation agreements with non-EU states are needed:

Europol assists EU Member States in combating organised crime within the European Union, but because organised crime does not stop at international borders, it is also essential to have cooperation initiatives with non-EU countries and international organisations.

The Justice and Home Affairs Council therefore adopted the Council decision of 27 March 2000 (amended by the Council decision of 6 December 2001 and the Council decision of 13 June 2002) which authorises the Director of Europol to enter into negotiations on cooperation agreements with third states and non-EU related bodies. The nature of the cooperation agreements can vary, ranging from operational cooperation, including the exchange of personal data, to technical or strategic cooperation.<sup>401</sup>

Europol has a number of operational and strategic agreements with non-EU states, listed on the website, including Australia, Canada and the USA.

## 11.2 Data protection

The right to privacy is a highly developed area of law in Europe.<sup>402</sup>

All EU Member States are also bound by the European Convention on Human Rights (ECHR), which guarantees the right to respect for private and family life, home and correspondence in Article 8 of the European Convention on Human Rights. EU data protection derives from Directive [95/46/EC](#) on the protection of individuals with regard to the processing of personal data and on the free movement of such data. The *Data Protection Act 1998* gives effect to this Directive. Although the Act has been criticised on various grounds – for example, that the penalties on offer are insufficient to act as a deterrent – there is little likelihood that it would be repealed if the UK were to leave the EU. Most countries now have similar legislation, and the trend is towards harmonising standards internationally in order to facilitate the safe flow of data across national boundaries.

The EU proposed replacing the 1995 Directive with a new Regulation. Under that Regulation, companies across the EU would only have to deal with one set of data protection rules and be answerable to a single data protection authority – the national authority in the EU Member State where they have their main base. The draft framework was a matter of contention among Member States; the UK Ministry of Justice had argued (for example) that the burdens the proposed regulation would impose outweighed the net benefit estimated by the Commission.<sup>403</sup>

In December 2015, the EU reached agreement on the [new data protection rules](#). The Regulation and Directive were formally adopted by the European Parliament and Council in April 2016 and will come into effect in May 2018 (the latter requiring transposition into national law by that date). Following the referendum result, the UK Information Commissioner's Office issued a [statement](#):

<sup>401</sup> Europol, [External Co-operation](#) [accessed 1 July 2016].

<sup>402</sup> Further background is available in the Commons Library briefing [The draft EU data protection framework](#) June 2013.

<sup>403</sup> See Standard Note 6669, [The draft EU data protection framework](#).

The Data Protection Act remains the law of the land irrespective of the referendum result.

If the UK is not part of the EU, then upcoming EU reforms to data protection law would not directly apply to the UK. But if the UK wants to trade with the Single Market on equal terms we would have to prove 'adequacy' - in other words UK data protection standards would have to be equivalent to the EU's General Data Protection Regulation framework starting in 2018.

With so many businesses and services operating across borders, international consistency around data protection laws and rights is crucial both to businesses and organisations and to consumers and citizens. The ICO's role has always involved working closely with regulators in other countries, and that would continue to be the case.

Having clear laws with safeguards in place is more important than ever given the growing digital economy, and we will be speaking to government to present our view that reform of the UK law remains necessary.

### 11.3 EU citizenship

EU citizenship was formally introduced in Article 2 of the *Treaty on European Union* in 1992, which stated that the Union aims to "strengthen the protection of the rights and interests of the nationals of its Member States through the introduction of a citizenship of the Union". In addition to the earlier right to move, work and reside freely in any Member State, Maastricht introduced voting and election rights in European Parliament (EP) and local elections, and extra consular protection for EU citizens.

The *Treaty of Amsterdam* extended citizens' rights with a new anti-discrimination clause, while Article 17 stipulated that Union citizenship "shall complement and not replace national citizenship".

The *Treaty of Lisbon* replaced "complement" with "additional to". The EU Treaty provides for EU citizenship in Articles 20 - 25 TFEU. EU citizenship is dependent on holding the nationality of an EU Member State and is additional to national citizenship. It does not replace national citizenship, but adds an extra layer of rights (and obligations).

#### Will Brexit mean loss of EU citizenship?

EU citizenship does not fall under the UN's [Universal Declaration of Human Rights](#) and is not the same as having the nationality of a state, to which the UN Declaration refers.<sup>404</sup>

The EU Treaty text asserts that the rights of citizenship "shall be exercised in accordance with the conditions and limits defined by the Treaties and by the measures adopted thereunder". It is acquired automatically by virtue of being a national of an EU Member State; you don't have to apply for it. The EU Treaties apply to and in the EU Member States. If the UK leaves the EU, its citizens – unless they have dual nationality - will no longer be citizens of the EU within the terms of the EU Treaties.

However, there has been a debate about the possibility that citizens of a withdrawing State have 'acquired rights'. This is discussed in section 4.4 of Commons Briefing Paper 7551, [Brexit: how does the Article 50 process work?](#) 30 June 2016. The former Director

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<sup>404</sup> Article 15 of the Universal declaration states: (1) Everyone has the right to a nationality; (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

General of the EU Council's Legal Service, Jean-Claude Piris, thought this could **not** be the case with regard to EU citizenship:

I would not think that one could build a new legal theory, according to which "acquired rights" would remain valid for millions of individuals ... who, despite having lost their EU citizenship, would nevertheless keep its advantages for ever (including the right of movement from and to all EU Member States? Including the right to vote and to be a candidate in the European Parliament?). Such a theory would not have any legal support in the Treaties and would lead to absurd consequences.<sup>405</sup>

### Court of Justice case law

The Court of Justice of the EU (CJEU) has stated several times that citizenship of the Union is intended to be the "fundamental status of nationals of the Member States". It would appear to follow then that leaving the EU would result in a loss of EU citizenship. But CJEU case law is not always so clear on this.

Professor Sionaidh Douglas-Scott, while saying that if the UK was no longer in the EU, "this would suggest its citizens are no longer EU citizens",<sup>406</sup> pointed to the CJEU ruling in the [Rottmann](#) case in March 2010, which held that "deprivation of EU citizenship [though in circumstances different from Brexit] might not be a matter just for Member States, but that the EU might have a role as well". In the [Opinion](#) of Advocate General Poiares Maduro in the reference for a preliminary ruling in [Rottmann](#), 30 September 2009, Union citizenship can be independent of nationality. A Member State's decision to withdraw naturalisation was a matter of EU law because that action would also mean removing the status of EU citizenship. Could it therefore be argued that EU citizenship would remain even after Brexit or would this be one of J-C Piris' "absurd consequences"? Poiares argued:

Any attempt at an answer presupposes a sound understanding of the relationship between the nationality of a Member State and Union citizenship. Those are two concepts which are both inextricably linked and independent. (29) Union citizenship assumes nationality of a Member State but it is also a legal and political concept independent of that of nationality. Nationality of a Member State not only provides access to enjoyment of the rights conferred by Community law; it also makes us citizens of the Union. European citizenship is more than a body of rights which, in themselves, could be granted even to those who do not possess it. It presupposes the existence of a political relationship between European citizens, although it is not a relationship of belonging to a people. On the contrary, that political relationship unites the peoples of Europe. It is based on their mutual commitment to open their respective bodies politic to other European citizens and to construct a new form of civic and political allegiance on a European scale. It does not require the existence of a people, but is founded on the existence of a European political area from which rights and duties emerge. In so far as it does not imply the existence of a European people, citizenship is conceptually the product of a decoupling from nationality.

Some analysts also point to the CJEU ruling in [Grzelczyk](#) that EU citizenship is "destined to be the fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective of their nationality, subject to such exceptions as are expressly provided for".

In [Ruiz Zambrano](#), the CJEU added the requirement that EU citizens must be able to "genuinely enjoy the substance of their EU citizenship rights". Writing in the

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<sup>405</sup> Robert Schuman Foundation, European issues n°355, 5 May 2015. [Should the UK withdraw from the EU: legal aspects and effects of possible options.](#)

<sup>406</sup> BBC News, 4 July, [EU referendum: Would Brexit violate UK citizens' rights?](#)

*Verfassungsblog*, Mark Dawson and Daniel Augenstein conclude: “Hence, while the European Union has no original or autonomous competence to confer European citizenship, it can and will protect it once acquired against interference by the Member States”.<sup>407</sup> The authors also suggest that individuals may have the right to retain or reject EU citizenship:

The most obvious move is to think radically. A further de-coupling of EU citizenship from national membership would allow the Union to replicate the emancipatory move of Van Gend en Loos – to liberate individuals from the preferences of their states. De-coupling would signify a constitutional recognition that rights acquired as European citizens really are ‘fundamental’: integral to individual personhood and therefore inscribed into the deep structure of an autonomous EU legal order such that they cannot simply be done away with by inter-governmental agreement. De-coupling would allow those UK nationals – be they from London, Scotland or any other part – to retain their European citizenship rights of free movement and non-discrimination in other EU states if they so wished, by virtue of their continued membership in the European polity. While the decision to grant Union citizenship may still rest with the Member States, via Member State nationality, the decision to withdraw it would rest with the individual EU citizen (who may also wish to renounce that citizenship if they so choose).

CJEU cases to date have not been required to respond to questions about EU citizenship and EU withdrawal. The Court may yet be asked about this, but in the meantime the weight of legal opinion is that Brexit will mean loss of EU citizenship.

The existing alternatives to EU membership do not provide the kind of supplementary citizenship provided by the EU. The EEA Agreement guarantees equal rights and obligations within the Single Market for citizens and economic operators in the EEA. It covers the four freedoms of movement of goods, persons, services and capital, as well as ‘flanking policies’ such as social policy, consumer protection and environment policy. But while EEA nationals enjoy free movement and residence provisions, non-EU EEA nationals are not strictly speaking Union citizens within the terms of the Treaty.

## The franchise

The Directive on Voting Rights for EC Nationals in Local Elections ([Directive 94/80/EC](#)) agreed in 1994 made provision for EU nationals to vote in local elections in the country in which they were resident but in which they were not nationals.<sup>408</sup> EU Member State nationals who are resident in the UK are therefore able to vote in local elections, devolved legislature and EP elections. There is no qualifying time limit and this right was not extended to UK Parliamentary elections. A UK withdrawal will leave the future of this reciprocal arrangement open to question.

There are exceptions to the current arrangements. Citizens of the Republic of Ireland who are resident in the UK are able to vote in all elections. Citizens of Malta and Cyprus who are resident in the UK are also able to vote in all UK elections as qualifying Commonwealth citizens. A UK withdrawal will not affect the voting rights in the UK of the citizens of these EU countries.

Some EU Member States have bilateral reciprocal arrangements with non-EU states with regard to voting rights. For example, Portugal grants Norwegian citizens the local franchise because Portuguese nationals living in Norway can vote in Norwegian local

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<sup>407</sup> [After Brexit: Time for a further Decoupling of European and National Citizenship?](#) Mark Dawson, Daniel Augenstein 14 July 2016.

<sup>408</sup> See Research Paper 94/23, *Votes and seats for European Parliament elections*, for details of this Directive.

elections. Spain has also signed agreements with several countries, including Norway, on reciprocal voting rights of nationals in local elections.

Citizens of other Commonwealth countries who are resident in the UK are able to vote in all elections but this is dependent on their immigration status. There are no formal reciprocal arrangements between the UK and other Commonwealth countries but a number of Commonwealth countries allow resident British citizens to vote in their elections.

## 12. Human rights

### Summary

A UK withdrawal from the EU would mean that the UK no longer has to comply with the human rights obligations of the EU Treaties. The controversial EU Charter of Fundamental Rights would not apply, and the EU Court of Justice would not have jurisdiction over the UK (except possibly for transitional cases that arose before withdrawal).

Withdrawing from the EU does not mean withdrawing from the separate European Convention on Human Rights. The Government is planning a British Bill of Rights, but Theresa May has said that she does not intend to withdraw from the Convention.

### 12.1 Overview

The EU's human rights obligations, which include the controversial EU Charter of Fundamental Rights, are sometimes overlooked, as they were largely drawn from other human rights instruments to which the UK was already a party, and were not intended to create any new rights. They apply to the EU institutions, and also to Member States when they are acting within the scope of EU law.

However, EU human rights have in practice provided new remedies. The Charter has been relied on increasingly in the UK, not least because if the courts find a breach they can be required to disapply UK Acts of Parliament – something which they cannot do under other human rights instruments.

Leaving the EU would mean that the Charter no longer applied in the UK, and that the EU's enforcement mechanisms could no longer be used against the UK for any breach (although there would presumably need to be transitional provisions for cases arising before the date of withdrawal).

However, withdrawing from the EU and the Charter does not mean withdrawing from the European Convention on Human Rights. Indeed it might give the Convention a greater significance.

The Convention is not an EU document but a Council of Europe one. It binds the UK government under international law and is given effect in the UK through the Human Rights Act 1998. The Government's concerns about how human rights operate in the UK have largely focused on the Convention and the Human Rights Act, although the Charter did also begin to feature in 2015. The Queen's Speech 2016 included a commitment to bringing forward 'proposals' for a British Bill of Rights: although it is not clear what that might entail, Theresa May has said that she will not call for the UK to withdraw from the Convention.

Leaving the EU might even result in the Council of Europe having a more prominent role in UK politics. And human rights under the Convention could well be raised in negotiations over the UK's withdrawal agreement or future relations with the EU, for instance around free movement of persons, and/or in legal challenges in that area.

It is worth noting that the EU is meant to accede as a body to the Convention (although this is not likely to happen soon).



## 12.2 What are the EU's human rights obligations?

Article 2 TEU declares that respect for human rights is one of the values on which the EU is founded:

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

The EU's [Charter of Fundamental Rights](#) provides much more detail and substance. The Charter includes Convention rights (those incorporated into UK law by the Human Rights Act 1998 and others), as well as more progressive social and economic rights. In 2009, when the Treaty of Lisbon entered into force, the Charter acquired equal legal status to the EU Treaties themselves.<sup>409</sup>

The main reason for introducing the Charter was to ensure that the EU institutions complied with human rights obligations. But it also applies to EU Member States when they are implementing, derogating from or acting within the scope of EU law.<sup>410</sup>

The EU Court of Justice in Luxembourg can hear actions against the institutions and the Member States for breaches of these rights. If the breach is serious and persistent, the Member State's voting rights in the Council can be suspended.<sup>411</sup>

## 12.3 Does the Charter of Rights give additional rights or remedies in the UK?

There has been considerable debate over whether the Charter simply restates existing rights in the UK or creates new ones. When it was being drawn up, many in the UK were concerned that it might create new rights and extend the reach of the EU Court of Justice.

The UK and Poland secured a [Protocol](#) that some have seen as an opt-out from the Charter but which is more usually considered to be an interpretative guide that possibly limits the effect of the Charter for the UK and Poland as regards social rights.<sup>412</sup>

The Charter does not necessarily provide a wider set of enforceable rights than is otherwise available. Not all of the Charter's provisions are directly effective; some of them are 'principles' rather than directly enforceable individual rights; and none of it was intended to create new justiciable rights.

However, it does mean new remedies are sometimes available, and provides a new forum for human rights cases in the EU Court of Justice.

<sup>409</sup> Article 6(1) TEU

<sup>410</sup> For examples, see [Professor Michael Dougan's oral evidence to the House of Lords EU Justice sub-committee, 15 December 2015](#), Q57.

<sup>411</sup> Article 7 TEU

<sup>412</sup> See for example Vaughne Miller, [Effects of the EU Charter of Rights in the UK](#), Commons Library Standard Note 6765, 17 March 2014; European Scrutiny Committee, [The application of the EU Charter of Fundamental Rights in the UK: a state of confusion](#), 2 April 2014, HC 979 2013-14; Ministry of Justice, [Government response to the House of Commons European Scrutiny Committee Report, 43rd Report, 2013-14, HC979, The Application of the EU Charter of Fundamental Rights in the UK: A state of Confusion](#), July 2014; Anthony Arnall, 'Protocol (No 30) on the Application of the Charter of Fundamental Rights of the European Union to Poland and the United Kingdom', in Peers *et al* (eds), [The EU Charter of Fundamental Rights: a Commentary](#), 2011, 1595-1608.



Perhaps the most striking effect of the Charter is that any domestic legislation that conflicts with a directly-effective provision of the Charter must be disapplied by the UK courts.<sup>413</sup>

This a more powerful remedy than the Human Rights Act 1998 provides. Under the 1998 Act the courts cannot disapply UK Acts of Parliament: they can only issue a declaration of incompatibility with the Convention, and Parliament can then fast-track amendments to primary legislation in the light of the judgment (the courts can however strike out secondary legislation and legislation from the devolved assemblies that conflicts with rights under the 1998 Act).<sup>414</sup>

Furthermore, compensatory damages for breaches of EU law can be granted as of right, whereas they are discretionary under the 1998 Act.

There have already been several cases in England where claimants have relied on the Charter, either to assert rights that aren't covered by the 1998 Act or to produce remedies unobtainable under the 1998 Act.<sup>415</sup> In 2015 the Court of Appeal decided in two cases that UK legislation had to be disapplied because it conflicted with directly-effective provisions of the Charter.<sup>416</sup>

#### Box 4: The EU and the prisoner voting controversy

One of the main controversies around human rights in the UK is whether prisoners should be able to vote.

The European Court of Human Rights in Strasbourg ruled in 2005 that the UK's blanket ban on prisoner voting breached the European Convention on Human Rights. The UK has not yet introduced legislation to comply with this ruling.

But this issue also concerns EU law. In October 2014 the EU Court of Justice in Luxembourg said that the right to vote in European Parliamentary elections is protected by the Charter (despite representations to the contrary from the UK and others). However, it held that a French ban on some prisoners voting was proportionate.<sup>417</sup>

UK prisoners could bring a case under the Charter alleging that the UK's blanket ban was disproportionate, in advance of the next European elections in 2019. If they won, this could potentially lead to UK legislation being disapplied.

The Government has said it will produce a full report on prisoner voting after publishing its consultation paper on a British Bill of Rights (see below).

There is more information on prisoner voting in two other House of Commons Library briefing papers:

- [Prisoners' voting rights \(2005 to May 2015\)](#), CBP1764, 11 February 2015
- [Prisoners' voting rights: developments since May 2015](#), CBP 7461, 15 February 2016

In April 2014 the Commons European Scrutiny Committee had called for urgent clarification on the application of the Charter in the UK, for the Government to intervene in proceedings in the EU Court of Justice to limit the scope of the Charter in the UK, and even for primary legislation to disapply the Charter from the UK.<sup>418</sup>

<sup>413</sup> *European Communities Act 1972* s2(1)

<sup>414</sup> *Scotland Act 1998* s29(1); *Government of Wales Act 2006* s94; and *Northern Ireland Act 1998* s6.

<sup>415</sup> For discussion see for example Joshua Folkard, '[Horizontal Direct Effect of the EU Charter of Fundamental Rights in the English Courts](#)', UK Constitutional Law Blog, 23 September 2015; Richard Clayton and Cian C. Murphy, '[The Emergence of the EU Charter of Fundamental Rights in UK Law](#)', 5 EHRLR 469 [2014].

<sup>416</sup> [Benkharbouche v Sudanese Embassy](#) [2015] EWCA Civ 33 and [Vidal-Hall v Google Inc](#) [2015] EWCA Civ 311.

<sup>417</sup> [Thierry Delvigne v Commune de Lesparre-Médoc and Préfet de la Gironde](#), Case C-650/13, 6 October 2014.

<sup>418</sup> European Scrutiny Committee, '[The application of the EU Charter of Fundamental Rights in the UK: a state of confusion](#)', 2 April 2014, HC 979 2013-14.

In response, the Government agreed on the need for clarification, and said that it would publish 'a report on the balance of competence between the EU and the UK on fundamental rights'.<sup>419</sup> The [report](#) duly followed, but served mainly to emphasise the disagreements in this area:

The evidence shows there is a divergence of views on where the balance of competence should lie between the EU and the UK on the protection of human rights. There is little consensus on what constitutes the national interest in this context beyond the principle that the EU and Member States should act consistently with human rights. Views vary on whether the EU's competence on fundamental rights is being exercised consistently with interests in the UK, depending on perspectives on the role of supranational human rights mechanisms, national sovereignty and how fundamental rights are balanced against other interests in society, such as trade.<sup>420</sup>

It did, however, recognise that the Charter could have a greater impact than the Convention:

the evidence revealed no instances where the domestic courts have interpreted fundamental rights to provide a greater standard of protection than corresponding guarantees in the ECHR. However, the evidence acknowledged that, in comparison to Convention rights, fundamental rights can have a wider scope of application and can result in the disapplication of primary legislation. Some legal practitioners and think tanks considered that the resulting impact of fundamental rights on parliamentary sovereignty is even more significant than the ECHR.<sup>421</sup>

The Government's response to the Committee also confirmed that the Government would intervene in EU Court of Justice cases where necessary, but it seemed to reject primary legislation to disapply the Charter in the UK:

Any decision to unilaterally disapply legislation, including the Charter which has the same status as the Treaties, would no doubt have political, legal and diplomatic consequences.<sup>422</sup>

In December 2015 the then Lord Chancellor said that it would be looking at how the Charter affects UK law in its consultation on a British Bill of Rights (see below).<sup>423</sup>

The outcome of the EU referendum may well have overtaken this, because from the date of withdrawal the EU's human rights obligations, including the Charter, would no longer apply to the UK and the EU Court of Justice would no longer have jurisdiction over the UK (except possibly for transitional cases that arose before withdrawal).

## 12.4 What about the Human Rights Convention?

### Brexit would not mean leaving the Convention

Leaving the EU would not automatically mean that the UK withdraws from the European Convention on Human Rights. The Convention is not an EU treaty but comes from the 47-member Council of Europe.

<sup>419</sup> Ministry of Justice, [Government response to the House of Commons European Scrutiny Committee Report, 43rd Report, 2013-14, HC979, The Application of the EU Charter of Fundamental Rights in the UK: A state of Confusion](#), July 2014, p4.

<sup>420</sup> HM Government, [Review of the Balance of Competences between the UK and the EU: Fundamental Rights](#), Summer 2014.

<sup>421</sup> *Ibid* para 4.87

<sup>422</sup> Ministry of Justice, [Government response to the House of Commons European Scrutiny Committee Report, 43rd Report, 2013-14, HC979, The Application of the EU Charter of Fundamental Rights in the UK: A state of Confusion](#), July 2014, pp17-18.

<sup>423</sup> [Michael Gove, oral evidence to the House of Lords Select Committee on the Constitution, 2 December 2015](#), p15.

The UK has signed and ratified the Convention, and so the UK Government is bound by it under international law. If the UK no longer wished to be bound by the Convention, it would have to withdraw from the Convention separately.

The UK has also given effect to Convention rights under the Human Rights Act 1998.

## Government proposals for a Bill of Rights

The Government has for some time had concerns about the way human rights are applied in the UK, which latterly included concerns about the Charter as well as the Convention and the Human Rights Act.<sup>424</sup>

It was due to publish a consultation paper on a new British Bill of Rights in the autumn of 2015, with proposals on 'preventing abuse of the system, 'restoring common sense' to UK human rights laws and 'making clear where the balance should lie between Strasbourg and British courts'.<sup>425</sup>

In December 2015, when no paper had appeared, Michael Gove (then Justice Secretary and Lord Chancellor) said the delay was partly over concerns about the EU Charter of Fundamental Rights and the EU Court of Justice:

One of the other challenges, and it is a challenge that the Prime Minister has passed directly to me, is to think hard about whether we should use the British Bill of Rights in order to create a constitutional longstop similar to the German Constitutional Court and, if so, whether the Supreme Court should be that body. This was partly a consequence, as we got into the nitty-gritty of thinking about the European Convention on Human Rights and the court, of recognising that the European Court of Justice in Luxembourg and the European Charter of Fundamental Rights, which was adopted as part of EU law in the Lisbon treaty, also have an application in domestic law here.

The referendum result might override this particular reason for the delay.

The Queen's Speech in May 2016 made a brief reference to bringing forward proposals for a British Bill of Rights. The [Government's notes](#) explained that the proposed Bill would 'restore common sense to the way human rights law is applied', and include:

- Measures to reform and modernise the UK human rights framework.
- Protections against abuse of the system and misuse of human rights laws.

The rights would be 'based on' those set out in the Convention, but would also take account of 'our common law tradition'.

David Cameron's administration did not rule out withdrawing from the Convention. However, Theresa May, who in a [speech in April 2016](#) had called for the UK to withdraw from the Convention and remain in the EU, then said when she launched her campaign for leadership of the Conservative Party on 30 May 2016 that she would not call for the UK to withdraw from the Convention. The Bill of Rights proposals will now be a matter for the new Justice Secretary and Lord Chancellor, Liz Truss.

## The Convention after Brexit

If the UK does not withdraw from the Convention, it is likely to play an important part in the Brexit negotiations and afterwards.

<sup>424</sup> See [A British Bill of Rights?](#), House of Commons Library Briefing Paper CBP 7193, 18 May 2016.

<sup>425</sup> [Letter from Rt Hon Michael Gove, Lord Chancellor and Secretary of State for Justice, 27 November 2015.](#)

Human rights could well be raised in negotiations over the UK's withdrawal agreement or future relations with the EU, for instance around free movement of persons, and/or in legal challenges. Even though the Government has declared its intention to protect the residence rights of those exercising free movement rights before a UK withdrawal, the details of this are likely to be subject to reciprocal arrangements with other EU countries, and even the most thorough withdrawal agreement could have gaps. It is quite conceivable that there could be challenges on human rights grounds either to an agreement itself or to how individuals are affected by it.<sup>426</sup>

Leaving the EU might also result in the Council of Europe (which is responsible for the Convention) having a more prominent role in UK politics, as it would become the main pan-European political organisation of which the UK was a member.

### **EU accession to the Convention**

Finally, it is worth noting that Article 6(2) TEU requires the EU itself to accede to the Convention. However, in December 2014 the EU Court of Justice gave its [Opinion](#) on the validity of a draft agreement on the EU's accession to the Convention. It found that it was not within the EU's powers to accede to the Convention under the draft agreement, and raised issues about submitting itself to the judgments of the Strasbourg court.

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<sup>426</sup> See other sections of this paper for more information on immigration and acquired rights.

## 13. Social security

### 13.1 Welfare benefits

Entitlement to welfare benefits for people moving between EU Member States is closely linked to free movement rights for EEA nationals. Brexit could have significant implications both for EU/EEA nationals living in or wishing to move to the UK, and for UK expatriates elsewhere in the EEA, and those considering moving abroad.

The UK could seek to secure bilateral social security agreements on reciprocal rights with individual EU/EEA States, but negotiations could be difficult and protracted. Alternatively, the UK could seek a single agreement with the EEA as a whole. Such an arrangement could, however, end up closely resembling existing provisions in EU law. Whatever the solution, decisions would have to be made on how to protect social security rights already accrued at the point of withdrawal from the EU.

#### The current position

EU law does not require that Member States allow EU/EEA migrants unrestricted access to social benefits.<sup>427</sup> Broadly speaking, a person who moves from one Member State to another has access to benefits in the host country if they are economically active, or are able to support themselves. Working EU/EEA migrants enjoy full free movement rights and are entitled to in-work benefits on the same basis as nationals of the host country. Social security coordination regulations also enable working EU migrants to claim 'family benefits' from the State in which they work for their dependent children resident in another Member State (although payments may be reduced if family benefits are already being paid by the state where the child resides).<sup>428</sup>

EU/EEA migrants who are looking for work, especially those who have never worked in the host Member State, have much more limited access to benefits. EU/EEA migrants not looking for work, or unable to work because of sickness or disability, may have no access to benefits. Starting from 2014, the UK Government introduced a series of measures further limiting access to benefits for non-working migrants.<sup>429</sup> Recent judgments by the Court of Justice of the EU have also clarified the situations where Member States may refuse social assistance to non-active EU migrants, and to migrants only entitled to reside in the host state because of their job-search.<sup>430</sup>

The Settlement for the United Kingdom within the European Union agreed at the European Council on 17-19 February 2016 included proposals to change EU law to provide an 'emergency brake' limiting full access to in-work benefits by newly arrived EU migrants for up to four years (with agreement from the Commission that the UK could invoke this straight away), and an option for Member States to index exported child benefits to the conditions of the Member State where the child resides.<sup>431</sup> With the UK voting to leave the EU, the Settlement has lapsed and the changes to EU law will not now be made.

<sup>427</sup> See CBP-06847, [People from abroad: what benefits can they claim?](#)

<sup>428</sup> [Articles 67-69 of EC Regulation 883/2004](#); CBP-06561, [Child Benefit and Child Tax Credit for children resident in other EEA countries](#).

<sup>429</sup> CBP-06889, [Measures to limit migrants' access to benefits](#).

<sup>430</sup> [Cases C-333/13 – Dano](#), 11 November 2014; [C-16/74 - Alimanovic](#), 15 September 2015; [C-299/14 - García-Nieto and Others](#), 25 February 2016.

<sup>431</sup> See CBP-7524, [EU Referendum: analysis of the UK's early EU Settlement](#), 26 May 2016, section 3.5.

## Implications of Brexit

Until such time as the UK formally leaves the EU, the existing social security rules continue to apply and migrants' entitlements remain unchanged. In the longer term, the situation depends crucially on the outcome of negotiations between the UK and the EU on free movement of people.

If Brexit means an end to free movement rights, the UK would be able to impose restrictions on access to many social security benefits via immigration law, for example by making EU/EEA nationals' leave to remain in the UK subject to a condition that they have no recourse to public funds. Entitlement to contributory social security benefits could also be limited by limiting access to employment. The Government would have to decide how to deal with those exercising their free movement rights at the point of withdrawal, e.g. as workers or self-employed persons, and EU/EEA nationals who might have acquired rights in the UK, e.g. those who have gained permanent residence under Directive 2004/38/EC. While the long-term position of existing EU/EEA migrants in the UK is uncertain, the legal charity the AIRE Centre suggests that steps EU/EEA nationals concerned about their future could take now to mitigate against the possible effects of Brexit include applying for a residence card or a document certifying permanent residence (if they satisfy the conditions), or applying for British citizenship.<sup>432</sup>

Brexit also has implications for UK nationals living in other EU/EEA countries, since Member States would be free to impose corresponding restrictions on entitlement to their benefits.<sup>433</sup> According to United Nations estimates, around 1.22 million UK nationals were resident in other EU Member States in 2015 (compared with 2.88 million migrants from other EU countries living in the UK), with the largest numbers estimated to be in Spain (309,000), Ireland (255,000), France (185,000) and Germany (103,000).<sup>434</sup> The implications for UK nationals resident overseas would depend on the attitude of their Member State of residence, but it is possible that restrictions on entitlement to benefits, along with other restrictions on rights of residence and changes to immigration status, could result in significant numbers seeking repatriation.

UK withdrawal from the EU would also mean withdrawal from the long-standing provisions in EU law to co-ordinate social security schemes for people moving within the EU,<sup>435</sup> which also apply to non-EU EEA countries and Switzerland. The main purpose of the co-ordination rules is to ensure that people who choose to exercise the right of freedom of movement do not find themselves at a disadvantage in respect of social security benefits – for example if they should fall ill or become unemployed while working in another EU/EEA State. The Regulations do not guarantee a general right to benefit throughout the EEA; nor do they harmonise the social security systems of the Member States. Their primary function is to support free movement throughout the EU/EEA by removing some of the disadvantages that migrants might encounter. They achieve this by, for example:

- prohibiting discrimination in matters of social security systems on grounds of nationality;

<sup>432</sup> AIRE Centre, [Information note on the UK referendum decision and its potential implications](#), July 2016

<sup>433</sup> For a discussion of possible scenarios and their implications see Steve Peers, EU Law Analysis, '[What happens to British expatriates if the UK leaves the EU?](#)', 9 May 2014.

<sup>434</sup> United Nations Global Migration Database, [International migrant stock by destination and origin](#), Table 16

<sup>435</sup> Now in EC Regulations 883/2004 and 987/2009.



- clarifying which state is responsible for paying benefits in particular cases (the 'single state principle');
- allowing a person's periods of employment, residence and contributions paid in one EEA country to count towards entitlement to benefit in another country (this is referred to as the principle of 'aggregation'); and
- allowing people to take certain benefits abroad with them to another EU/EEA state ('exportation')

Withdrawal from the system of co-ordination would pose questions, such as how to deal with people who have lived and worked in more than one Member State and accrued rights to contributory benefits on the basis of social insurance paid in different countries. At present, an individual in this situation would, on reaching retirement for example, make a claim for a state pension from the country of residence at that time, but under the co-ordination rules each Member State in which the person was insured will calculate its *pro rata* contribution (using agreed formulae), and put that amount into payment (this is known as 'apportionment'). Withdrawal from this system would mean that, unless alternative arrangements were put in place, UK nationals who had spent periods living and working abroad could have their pension rights significantly reduced. Other EEA nationals who had spent periods living and working in the UK would be similarly disadvantaged. The provider of audit, tax and advisory services Mazars warns that uncertainty around the impact of Brexit on the EU social security framework for mobile workers "may give rise to a number of unexpected risks and costs".<sup>436</sup>

In place of the co-ordination rules, the UK could seek to negotiate bilateral reciprocal social security agreements with individual EEA Member States (the UK already has a [number of such agreements](#) with non-EEA states, and agreements with certain EEA states which pre-date the UK's EC entry). These might cover matters such as reciprocal recognition of periods of insurance/residence for benefits purposes, exportability of benefits (and continued annual uprating of benefits for people living abroad), and aggregation/apportionment for contributory benefits and retirement pensions. However, such bilateral agreements as currently exist are far more limited in scope than the EU co-ordination rules, and no new agreements of this sort have been signed for many years.

The likelihood of the UK securing a bilateral agreement, and the precise terms, could vary from country to country depending on the relationship between that country and the UK. The UK might not be able to extract terms favourable to UK nationals, or might not be able to reach agreement at all, if there is an imbalance between the number of UK nationals living in that country and that country's nationals living in the UK, or if the country perceives the UK's immigration/benefit rules as impacting disproportionately on its own nationals. Negotiations could prove difficult and protracted.<sup>437</sup> Writing before the referendum, one commentator noted that "Striking mutually acceptable partnership agreements with countries that fundamentally oppose a UK exit from the EU may prove problematic".<sup>438</sup>

As an alternative to seeking individual bilateral social security agreements, the UK could seek to negotiate a single agreement with the EU/EEA as a whole, which would simplify matters for people who had worked and been insured in more than two Member States.

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<sup>436</sup> Mazars, [Brexit – Implications for social security](#), 15 July 2016.

<sup>437</sup> See Helena Wray, EU Law Analysis, '[What would happen to EU nationals living or planning to visit or live in the UK after a UK exit from the EU?](#)', 17 July 2014.

<sup>438</sup> Richard Machin, [Social security in the aftermath of the EU referendum](#), Legal Action, June 2016.

However, such an agreement might end up closely resembling the existing EU/EEA social security co-ordination rules. It seems highly unlikely that the EU would accept any arrangement that discriminated between different Member States, so the UK may have to grant the same rights to all EU nationals, including those from less prosperous Eastern European accession states.<sup>439440</sup>

## 13.2 Access to social housing

Social (council) housing in the UK is a public resource. Therefore, as with entitlement to social security benefits, EEA nationals' access to social housing is based on the principle of free movement and the entitlement of EU/EEA nationals to enjoy equal treatment with UK nationals in accessing social advantages.

There is no automatic entitlement to social housing for anyone in the UK. The basis on which an EU/EEA national might be eligible to apply for an allocation of social housing is summarised in this extract from a parliamentary answer:

European Economic Area nationals who have a right to reside in the UK on the basis that they are self-sufficient are eligible for social housing, if they are habitually resident in the common travel area (the UK, Channel Islands, Isle of Man and Republic of Ireland). To be considered self-sufficient, a person must have (i) sufficient resources not to become a burden on the social assistance system of the UK and (ii) comprehensive sickness insurance cover in the UK.

To be allocated social housing an eligible applicant must also meet the local authority's own qualification criteria and have sufficient priority under the local authority's allocation scheme.

An allocation scheme must be framed to ensure that certain categories of people are given 'reasonable preference' for social housing, because they have an identified housing need, including people who are homeless, overcrowded households, and people who need to move on medical or welfare grounds.<sup>441</sup>

Housing policy in the UK is a devolved matter; different regulations govern eligibility to apply for an allocation of social housing in England, Scotland, Wales and Northern Ireland.<sup>442</sup>

If Brexit results in the cessation of free movement rights, it will be possible to restrict the ability of EU/EEA nationals to apply for social housing. Currently, 'Persons Subject to Immigration Control' (PISCs) **cannot** be allocated social housing and are **ineligible** for housing assistance unless they are of a class prescribed in regulations. Broadly, the PISCs that are able to apply for social housing have been granted leave to enter or remain in the

<sup>439</sup> Helena Wray, EU Law Analysis, [What would happen to EU nationals living or planning to visit or live in the UK after a UK exit from the EU?](#), 17 July 2014.

<sup>440</sup> The expectation is however that, following UK exit from the EU, Irish nationals would continue to be treated differently from nationals of other EU States as regards free movement rights. For example, Irish nationals are "habitually resident" for benefits purposes, since the Republic of Ireland is part of the "Common Travel Area," and Irish nationals also have a "right to reside". Some commentators believe that, for people moving between the Irish Republic and the UK, Brexit may not result in significant changes – see Colm Waters, [Brexit and social security](#), PwC Ireland, 29 June 2016; [Brexit may not impact on common travel area, expert claims](#), Irish Times, 6 July 2016.

<sup>441</sup> HC Deb 22 April 2013 c586W (for more detailed information see Library note [SN04737](#)).

<sup>442</sup> For example, in England the relevant provisions are in [The Allocation of Housing and Homelessness \(Eligibility\) \(England\) Regulations 2006](#) (2006/2007). These regulations have been amended several times, most recently by the [Allocation of Housing and Homelessness \(Eligibility\) \(England\) \(Amendment\) Regulations 2014](#) (2014/435). In Wales the relevant regulations are [The Allocation of Housing and Homelessness \(Eligibility\) \(Wales\) Regulations 2014](#).



UK with recourse to public funds (for example, people granted refugee status or humanitarian protection).

Prior to withdrawal the Government will have to decide how to deal with those EEA nationals who have already acquired a social housing tenancy, some of whom will be reliant on full/partial Housing Benefit in order to meet their rent commitments.

## 13.3 Pensions

The design of pension systems is largely the responsibility of Member States. The regulatory framework at EU level covers four main points: cross border co-ordination of social security, establishing an internal market for funded occupational pension schemes and the minimum standards to protect scheme members; minimum guarantees concerning accrued rights in occupational pension schemes in case of the insolvency of the sponsoring employer; and anti-discrimination rules.<sup>443</sup>

### State Pensions

Long-standing rules enable the co-ordination of social security entitlements for people moving within the EU.<sup>444</sup> The rules also apply to EEA countries and Switzerland.

The aim of the provisions is not to harmonise social security systems, but to remove barriers to workers moving between Member States. They enable periods of insurance to be aggregated, so an individual who has worked in other Member States can make one application to the relevant agency in the country of residence (in the UK, the [International Pension Centre](#)), which then arranges for each state where a person was insured for at least a year to pay a pension. They also enable a pension built up in one Member State to be drawn in another (exportability).<sup>445</sup>

UK state pensioners resident in EEA countries also receive annual increases to their state pension. Elsewhere, the UK state pension is only uprated if there is a reciprocal social security agreement requiring this.<sup>446</sup>

In its review of the Balance of Competences between the UK and EU, the Government commented that the social security co-ordination provisions were of "significant benefit to UK citizens, particularly retirees, who are living in other Member States". It said:

The export of pensions to those who have accrued the necessary entitlements is perhaps the clearest example of the necessary role of coordination rules as originally envisaged, and the EU rules superseded bi-lateral agreements already in place for example with the Republic of Ireland.<sup>447</sup>

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<sup>443</sup> European Commission Memo 10/302 *Green Paper on Pensions*, July 2010; European Commission, [Green Paper, Towards adequate sustainable and safe European pension systems](#), Brussels 7 July 2010, SEC(2010)830

<sup>444</sup> Now in EC Regulations 883/2004 and 987/2009.

<sup>445</sup> [DWP tabulation tool](#)

<sup>446</sup> [Social Security Contributions and Benefits Act 1992](#), s 113; The [Social Security Benefit \(Persons Abroad\) Regulations 1975 \(SI 1975/563\)](#); Library Briefing Paper SN01457 [Frozen Overseas Pensions](#) (February 2016)

<sup>447</sup> *Ibid*, para 2.70

The arrangements that will apply in future will be considered as part of negotiations for the UK's exit from the EU.<sup>448</sup> The UK could seek to negotiate bilateral agreements with individual Member States, or an agreement with the EU/EEA as a whole.<sup>449</sup>

On 8 July 2016, when asked what assessment the Government had made of the implications of Brexit for UK pensions and healthcare provision for UK citizens currently residing in other EU Member States and those wishing to retire to other EU Member States, the Leader of the House of Commons David Lidington said there would be no immediate change:

As the Prime Minister, my Rt Hon. Friend the Member for Witney (Mr Cameron) has said, there will be no immediate changes in the circumstances of British citizens living in European countries. It will be for the next Prime Minister to determine, along with their Cabinet, exactly the right approach to take in negotiating these provisions going forward but the Government's guiding principle will be ensuring the best possible outcome for the British people.<sup>450</sup>

## Workplace pension schemes

The Pension and Lifetime Savings Association explains that UK workplace pension schemes tend to operate on a national basis but want access to investment opportunities and service providers in the EU:

Workplace pension schemes in the UK are not generally looking to provide pensions to workers in other Member States. So, in this respect, there is little interest in taking up the opportunities that might - in theory at least - be provided by an effective EU-wide Single Market.

However, workplace pension schemes do want ready access to investment opportunities and service providers in EU and across the world, and this is where a strong Single Market has a role to play. Having ready access to the widest possible range of service providers helps schemes to invest their assets and administer their schemes with a minimum of cost in order to provide the best value to their members.<sup>451</sup>

EU legislation has had an impact on them:

- directly, through pensions-specific EU legislation such as the Directive on Institutions for Occupational Retirement Provision ('IORP Directive'), through the regulatory activities of EIOPA, and through EU employment law, such as the Equal Treatment Directive; and
- indirectly, because the costs of complying with the EU's investment markets legislation (such as EMIR, MIFID, the draft Money Market Funds Regulation and the potential Financial Transaction Tax) are passed to pension fund clients by asset managers, brokers and banks.<sup>452</sup>

The UK Government's Balance of Competences Review said workplace pension providers acknowledged the role the Single Market could play in facilitating access to investment opportunities and services. However, they also argued for a strong national dimension to

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<sup>448</sup> [PO 37724, 27 May 2016](#); See also [PO HL 6342](#), 23 February 2016.

<sup>449</sup> For more detail, see Library Briefing Paper CBP 7213 [EU referendum: Impact of an EU exit in key UK policy areas](#) (February 2016), p106-7.

<sup>450</sup> [PO41482](#) 8 July 2016.

<sup>451</sup> The PLSA was previously known as the National Association of Pension Funds (NAPF), [HM Treasury review of the balance of competences: Single Market – financial services and the free movement of capital: a response by the National Association of Pension Funds](#), January 2013.

<sup>452</sup> *Ibid*, Executive Summary and page **Tudalen 542**

decision-making relating to occupational pensions, given the very different traditions of provision across Member States.<sup>453</sup>

Following the vote on 23 June 2016, the regulators explained that existing regulations would continue to apply until changed by the UK Government or Parliament. The Financial Conduct Authority said:

Much financial regulation currently applicable in the UK derives from EU legislation. This regulation will remain applicable until any changes are made, which will be a matter for Government and Parliament.

Firms must continue to abide by their obligations under UK law, including those derived from EU law and continue with implementation plans for legislation that is still to come into effect

Consumers' rights and protections, including any derived from EU legislation, are unaffected by the result of the referendum and will remain unchanged unless and until the Government changes the applicable legislation.

The longer term impacts of the decision to leave the EU on the overall regulatory framework for the UK will depend, in part, on the relationship that the UK seeks with the EU in the future. We will work closely with the Government as it confirms the arrangements for the UK's future relationship with the EU.<sup>454</sup>

The Pensions Regulator warned pension scheme trustees against "knee-jerk reactions" to market volatility but said trustees should review their position to understand the risks in the scheme's investment strategy and employer covenant (their legal obligation and financial ability to support the scheme).<sup>455</sup>

Initial reports in the pensions press suggested many pensions experts expect much of the existing EU-derived legislation to remain in place (partly on the grounds that it was designed to protect members – anti-discrimination provisions, for example).<sup>456</sup> Further detail is in Commons Library Briefing Paper 7629 [Brexit – implications for pensions](#) (10 August 2016), which will be updated as the situation develops.

More detail about the legislation that currently applies is on the [Europe and International](#) section of the PLSA website.<sup>457</sup> Library Briefing Paper 7435 [Financial Services: European aspects](#) (June 2016) brings together recent European legislative and regulatory developments in the sphere of financial or corporate regulations.

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<sup>453</sup> HM Government, [Review of the Balance of Competences between the UK and the European Union. The Single Market: Financial Services and the Free Movement of Capital](#), Summer 2014, Appendix 1; NAPF, [HM Treasury review of the balance of competences: Single Market – financial services and the free movement of capital: a response by the National Association of Pension Funds](#), January 2013.

<sup>454</sup> [FCA Statement on European Union referendum result](#), 24 June 2016; See also [Market volatility following the EU referendum: guidance statement from TPR](#)

<sup>455</sup> [TPR warns trustees against knee-jerk reactions to market volatility](#), 14 July 2016; [Market volatility following the EU referendum: guidance statement from TPR](#)

<sup>456</sup> See, for example, 'How could Brexit affect pensions?' *Professional Pensions*, 21 June 2016; Brexit: experts look at the impact for pensions, *Pensions World*, 24 June 2016; 'Brexit: implications for pensions industry', *Occupational Pensions*, August 2016

<sup>457</sup> See also: *'Playing by the rules'*, *PensionsAge* July 2016



## 14. Health policy and medicines regulation

While health care systems in EU Member States are a matter of national responsibility,<sup>458</sup> other aspects of health care – reciprocal access, pharmaceuticals, the working hours of doctors and mutual recognition of qualifications, for example – are regulated to a greater or lesser extent by EU law. There is therefore a significant role for the EU in supplementing national policies and also in ensuring a cross-border approach to important public health issues, such as preventing pandemics and anti-smoking measures.

There has been a great deal of speculation about the impact that the vote to leave the EU will have on the NHS, public health and medical research and regulation. The chief executive of NHS England, Simon Stevens, has commented on the range of issues to consider during Brexit negotiations, including the movement and regulation of health professionals, procurement rules, medicines and devices, cross-border patient entitlements and certain public health measures. He has also noted that a new NHS Europe Transition Team will be established to work with the Cabinet Office and Department of Health to ensure “the NHS voice and patient interests are properly heard” in the negotiation of post-Brexit arrangements.<sup>459</sup>

Following the referendum, concerns have been raised about how the UK’s future economic performance will impact on public funding for the NHS,<sup>460</sup> and the effect on health and social care staff from the EU.<sup>461</sup> Ultimately decisions about the extent of free-movement for health and care workers from the EU and other issues of health policy and medical regulation will be subject to negotiations on the UK’s future relationship with the EU.

### 14.1 Public health

The EU Public Health Strategy, *Together for Health*<sup>462</sup> was adopted in 2007. Objectives within the strategy include: improving the health of the EU’s aged population, targets to improve surveillance between Member States to combat pandemics and bioterrorism, and support for new technologies for health care and disease prevention.

One area of importance is the early warning and response system for the prevention and control of communicable diseases.<sup>463</sup> This allows for a network of communication between Member States to monitor, communicate and assist in the response to a threat of communicable disease. The European Centre for Disease Control and Prevention (ECDC) is at the centre of this network, collecting information, providing expertise and coordinating related bodies. Some commentators have said that a resulting lack of UK involvement with the ECDC would be a concerning health outcome of Brexit.<sup>464</sup> Following negotiations, the UK may be able to continue to participate in the ECDC, and this may be

<sup>458</sup> [Europa: Public health](#): EU action “shall not include the definition of health policies, nor the organisation and provision of health services and medical care”.

<sup>459</sup> *Health Service Journal*, 13 July 2016.

<sup>460</sup> See for example, [Health Foundation, “NHS Finances outside the EU”](#), 5 July 2016.

<sup>461</sup> [BMJ, What does Brexit mean for doctors working in the UK?](#), 30 June 2016.

<sup>462</sup> European Commission, [White Paper: Together for Health. A strategic approach for the EU 2008-2013](#), 2007.

<sup>463</sup> [Europa: Early warning system and response system for the prevention and control of communicable diseases](#) (accessed 3 June 2015).

<sup>464</sup> [BMJ, How Brexit might affect public health](#), 19 May 2016.

in a similar way to Norway and Switzerland. Both these countries work with the agency, but these countries do not have a role in decision making within the organisation.<sup>465</sup>

The EU has played a role in other significant public health strategies, such as reducing alcohol misuse, promoting good nutrition and tackling antimicrobial resistance. The UK has been active on a number of public health issues within Europe, most recently with tobacco control policy and antimicrobial resistance. The President of the Faculty of Public Health, Professor John Middleton has said that the referendum decision to leave the EU was disappointing for many in the public health community. He has said that the public health community must work to ensure that the UK retains a leadership role in public health:

[...]The public health community needs to lead action to tackle air pollution, climate chaos and migrant health. In this time of self-interest, we need to be the collective voice and conscience for the dispossessed, the disabled and disenfranchised, and to protect the health of this and future generations. We must not allow ourselves or our political leaders to withdraw from our global responsibilities.

The UK has been a European leader in tackling antimicrobial resistance, in securing better standards in pharmaceuticals and in tobacco control. We need everyone in the public health community to work together to debate calmly and constructively, to speak with authority and to the evidence. I will be discussing with senior national colleagues in public health how we retain a UK leadership role in public health for our UK citizens, in Europe and internationally. We need to ensure that health and life expectancy gained over 40 years in the EU are not lost, but built on. And we need to lead international efforts to tackle new public health scourges in our global village.<sup>466</sup>

## 14.2 Tobacco control

Tobacco control is an area of public health where the EU has been very active. Most recently, the revised [EU Tobacco Products Directive](#)<sup>467</sup> was implemented in the UK in May 2016.<sup>468</sup> The Directive strengthens the rules on tobacco products. It introduces a condition that 65% of the packet be covered in picture and text health warnings, that packets in future will contain a minimum of twenty cigarettes; and it bans flavourings of tobacco. The Directive also introduces a new regulatory approach to electronic cigarettes.

There have been concerns expressed by e-cigarette users and manufacturers that the new regulations of these products will reduce the availability of e-cigarettes and impact their potential as a means of assisting smoking cessation. In May 2016 the European Court of Justice decided that the Directive was valid in the face of legal challenges from a number of tobacco companies and a UK electronic cigarette manufacturer.<sup>469</sup> In response to a July 2016 House of Lords debate on the regulation of e-cigarettes in the new legislation, the Health Minister, Lord Prior of Brampton, stated that he thought the approach was

<sup>465</sup> FPH, [UK Faculty of Public Health Report on the Health-Related Consequences of the European Union Referendum](#), 7 June 2016.

<sup>466</sup> FPH, ['We need to ensure the best aspirations of the Leave campaign are delivered and the worst predictions of the Remain campaign are avoided'](#) 24 June 2016.

<sup>467</sup> [DIRECTIVE 2014/40/EU](#) of 3 April 2014 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 and repealing Directive 2001/37/EC.

<sup>468</sup> Department of Health, [Government response to the consultation on implementation of the revised Tobacco Products Directive \(2014/40/EU\)](#), January 2016.

<sup>469</sup> Court of Justice of the European Union, [Press release: The new EU directive on tobacco products is valid](#), 4 May 2016.

proportionate; and that the Government would review the regulation within five years of its implementation.<sup>470</sup>

In the area of tobacco control, the UK has already gone further than the provisions of the EU Tobacco Product Directive as the first EU country to introduce standardised packaging for tobacco products. These [regulations](#) came into force in May 2016.<sup>471</sup>

### 14.3 Healthcare professionals and the recognition of qualifications

The latest information shows that there are around 130,000 people from the EU working in health and social care.<sup>472</sup> As at September 2015 there were around 55,400 EU nationals working in NHS hospital and community health service in England - representing 5% of the overall workforce (around 5% of the total UK population are citizens of another EU country, and around 7% of the total UK workforce). The proportion varies by category of staff, with 9% of hospital doctors (10,136), and 6% of nurses (20,634), in England being EU nationals.<sup>473</sup>

The Health Secretary Jeremy Hunt, Simon Stevens, and other senior NHS leaders, have sought to provide reassurance to NHS employees from the EU that they continue to be welcome in the UK and have praised their huge contribution to the country.<sup>474</sup> However, there have been concerns that even if the residency status of EU nationals working in the NHS is confirmed, it could become more difficult to retain staff and attract new recruits from EU countries, at a time when services are already under pressure.

Under the [European Directive on the recognition of qualifications](#), health and social care professionals who qualified within the EEA automatically have their qualifications recognised by the relevant regulatory body in any EEA country. For example, doctors who qualified from recognised medical schools within the EEA have been able to register with the General Medical Council (GMC), allowing them to practise in the UK without additional checks on their competence and English language skills (whereas healthcare workers from outside the EEA will generally be subject to pre-registration checks).

Following the clarifications contained in a revised Directive in 2014, the Department of Health has given the power, through legislation, to a number of the health and care regulators to introduce “proportionate” language controls for EEA applicants.<sup>475</sup> However, the President of the Royal College of Surgeons has commented that leaving the EU could allow regulators to introduce stronger pre-registration checks on EEA trained healthcare professionals.<sup>476</sup> The Nursing and Midwifery Council has raised concerns that applying checks currently applied to nurses from non-EEA countries to those coming from the EEA would have a major impact on the regulator’s ability to process applications.<sup>477</sup>

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<sup>470</sup> [HL Deb 4 July 2016, c1828](#)

<sup>471</sup> [The Standardised Packaging of Tobacco Products Regulations 2015.](#)

<sup>472</sup> NHS Confederation, 29 June 2016, [The UK voted to leave the EU: what now for the NHS?](#) Elisabetta Zanon.

<sup>473</sup> Source: [NHS HSCIC NHS Staff Groups by Nationality September 2015.](#)

<sup>474</sup> [HSJ, 27 June 2016](#) and [Telegraph, 18 July 2016.](#)

<sup>475</sup> Further background can be found in the Library briefing CBP 7267, [Language testing for healthcare professionals.](#)

<sup>476</sup> See for example, [Telegraph, 17 July 2016.](#)

<sup>477</sup> [Health Service Journal](#), 13 July 2016.



The GMC has said it will seek to understand the implications for UK doctors wishing to work in the EU once the UK is no longer a member.<sup>478</sup>

## 14.4 Junior doctors and the EU Working Time Directive

The European Working Time Directive (EWTD), which includes a general limit of 48 hours on the working week, and a requirement for 11 hours of rest between working periods, has applied to most health service staff since 1998. Initially junior doctors were exempt from the working hours limit because there were concerns about the impact on NHS services and training, but from 2004 to 2009 junior doctors were gradually brought within the provisions of the EWTD (although it is still possible for doctors and other NHS staff to work longer hours by signing an opt-out clause).

There have been long-standing concerns that the EWTD has restricted training opportunities for junior doctors and damaged continuity of care. The previous Labour government commissioned an independent review, chaired by Professor Sir John Temple, of the impact of the EWTD on the quality of training. A report of this review, [Time for Training](#), was published in May 2010. Its findings concluded that high quality training could be delivered in 48 hours, but traditional models of training and service delivery had wasted training opportunities.<sup>479</sup>

The Royal College of Physicians (RCP) and other bodies involved in the training and regulation of doctors have raised particular concerns about restrictions around on-call time and compensatory rest requirements resulting from the EU Court of Justice judgments in [SiMap](#) (which stated that all time when a worker was required to be present on site whilst on call counted as actual working hours) and [Jaeger](#) (which confirmed that time on call at a place of work counted as working hours even if workers could sleep, and that compensatory rest must be taken immediately after the end of the working period).<sup>480</sup>

Although leaving the EU could in theory allow the NHS to ignore the requirements of the EWTD, allowing greater flexibility in devising work and training rotas, this may be subject to wider negotiations on employment rights and access to the Single Market. The EWTD is also implemented through UK regulations and staff contracts, and any attempted changes in this area could face opposition from unions.<sup>481</sup>

## 14.5 Reciprocal access to healthcare

EU citizens who can show that they are either employed or self-employed in the UK, or non-active but ordinarily resident in the UK, are entitled to free NHS treatment, so any changes to free movement rights could make it harder for EU citizens to receive free healthcare on the basis of residence in the UK. Similarly, the rights of UK nationals living in the EU to access state provided healthcare will be subject to negotiation of the terms under which the UK leaves the EU.

Continuing participation in a number of other reciprocal healthcare schemes will also be a matter for negotiation. For example, if the UK remains in the EEA it might be able to

<sup>478</sup> [GMC, "Statement following the result of the EU referendum"](#), 24 June 2016.

<sup>479</sup> Professor Sir John Temple, [Time for Training A Review of the impact of the European Working Time Directive on the quality of training](#), May 2010.

<sup>480</sup> HM Government, [Review of the Balance of Competences between the UK and the EU: Health](#), July 2013.

<sup>481</sup> [BMJ editorial, Goodbye to the European Working Time Directive?](#) 9 July 2016.



continue to participate in the European Health Insurance Card scheme, or, subject to negotiation, for the UK to participate on a similar basis to Switzerland.

EEA residents and Swiss residents are entitled to hold an EHIC, which gives access to medically necessary, state-provided healthcare during a temporary stay in another EEA country.<sup>482</sup> In certain circumstances EEA/Swiss residents can also be referred to other Member States for pre-planned treatment. The costs of treatment under these schemes can be reclaimed from the visitor's country of residence. Furthermore, EEA States are required to reimburse the healthcare costs of their state pensioners, and their families, who chose to live in another part of the EEA.<sup>483</sup>

In October 2014, the Government published a [Quantitative Assessment of Visitor and Migrant Use of the NHS in England](#). The research found that EEA visitors and non-permanent residents cost the NHS about £305m, of which £220m is potentially recoverable under the EHIC scheme. However, the Department of Health accounts for 2012-13 show that only about £50m was actually recovered from EEA countries. The report also stated that the £50m the UK recovers "is less than is paid out for British visitors to EEA countries, namely £173m".<sup>484</sup> A PQ in December 2014 showed that the UK paid a total of £580m for its pensioners living abroad in the EEA in 2013-14, and received £12m from other EEA countries for its pensioners who live in the UK.<sup>485</sup>

## 14.6 Medicines regulation

EU legislation provides a harmonised approach to medicines regulation across Member States. The most recent revision of EU medicines legislation in 2004 led to the establishment of the European Medicines Agency (EMA), which is based in London.<sup>486</sup> The EMA is responsible for the scientific evaluation of human and veterinary medicines developed by pharmaceutical companies for use in the EU. It can grant marketing authorisations for medicines which allow for their use across the EU, Iceland, Liechtenstein and Norway.

Pharmaceutical companies can currently apply to the EMA for a centralised authorisation as long as the medicine concerned is a significant therapeutic, scientific or technical innovation or if its authorisation would be in the interest of public or animal health. This centralised procedure is compulsory for some groups of drugs.<sup>487</sup> Alternatively, companies may apply to national marketing authorities of EU countries simultaneously; or, through the mutual-recognition procedure, companies that have a marketing authorisation in one country can apply to have it recognised in other EU countries.<sup>488</sup>

The inclusion of non-EU EEA countries in the centralised marketing authorisation procedure may mean that the UK could continue to participate if it negotiates to stay in

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<sup>482</sup> The EHIC entitles EEA visitors to the UK to free NHS treatment that is medically necessary during their visit, including treatment of pre-existing medical conditions, as long as they have not travelled to the UK purposefully for treatment.

<sup>483</sup> The Government estimates that approximately 400,000 British pensioners reside in Spain at any one time – see [Review of the Balance of Competences between the UK and the EU: Health](#), July 2013.

<sup>484</sup> [Quantitative Assessment of Visitor and Migrant Use of the NHS in England](#) (independent report commissioned by the Department of Health), October 2014, p87. This £173m (for 2012/3) only relates to the EHIC scheme and does not include British pensioners who permanently live abroad.

<sup>485</sup> [PO HL3430 \[on Pensioners: Health Services\], 16 December 2014.](#)

<sup>486</sup> [Reg 726/2004, 31 March 2004, laying down Community procedures for the authorisation and supervision of medicinal product for human and veterinary use and establishing a European Medicines Agency.](#)

<sup>487</sup> [European Medicines Agency](#) (accessed 28 July 2016).

<sup>488</sup> EMA, [Mutual recognition and decentralised procedures, huma \(CIDh\)](#) (accessed 28 July 2016).

the EEA. However, if this were not the case, pharmaceutical companies would need to apply for marketing authorisations separately to the Medicines and Healthcare Products Regulatory Agency (MHRA) for a medicine they wished to supply in the UK.

In response to the referendum result, the MHRA has said that it will continue to make a global contribution to improving public health through effective regulation of medicines and medical devices:

Following the result of the referendum on the UK's membership of the European Union, the focus of the Medicines and Healthcare products Regulatory Agency continues to be on our public health role. We will continue to work to the highest levels of excellence and quality, working with and supporting our customers, partners and stakeholders to protect health and improve lives.

Working closely with government we will consider the implications for the work of the Agency. We will continue to make a major contribution globally to improving public health through the effective regulation of medicines and medical devices, underpinned by science and research.<sup>489</sup>

Following the referendum, it has been reported that the EMA is likely to move its headquarters and that a number of other EU countries have expressed interest as potential new sites for the agency.<sup>490</sup> The EMA has said in response to the referendum result that its work will continue as normal and, as there is no precedent for a Member State leaving the EU, the implications for the location and operation of the EMA are unknown. The EMA also stated that any decision about the location of the agency's headquarters will be decided by common agreement of the Member States:

EMA welcomes the interest expressed by some Member States to host the Agency in future. The decision on the seat of the Agency will however not be taken by EMA, but will be decided by common agreement among the representatives of the Member States. We are confident that the Member States will take the most appropriate decision on EMA's location and arrangements in due course, taking also into account the complex political and legal environment generated by the outcome of the UK referendum.

The European Regulatory Network as a whole is a very strong and flexible system that is able to adapt to changes without jeopardising the quality and effectiveness of its work. The Agency is in close contact with the EU institutions. As soon as concrete information will become available, EMA will share it with its stakeholders.<sup>491</sup>

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<sup>489</sup> MHRA, [Medicines and Healthcare products Regulatory Agency statement on the outcome of the EU referendum](#), 27 June 2016.

<sup>490</sup> The Times, [More than 800 jobs put at risk if medicine watchdog is forced out](#), 2 July 2016.

<sup>491</sup> EMA, [Statement on the outcome of the UK referendum](#), 5 July 2016.

## 15. Higher education

Higher education in the UK is a major business and revenue generator, and operates in a global market. Arguably the most significant consequences of EU membership on the UK higher education (HE) sector are the provision of support to EU students studying in the UK and access to European research funding.

Membership of the EU also gives UK students access to European student mobility schemes such as *Erasmus+*. Furthermore, the UK is a signatory to the [Bologna Process](#) which aims to create a harmonised HE system across Europe.

### 15.1 Support for EU students

Under EU legislation on free movement citizens moving to another Member State should have the same access to education as nationals of that Member State. With regard to higher education this means that every eligible EU student pays the same tuition fees and can apply for the same tuition fee support as nationals of the hosting EU country. UK higher education institutions therefore charge incoming EU students the same tuition fees as home students and the Government provides tuition fee loans to cover the cost of these fees on the same basis as loans to UK home students. In 2013/14 there were 125,300 EU students at UK universities<sup>492</sup> and in that year £224 million was paid in fee loans to EU students on full-time courses in England - 3.7% of the total student loan bill.<sup>493</sup> A host Member State is not obliged, however, to provide maintenance support to citizens of other EU States, although some EU nationals who have lived in the UK for three years prior to the start of their course are eligible to apply for the full package of grants and loans for maintenance support.

### 15.2 European research funding

The European Research Area (ERA) was launched by the European Commission in 2000 with the aim of co-ordinating research and innovation activities across the EU. ERA initiatives are developed through periodic framework programmes; the current programme, [Horizon 2020](#), aims to allocate €80 billion for research and innovation from 2014 to 2020. Funding is allocated on a competitive basis through the European Research Council. UK universities are predicted to receive about £2 billion from Horizon 2020 in the first two years of the programme.<sup>494</sup>

The 24 Russell Group universities receive about £400 million a year in EU research funds - some 11% of their research income.<sup>495</sup>

In addition to Horizon 2020 funding, €1.6bn of the UK's allocation of EU Structural and Investment Funds for 2014–2020 will be spent on research and innovation projects. This makes the UK one of the largest beneficiaries of EU research funding.<sup>496</sup>

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<sup>492</sup> Higher Education Statistics Agency SFR 210 [Higher Education Student Enrolments and Qualifications Obtained at Higher Education Providers in the United Kingdom 2013/14](#).

<sup>493</sup> SN/SG/917 [Tuition fee statistics](#) 1 December 2014.

<sup>494</sup> [Horizon 2020: UK launch for EU's £67bn research budget](#), *BBC News* 31 January 2014.

<sup>495</sup> [UK's big guns make a stand for research in Europe](#), *Times Higher Education* 23 April 2015.

<sup>496</sup> House of Commons Science and Technology Committee, [EU regulation of the life sciences](#), 11 June 2016, HC 158 2017-17 p6 para 3.

In the run-up to the referendum the Science and Technology Committees of both Houses of Parliament published reports on the impact of EU membership on UK science<sup>497</sup>. The evidence received by the committees pointed to the importance of the EU as a facilitator of collaboration and as a source of funding for research.

### 15.3 EU student mobility programmes

The [Erasmus+](#) scheme is an EU programme open to education, training, youth and sports organisations, and it offers opportunities for UK participants to study, work, volunteer, teach and train in Europe. The scheme will allocate almost €1 billion to the UK over seven years and it is expected that nearly 250,000 people will undertake activities abroad with the programme.<sup>498</sup>

### 15.4 The Bologna Process

In 1999 the UK signed the [Bologna Declaration](#), which set in train a process aimed at creating a European higher education area through the harmonisation of systems across Europe in matters such as credit transfer and comparability of degrees, and by promoting academic mobility.

### 15.5 Leaving the EU

Universities are highly concerned about their situation post-Brexit – Universities UK have a webpage which outlines their issues.<sup>499</sup> Their concerns focus on two main areas: the impact on students and the impact on research.

#### Impact on students

Leaving the EU potentially means that the Government will not have to provide student loans or maintenance funding for EU students, which would save the Government money. However, the loss of student funding for EU students could have an impact on the numbers of EU students coming to study in the UK and this could consequently have a detrimental impact on fee income for universities and on the culture and diversity of universities.

The Government has said there will be no change to arrangements for EU students studying in the UK in 2016-17. However, there may be changes in future years and universities have urged the Government to clarify the position for students from 2017-18 onwards.<sup>500</sup>

Conversely, it has been argued that the situation post-Brexit could be more nuanced and that Brexit could increase places for UK students, and that this could maintain institutions' fee incomes. It has even been suggested that charging EU students higher fees as overseas students could increase fee income if UK higher education continued to attract EU students.<sup>501</sup>

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<sup>497</sup> House of Lords Science and Technology Committee, [EU membership and UK science](#), 20 April 2016, HL 127 2015–16 and House of Commons Science and Technology Committee, [EU regulation of the life sciences](#), 11 June 2016, HC 158 2017-17.

<sup>498</sup> Erasmus + [Key Erasmus+ facts and figures](#).

<sup>499</sup> Universities UK, [Brexit FAQs for universities and students](#).

<sup>500</sup> [Universities head: EU students need urgent Brexit reassurance](#), *BBC News*, 7 September.

<sup>501</sup> Higher Education Policy Institute, [Hepi director: Brexit may bring 'new opportunities' in sector](#), 12 July 2016.

The UK could also potentially lose access to the Erasmus + programme. This could be a particular difficulty for students whose degree courses include compulsory time abroad. For now UK students will continue to be allowed access to the Erasmus + programme and will be able to study overseas as part of that scheme. The UK's future access to the programme is undecided but it should be noted that some non-EU countries participate in the Erasmus + programme as partner countries.<sup>502</sup>

## Impact on research

There is widespread concern that UK higher education may lose access to EU research funding post Brexit. Some universities are anecdotally already experiencing difficulties with grant applications and UK researchers are being dropped, or excluded from funding bids.<sup>503</sup> There are also concerns that the movement of staff and researchers could be affected, and that this could detrimentally impact on the quality of research projects if the UK cannot continue to attract high calibre individuals from across Europe. Also, UK research may be damaged if the UK is less able to work collaboratively on international projects. It has been suggested that the combined effect of these changes could lead to a decline in the status of UK higher education.<sup>504</sup>

However, the Prime Minister stressed her support for UK science in a letter to Sir Paul Nurse, director of the Francis Crick Institute in London<sup>505</sup> Sir John Kingman, chairman of the newly created UK Research and Innovation (UKRI) body, has suggested that research could be at the heart of Britain's post-Brexit industrial strategy.<sup>506</sup>

"I would like to reassure you about the government's commitment to ensuring a positive outcome for UK science as we exit the European Union. While we negotiate a new relationship with our European partners, we are not turning our backs on European scientists".

Theresa May, Prime Minister, 28 July 2016

The Commons Science and Technology Committee is conducting an inquiry to examine the implications and opportunities of leaving the EU for science and research.<sup>507</sup> The Chair of the Committee, Nicola Blackwood, has written to the Chancellor of the Exchequer "to highlight Brexit issues for science and research in the UK that should be addressed during negotiations with the EU".<sup>508</sup>

The impact of Brexit on science research is discussed in library briefing CBP 7237, [Support for Science](#), 15 July 2016.

## Government Statement 28 June 2016

On 28 June 2016 Jo Johnson, Minister of State for Universities and Science, issued a [statement on higher education and research following the EU referendum](#) setting out the current position for universities and students post Brexit. The statement said that current arrangements would apply for this coming academic year, and future access to the Erasmus+ programme and research funding would be determined as a part of wider Brexit negotiations with the EU.

<sup>502</sup> [Erasmus + Programme Guide](#) version (2) 2016

<sup>503</sup> "[UK scientists dropped from EU projects because of post-Brexit funding fears](#)", *The Guardian*, 12 July 2016

<sup>504</sup> "[Post-Brexit uncertainty and long-term funding issues hit UK higher education, university rankings show](#)", *The Independent*, 7 September

<sup>505</sup> "[PM wants positive outcome for science in Brexit talks](#)", *BBC News* 28 July 2016

<sup>506</sup> "[Research head urges UK to seize Brexit opportunity](#)", *BBC News*, 2 August 2016

<sup>507</sup> House of Commons Science and Technology Committee, [Leaving the EU: implications and opportunities for science and research](#), 28 June 2016

<sup>508</sup> Science and Technology Committee letter, [Protecting and promoting science after the EU referendum result](#), 28 June 2016

## Government EU Research Funding Guarantee

On 13 August 2016 the Government issued a [statement](#)<sup>509</sup> announcing that successful bids for European Commission research funding, including the Horizon 2020 programme, made while the UK is still a member of the EU would be guaranteed by the Treasury. This will apply even when the project continues beyond the UK's departure from the EU. A [letter](#)<sup>510</sup> from the Treasury to the Secretary of State for Exiting the European Union gives the following assurances:

.. a number of UK organisations bid directly to the European Commission on a competitive basis for EU funded multi-year projects. Partner institutions in other EU countries have raised concerns about whether to collaborate with UK institutions on EU funding projects, such as universities and businesses participating in Horizon 2020, and some UK participants are concerned about longer-term participation.

The Commission have made it clear that the referendum result changes nothing about eligibility for these funds. UK businesses and universities should continue to bid for competitive EU funds while we remain a member of the EU and we will work with the Commission to ensure payment when funds are awarded. The Treasury will underwrite the payment of such awards, even when specific projects continue beyond the UK's departure from the EU. The UK will continue to be a world leader in international research and innovation collaboration, and we expect to ensure that close collaboration between the UK and the EU in science continues.

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<sup>509</sup> Gov.Uk, [Chancellor Philip Hammond guarantees EU funding beyond date UK leaves the EU](#), 13 August 2016.

<sup>510</sup> [Letter from the Chief Secretary to the Secretary of State for Exiting the European Union](#), 12 August 2016.

## 16. Culture, communication, copyright, broadcasting, sport

### 16.1 Culture

The EU's competence in relation to culture dates back to the Maastricht Treaty of 1992. Funding from EU programmes has been an important source of financial support for the UK's cultural and creative sectors. Creative Europe is the current framework programme giving support to these sectors and has a budget of €1.46 billion.<sup>511</sup>

Creative Europe is open to non EU countries that have concluded agreements with the European Commission.<sup>512</sup>

#### Post-referendum comment

John Whittingdale, the then Secretary of State for Culture, Media and Sport, [said](#) that his department would work closely with all of its sectors "to make sure they have a voice" in negotiations to leave the EU. He also said the sectors would be supported in seeking new arrangements and opportunities across the world.<sup>513</sup>

Since the referendum, a number of organisations have raised concerns about the impact of economic uncertainty and potential loss of funding on the cultural sector.<sup>514</sup>

### 16.2 Digital Single Market

#### Background

A Digital Single Market is one of the elements of the European Commission's Digital Agenda for Europe.<sup>515</sup> The Agenda "proposes to better exploit the potential of Information and Communication Technologies (ICTs) in order to foster innovation, economic growth and progress".<sup>516</sup>

A Digital Single Market [Strategy](#) was adopted in May 2015 and sets out 16 actions to be delivered by the end of 2016. It is a wide-ranging programme and includes initiatives in the following areas:

- e-commerce
- consumer protection
- copyright
- telecommunications
- VAT
- audiovisual media

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<sup>511</sup> Europa website, [Creative Europe](#) [accessed 28 July 2016]

<sup>512</sup> Ibid

<sup>513</sup> ["Culture Secretary statement on DCMS sectors following the EU referendum"](#), DCMS news story, 29 June 2016

<sup>514</sup> For some discussion see: ["Economic fall-out of Brexit will impact museums warns MA"](#), Museums Association News, 24 June 2016; Robert Hewison, ["Brexit will happen. The British culture sector needs a new plan"](#), Apollo Magazine, 5 July 2016; Rosie Collier, ["What will Brexit mean for arts and culture in the UK?"](#), *New Statesman*, 11 July 2016

<sup>515</sup> Europa website, [Digital Agenda in the Europe 2020 strategy](#) [accessed 28 July 2016]

<sup>516</sup> Ibid



- data protection
- cybersecurity
- e-government

The strategy has three pillars:

- Better online access to digital goods and services
- An environment where digital networks and services can prosper; and
- Digital as a driver for growth

A European Commission [press release](#) gives further detail.<sup>517</sup>

## UK policy

In January 2015, the Coalition Government published the [UK vision for the EU's digital economy](#).<sup>518</sup>

In October 2015, the Government said that the Digital Single Market was “a key priority... It offers huge potential for jobs and growth and could increase UK GDP by up to 2%, and it can also benefit citizens, as shown by our recent deal within the European Council on roaming”.<sup>519</sup>

## Post-referendum comment

The relevance of the Digital Single Market for UK businesses will depend on the terms of the UK's exit from the EU and future trade arrangements.<sup>520</sup>

The Government has [said](#) that it has not made an assessment of the cost to the economy of businesses being unable to access the Digital Single Market.<sup>521</sup>

In July 2016, the Business, Innovation and Skills Committee published a [report](#) on the digital economy. While the implications of the European Single Digital Market were beyond the remit of the Committee's inquiry, the report did say that the Government “needs to address the issue of whether businesses will be able to access the European Single Digital Market, if they want to do so”:

In broader terms, we recommend that the Government sets out in its digital strategy the implications of withdrawal from the European Union, in reference to specific, current EU negotiations relating to the digital economy. The Government must address this situation as soon as possible, to stop investor confidence further draining away, with firms relocating into other countries in Europe, to take advantage of the Digital Single Market.<sup>522</sup>

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<sup>517</sup> [“A Digital Single Market for Europe: Commission sets out 16 initiatives to make it happen”](#), European Commission press release, 6 May 2015

<sup>518</sup> Further detail can be found on a [Digital Single Market](#) section of the Number10 website [this refers to policy under the Coalition Government]

<sup>519</sup> [PQ 901740 on the Digital Single Market](#), answered 22 October 2015

<sup>520</sup> For some discussion see: [“Brexit and the Digital Single Market: what does this mean for your business?”](#), Osborne Clarke, 4 July 2016; James Hammersley, [“Comment: Should Brexit negotiations protect the Digital Single Market?”](#), *Essential Retail*, 16 July 2016

<sup>521</sup> [PQ 41682](#) [answered 7 July 2016]

<sup>522</sup> Business, Innovation and Skills Committee, [The Digital Economy](#), HC 87 2016-17, July 2016, para 71



## 16.3 Broadcasting

Broadcasting in the EU is currently subject to the Audiovisual Media Services Directive (AVMSD).<sup>523</sup> This updated the earlier 'Television Without Frontiers' Directive of 1989. Provisions in the current Directive include:

- a quota for works by independent European producers
- controls on advertising and sponsorship, including a prohibition on sponsoring news and current affairs programmes
- provisions for the protection of minors, particularly from pornography and violence
- a right of reply for people whose legitimate interests have been damaged by the broadcasting of incorrect facts

The later Directive aimed to take into account technological developments in broadcasting, including the growth of on-demand services. These pose a challenge to advertiser-funded broadcasters and the Commission responded by proposing a relaxation of some of the existing rules on advertising, including providing for product placement in programmes.

Since the adoption of the AVMSD, the audiovisual media landscape has changed significantly due to media convergence. The Commission therefore proposed a further revision of the AVMSD in 2016. In preparation for this, there was a public consultation in 2015.<sup>524</sup> The Commission identified the following issues to be considered in the evaluation and review of the AVMSD:

1. Ensuring a level playing field for audiovisual media services;
2. Providing for an optimal level of consumer protection;
3. User protection and prohibition of hate speech and discrimination;
4. Promoting European audiovisual content;
5. Strengthening the single market;
6. Strengthening media freedom and pluralism, access to information and accessibility to content for people with disabilities.

The consultation floated the possibility of broadening the type of services covered by the Directive beyond television and "television-like services" further into the online sphere, and even of altering the core principle that determines where the regulation of these services takes place. (Under the current Directive, jurisdiction is based on the "country-of-origin" principle, and services are regulated by the Member State in which they originate.) The UK Government responded to the consultation in January 2016. In its response the Government said that it regarded the regulation of the European audiovisual market through the AVMSD as a "success story". However, it insisted that it saw the country-of-origin principle as "vitally important". Furthermore, whilst recognising that there was scope to develop common standards, the Government saw a "tangible difference between the concepts of broadcasting regulation and internet regulation".<sup>525</sup>

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<sup>523</sup> [2010/13/EU](#). For a summary of its provisions, see Europa website, [Audiovisual Media Services \(AMS\) Directive](#).

<sup>524</sup> European Commission News, [Commission seeks views on Europe's audiovisual media rules](#), 6 July 2015

<sup>525</sup> HM Government, [UK Government response to the European Commission consultation on the review of the Audiovisual Media Services Directive \(AVMSD\)](#), 2016, pp15-16

A new legislative proposal amending the AVMSD was adopted by the European Commission on 25 May 2016. Building on the consultation proposals, it aims “to create a fairer environment for all players, promote European films, protect children and tackle hate speech better” while also reflecting “a new approach to online platforms, addressing challenges in different areas”.<sup>526</sup>

Now that the UK is to leave the EU, the Government might choose to look again at these pan-European requirements. The extent to which broadcast models of regulation can or should be applied to new media such as the internet is one area of controversy which would persist whether the UK were inside or outside the EU.

Elsewhere in the broadcasting industry, ITV is reportedly expecting a downturn in advertising revenues following the ‘Brexit’ vote, with cost cuts of £25m planned for next year.<sup>527</sup> A poll conducted by PACT, the independent TV producers’ group, before the referendum showed 85% of members in favour of remaining in the EU and only 15% against. Concerns have been expressed for the future of London as the centre for international channel groups dependent on the AVMSD (and Ofcom licences) to broadcast from the UK into all EU countries. Despite widespread pessimism in the industry, some – for example, Lord Dobbs, author of *House of Cards* – are hopeful of new creative possibilities in a market freed from European regulation.<sup>528</sup>

## Copyright

Areas of UK copyright law derive from EU law. For example, the 1993 Directive on Copyright Duration<sup>529</sup> harmonised upwards the terms of authors’ rights to the highest factor operating in a Member State. The 2001 Copyright Directive<sup>530</sup> (also known as the Information Society Directive or the InfoSoc Directive) further harmonises aspects of copyright law across Europe, such as copyright exceptions; it also affects the application of copyright and control techniques on the internet and restricts the range of defences to copyright infringement.

Faced with the challenges of the ever-expanding digital market, in December 2015 the Commission announced plans to update EU copyright law. As a first step, the Commission adopted a legislative proposal on cross-border portability, which will ensure that subscribers to online content services can continue using them while temporarily present in another Member State.<sup>531</sup> (The UK Government supports this proposal.<sup>532</sup>) Further measures are expected to follow in 2016.<sup>533</sup> The emphasis is on

- Widening online access to content across the EU
- Adapting exceptions to copyright rules to a digital and cross-border environment

<sup>526</sup> European Commission press release, [Commission updates EU audiovisual rules and presents targeted approach to online platforms](#), 25 May 2016.

<sup>527</sup> “ITV makes a drama out of impending crisis”, *Times*, 28 July 2016, p43.

<sup>528</sup> Raymond Snoddy, “A vote for change”, *Television*, July/August 2016, pp9-11.

<sup>529</sup> [93/98/EEC](#)

<sup>530</sup> [2001/29/EC](#)

<sup>531</sup> [COM\(2015\)627](#)

<sup>532</sup> Intellectual Property Office, [Call for Views on the European Commission’s proposal for legislation on cross-border portability: Ensuring that British consumers will be able to access digital subscriptions when travelling in other EU countries](#), 2016.

<sup>533</sup> European Commission News, [Towards a modern, more European copyright framework: Commission takes first steps and sets out its vision to make it happen](#), 9 December 2015; European Commission News, [Commission seeks views on neighbouring rights and panorama exception in EU copyright](#), 23 March 2016.

- Creating a fair marketplace, including as regards the role of online intermediaries when they distribute copyright-protected content
- Strengthening the enforcement system

Copyright is otherwise governed by a series of interlocking international agreements, among them the Berne Convention of 1886 and the WIPO [World Intellectual Property Organization] Copyright Treaty of 1996. It seems unlikely that, once Britain is outside the EU, the Government would seek to unpick these arrangements, since they bring reciprocal benefits to UK creators and rights-holders.<sup>534</sup>

Following speculation about the future of intellectual property (IP) rights after the referendum, the Intellectual Property Office issued a statement. This sets out the current position on trademarks, designs, patents, copyright and enforcement, emphasising that nothing will change until the negotiations to exit are concluded.<sup>535</sup> In a detailed article on the consequences of the vote, an IP lawyer comments that “the primary areas of concern will be working out what to do about EU rights currently valid in the UK and how to handle ongoing litigation involving such rights”.<sup>536</sup>

## 16.4 Sport

The Lisbon Treaty made sport an area of EU competence. Detailed information on the EU’s role in this area, including a Work Plan for Sport 2014-17, is available from the Europa website.<sup>537</sup>

When the UK leaves the EU, funding could be lost. The Erasmus+ programme, for example, funds grassroots sports projects and cross-border challenges such as combating match-fixing, doping, violence and racism.<sup>538</sup>

The impact of leaving the EU on professional sport will depend on the terms of the UK’s exit. However, if free movement were to end, this could have a significant on football in particular – players from EU countries could require work permits in future.<sup>539</sup>

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<sup>534</sup> By way of example, the amended Directive on copyright duration ([2011/77/EU](#)) gives recording artists the same rights already enjoyed by songwriters. Since this amendment was vigorously campaigned for by veteran British entertainers, notably Sir Cliff Richard, it might be viewed as an unpopular move to repeal it once it has been translated into UK law. (The Directive’s implementation was the subject of a [consultation](#) by the Intellectual Property Office in 2013).

<sup>535</sup> Intellectual Property Office, [IP and Brexit: the facts](#), 2 August 2016.

<sup>536</sup> Jo Joyce, “[Less harmony, more divergence? Intellectual property rights and enforcement in a post-Brexit UK](#)”, Taylor Wessing, June 2016.

<sup>537</sup> Europa website, [Sport – discover EU’s role](#) [accessed 28 July 2016]

<sup>538</sup> Europa website, [Erasmus+](#) [accessed 28 July 2016]

<sup>539</sup> For further discussion see: “[What will Brexit mean for UK sport?](#)”, *Telegraph*, 24 June 2016; “[Brexit vote: what does it mean for professional sport in the UK?](#)”, *Guardian*, 24 June 2016; “[Brexit vote could change the landscape of Premier League, says financial expert](#)”, *Sky Sports News*, 24 June 2016.

## 17. Consumer policy

Consumer protection in the UK is currently a complex combination of EU and national law. It is unclear whether any consumer laws would need to be repealed or replaced on Brexit because that will depend to a considerable degree on what form Brexit takes.

### 17.1 Background

The consumer protection regime in the UK has recently been reviewed, dismantled and completely rebuilt. Legislative reforms have been made against a backdrop of structural changes to consumer law enforcement. There have been two drivers for change – one an EU initiative, the other a domestic initiative. First, the adoption in October 2011 of the [Directive on Consumer Rights](#) (2011/83/EC). Most of the requirements of the Directive have now been implemented in the UK through the [Consumer Contracts \(Information, Cancellation and Additional Payments\) Regulations 2013](#). The second driver was the findings of a series of consultations on consumer laws held in the UK between March and November 2012. This led to the [Consumer Rights Act 2015](#) (the CRA 2015). The CRA 2015, which came into force on 1 October 2015, represents the biggest overhaul of consumer law for decades. The Act deals with consumer rights and remedies in relation to the supply of goods, digital content and services.

For businesses, who have just got to grips with this new consumer landscape (and a body of new provisions), there is understandable concern that Brexit will bring more change. For consumers, there is concern that Brexit may lead to a ‘watering down’ of their existing rights and protections. Certainly, it is difficult to predict how or when Brexit will be achieved and the longer term commercial and consumer implications.

Various commentators have argued that it is extremely unlikely that the Government will replace the majority of its EU-derived law (although it may have the option to do so). Practically, if the UK does not comply with EU law in certain areas, it may not be able to trade with the EU. Consumer protection, data protection and product liability are areas of law which are thought to be particularly unlikely to change.

### 17.2 Current EU consumer programme 2014-2020

For the moment at least, little has changed; the UK has to continue to comply with EU consumer law and policy. The [Charter of Fundamental Rights](#)<sup>540</sup> and the European Treaties since the [Single European Act](#) guarantee a high level of consumer protection in the EU. Promoting consumers’ rights is also a core value of the EU, enshrined in Article 12 TFEU.

Over the years, the importance of consumer policy has grown within the EU. It is now an integral part of internal market policy; it aims to ensure that the internal market is open, fair and transparent so that consumers can exercise real choice and receive fair treatment. A huge amount of existing consumer protection regulation in the UK is derived from the EU in one form or another. For example, Directives implemented in the UK protect consumers from unsafe products, unfair practices, misleading marketing practices, distance selling, and so on.

<sup>540</sup> [Charter of Fundamental Rights of the European Union](#), OJ C 83/02, 30 March 2010.

The strategy for consumer policy at European level is regularly reviewed by the European Commission, not least because the EU's 500 million consumers play a central role in driving innovation and enterprise.<sup>541</sup> Consumer spending accounts for approximately 56% of the EU's GDP.<sup>542</sup> The European Commission adopted in May 2012 the [European Consumer Agenda](#), its strategic vision for EU consumer policy.<sup>543</sup> This Agenda replaced the [Consumer Policy Strategy 2007-2013](#).<sup>544</sup> It aims to maximise consumer participation and trust in the market, and in turn achieve the objectives of the EU's economic growth strategy, [Europe 2020](#). The Consumer Agenda has four pillars, or overriding objectives, which are:

- Promoting consumer safety
- Enhancing knowledge of consumer rights
- Strengthening the enforcement of consumer rules
- Integrating consumer interests into the key sectoral policies

The Consumer Agenda also addresses imminent challenges, such as those linked to the digitalisation of daily life, the desire to move towards more sustainable patterns of consumption, and the specific needs of vulnerable consumers. According to the Commission's second [Report on Consumer Policy](#), most of the 62 measures presented in the Consumer Agenda have been completed.<sup>545</sup>

The [Consumer Programme 2014-2020](#)<sup>546</sup> has a budget of €188.8 million to support EU consumer policy.<sup>547</sup> Direct beneficiaries will be national authorities in charge of consumer policy, safety and enforcement, the network of European Consumer Centres, EU-level consumer organisations, and national consumer organisations. The programme will fund actions across all 28 EU Member States and countries of non-EU EEA Members. It aims to help consumers enjoy their consumer rights and actively participate in the single market, thereby supporting growth, innovation and meeting the objectives of [Europe 2020](#).

The main challenges to be addressed by the 2014-2020 programme have been grouped under four headings:

- **Safety:** to reinforce the co-ordination of national enforcement authorities, and to address the risks linked to the globalisation of the production chain.
- **Consumer information and education:** to address the issue of poor knowledge of key consumer rights by consumers and retailers alike (particularly in respect of cross-border purchases and sales); to gather robust data on how the market is serving consumers; and to improve the capacity of consumer organisations etc.
- **Consumer rights and effective redress:** to further strengthen consumer rights and to address problems faced by consumers when trying to secure redress,

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<sup>541</sup> [A European Consumer Agenda – Boosting Confidence and Growth](#), COM(2012) 255 FINAL, 22 May 2012

<sup>542</sup> Ibid

<sup>543</sup> Ibid

<sup>544</sup> [EU Consumer Policy Strategy 2007-2013](#), COM(2007) 99 FINAL, 13 March 2007

<sup>545</sup> European Commission, [Report on Consumer Policy 2012-2013](#), (accessed 3 August 2016)

<sup>546</sup> ["Regulation \(EU\) No. 254/2014 of the European Parliament and of the Council of 26 February 2014 on a multiannual consumer programme for the years 2014-20"](#), OJ L84/42, 20 March 2014

<sup>547</sup> The EU Consumer Programme 2007-2013 had a budget of €568 million

notably cross-border, so that consumers are confident that their rights are well protected in any other Member State as well as at home.

- **Strengthening enforcement cross-border:** to increase awareness among consumers about the network of European Consumer Centres and to further strengthen the efficiency of the network of national enforcement authorities.

### 17.3 What will Brexit mean for UK consumer policy?

As already mentioned, the consumer protection regime in the UK is a complex combination of EU and national law and covers a very wide range of goods and services. It is impossible to calculate the impact of withdrawal in any meaningful way without knowing the basis on which the UK would continue to interact with the EU. Clearly, the crucial question is whether the UK retains any sort of access to the European Single Market, and if so, how much and in return for what?

The EEA/EFTA States, for example, have participated in EU consumer programmes since the EEA Agreement came into force in 1994. In addition, the Consumer Council in Norway has established close links with bodies at European level such as [BEUC](#) (an alliance of European consumer organisations). The [Icelandic Consumer Agency](#) and the [Norwegian Consumer Council](#) also belong to the [European Consumer Centres Network](#) (ECC-Net), which provides information and support to EU consumers. However, it is also the case that in return for access to the internal market, EEA/EFTA states are required to adopt all EU consumer protection provisions without access to the EU's decision-making institutions.

The [CRA 2015](#), which now dominates the UK's consumer regime, and other home-grown consumer laws, will not be directly affected by Brexit. However, an important question is whether a non-EU UK would keep all or some of the rules and procedures of EU consumer protection legislation. Existing consumer legislation could be unpicked and changed, but in practice this might be difficult to achieve.

## 18. Foreign policy

### 18.1 Introduction

Whatever position politicians and commentators took during the referendum, it was widely agreed that leaving the EU would have enormous consequences for British foreign policy.

But it is still far from clear what the exact implications will be of the decision to leave. In the immediate aftermath of the result, Lord Hennessy said: "Never in our peacetime history have so many dials been reset as a result of a single day's events."<sup>548</sup>

In the run up to the referendum, the Government led by former Prime Minister David Cameron decided that there should be no pre-planning for Brexit, whether on foreign policy or other policy areas. Parliamentarians are amongst those who have criticised this decision.<sup>549</sup>

Some of the consequences for UK foreign policy of leaving the EU will be the product of design. For example, much will depend on the precise terms for Brexit that are ultimately agreed. However, other consequences will be largely or wholly 'unintended'.

The contours of a reconfigured UK foreign policy are likely to emerge only gradually over the next decade. For now, there are only initial reactions (many of them based as much on instinct as evidence) to go on. Inevitably, there are pessimists (mainly from the Remain side of the referendum debate) and optimists (mainly from the Brexit side). A minority is reserving judgement.

Given the high degree of uncertainty at present, it seems sensible at this stage to restrict ourselves to formulating some tentative 'key questions' about the possible implications for UK foreign policy of leaving the EU – to which we might have some answers by 2026.

To do this, we have made two important assumptions that might conceivably turn out to be incorrect. We have assumed that the UK is going to leave the EU and that the EU will survive in one form or another. In addition, we have not sought to address the implications for UK foreign policy of a vote for Scottish independence in a second referendum.

Here then are our four key questions for assessing the impact of Brexit on UK foreign policy by 2026:

#### **1 Will the UK successfully have 'gone global'?**

*Will the UK be liberated or find itself relatively isolated after leaving the EU? Will 'globalisation' survive or might it go permanently into reverse? How committed in practice will 'rising powers' such as China and India be in giving priority to boosting economic ties with the UK (and on what terms)?*

#### **2 Will there still be a UK-US "special relationship"?**

*Will the NATO relationship be sufficient to sustain it? Can the UK continue to act as a 'bridge' between the EU and the US from outside the EU? Might the US pivot towards Germany instead? Will the UK remain a stalwart ally of the US in Asia?*

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<sup>548</sup> Peter Hennessy, [Brexit: 'An unprecedented geopolitical shift'](#), *BBC News Online*, 25 June 2016.

<sup>549</sup> In its most recent [report](#) (HC 153, July 2016), the Joint Committee for the National Security Strategy has criticised the fact that the November 2015 National Security Strategy did not include Brexit as 'risk'.



### 3 Will the UK retain the capacity to intervene in the world?

*What will be the UK's appetite for intervention in future crises abroad? What diplomatic and military weight will such interventions carry? What will be the future balance between 'hard power' and 'soft power' expenditure?*

### 4 Will the UK still have a permanent seat on the UN Security Council?

*If the Security Council is reformed, might the UK end up losing its permanent seat – while the EU perhaps secures one instead?*

All this said, we now proceed to ignore our own advice by looking at the very early signs of the impact of Brexit for two important aspects of UK foreign policy, namely the **Middle East** and **relations with the US**. In this regard, see also section 21, **Defence and the Armed Forces**.

## The Middle East

The UK plays a limited but significant role in the Middle East. British influence is based on deep foreign policy experience and a tissue of connections acquired through many years of engagement in the region, as well as international cooperation, a large aid programme and a significant military capability.

The historical baggage can be a liability as well as an asset. Most UK policy in the region has been conducted with EU partners, although there are relationships, particularly with the Gulf monarchies, that seem to develop without so much reference to the EU. Sanctions regimes (including arms embargoes), terrorist designations and the criteria for arms export control have all tended to be decided at EU level. In the case of Israel and the Palestinians, the UK has acted largely in concert with other EU Member States and the EU Council adopted policies such as the arms embargo on Syria and its lifting.

Some UK policies – the sanctions against Iran over its nuclear programme, for example – could be based both on decisions taken at the United Nations Security Council (UNSC) and decisions at the EU level.

Iran was an example of EU Member States playing a strong role in Middle East diplomacy, with the UK in the forefront. For several years, the big three EU members, France, Germany and the UK, took the lead on nuclear negotiations with Iran, although the other members of the UN Security Council participated later in the process (and it is difficult to imagine it being brought to a conclusion without the active involvement of the US).

The United States, remains the biggest actor in the region and many UK interventions have been in conjunction with the US, for example the invasion of Iraq (with the UK part of a 'coalition of the willing') and the occupation of Afghanistan (as part of NATO's International Security Assistance Force). The picture in the Middle East, as in other regions, is a complex one. With EU membership UK policy was co-ordinated with partners in a variety of multilateral fora, including the UN, EU and NATO, as well as bilaterally with the US and with governments in the region. After the UK leaves the EU, informal coordination of UK policies with those of EU member states will remain a possibility.

Many in the region have not forgotten Britain's historic Middle East role: the Sykes-Picot agreement's part in setting up troubled states such as Iraq and Syria and 'denying' the Kurds a state, and the intervention in Iran to bring down the democratically-elected Mossadegh government in 1953 remain part of popular legend. Many, indeed, seem to have an exaggerated idea of the continuing importance of the 'Little Satan'. Acting



through the EU may go some way to alleviating the negative effects of Britain's historical baggage in the Middle East.

Pooling UK influence with that of other EU Member States sharing many of the same interests was, for many in the foreign policy 'establishment', a sensible idea in the international arena. As well as diluting some of the UK's negative historical baggage, acting through the EU means a larger aid budget, the promise of access to the largest consumer market in the world and a louder political voice, one that in some quarters carries more authority because it is not American (this is likely to have been a factor in the negotiations with Iran). All of these can be significant 'soft power' tools in the pursuit of European interests. If the UK no longer coordinates its Middle East policy with EU member states, it will no longer have access to these shared tools.

UK withdrawal could also be a blow to the credibility of EU foreign policy in the region. Without the UK's defence capacity and foreign policy experience, the EU's voice in the Middle East could be less influential. Without the UK, the EU may also be more likely to adopt policies that were more at odds with US views, although the UK position on Israel and the Palestinians has traditionally been closer to that of its EU partners than to Washington's.

It can also be argued, however, that withdrawal from the EU will not make much difference to the UK's capacities in the Middle East; since the US remains the most significant power in the region, the UK could co-ordinate its Middle East policies more closely with those of the US or it could continue coordination with the EU, but informally.

Despite the much-discussed pivot to Asia, the US will remain very influential in the Middle East for some time to come; some critics see the EU as little more than America's sidekick in the region. US decisions have more impact than UK actions, within the EU or outside. The power of the West to impose its decisions on the Middle East is in any case declining. UK policy-making in the Middle East could continue to be worked out in important multilateral fora other than the EU, such as the UN Security Council and NATO.

## Relations with the United States

The quotation often attributed to Henry Kissinger about whom to dial in Europe sums up the view in US foreign policy circles that a co-ordinated or even a unified Europe would make a better ally than a continent with myriad divergent foreign policies - particularly in relation to defence.

The US has often encouraged European countries to take more responsibility for the defence of their continent. The US pivot to Asia is in part also dependent on Europeans taking more responsibility for the security of their region. A taste of this policy was the US approach to the 2011 conflict in Libya: 'leading from behind'. Europeans were encouraged to take the lead in the Libya action, with the US providing support. In the event, much more US support was needed than had been envisaged at the outset.

NATO is the main vehicle for transatlantic defence cooperation, but successive US administrations have not sought to stop the EU from developing its Security and Defence Policy, as long as the policy is not seen to undermine NATO. The US values the UK contribution to the EU defence debate for two major reasons: UK defence capabilities and the 'special relationship'. Firstly, the UK and France are often regarded as

the only two EU nations with a serious defence capability and the UK is one of the few NATO Member States to spend at least 2% of GDP on defence. (Commenting before the Government committed to fulfilling that target for the rest of this Parliament, one former US Defence Secretary said that cuts limited the UK's ability to be a full partner of the US.)<sup>550</sup> In spite of defence cuts, a UK exit will sharply reduce the remaining EU member states' combined defence capacity and the UK's role as an example of military capability to EU Member States will be diminished.

Secondly, the US relied on the UK to mould EU defence co-ordination. The US wants EU defence structures to evolve in such a way as not to undermine the US relationship with Europe, which means they should not be seen to be in competition with NATO. UK governments have traditionally advocated preserving the importance of NATO, while at the same time working, particularly with the French, to cooperate in defence matters and maximise the effectiveness of European forces. Both these positions suit US interests.

The US has also viewed the UK's support for EU enlargement as a sensible way for the EU to take more responsibility for its neighbourhood and to draw countries such as Turkey more firmly into the Western camp. While further EU enlargement after the Western Balkans is thought to be unlikely for some time (the parallel process of NATO enlargement to the east also appears to have stalled), Washington used to appreciate the traditionally more open approach supported by UK politicians.

Conservative commentators in the US and the UK have suggested that the Obama Administration abandoned traditional allies such as Britain (and countries in Eastern Europe) in pursuit of the 'reset' with Russia and the 'pivot' to Asia.<sup>551</sup> However, the failure of the 'reset' policy and the outbreak of conflict in Ukraine have given NATO a new lease of life. European integration with strong British influence has been traditional Republican as well as Democratic policy.

Although NATO has been invigorated and the UK's NATO role is not in itself undermined by the vote to leave the EU, it is possible that leaving the EU will make the UK less relevant to US foreign policy. The UK will no longer be able to argue from within against EU defence structures that might compete with NATO.

Nor will the UK be useful in supporting traditional US free markets and free trade economic policies for Europe. The US-European Transatlantic Trade and Investment Partnership, for example, may face more difficulties in the EU: France has recently indicating stiffening opposition to it and France's voice will be relatively stronger after the UK leaves.

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<sup>550</sup> ['UK not 'full partner' with US, says former defence chief'](#), *Daily Telegraph*, 16 January 2014. The UK Government explicitly committed to spending 2% of GDP on defence for the remainder of the decade in the Summer Budget, July 2015

<sup>551</sup> See for example ['Five Conservative Principles That Should Guide U.S. Policy on Europe'](#), Heritage Foundation, 1 March 2011

The UK's relationship with the US had already been undermined by a number of factors, with German unification and economic success changing the balance in the EU. After the referendum, former US State Department official Nicholas Burns said that Henry Kissinger's question about who to phone had now been answered:

Henry Kissinger's famous question about 'Who do I call in Europe?' has now been settled. The answer is that we call the German chancellor's office. That means we have to invest in the relationship with Germany.<sup>552</sup>

However, some commentators have argued that the Germany will not be such a natural fit as the UK as the main EU interlocutor for the US – German positions on austerity and the use of military force are likely to remain further from the US. This could signal a longer-term distancing between the US and the EU.

Nevertheless, practical cooperation between the US and the UK, in areas such as intelligence sharing, are likely to continue.

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<sup>552</sup> [UK-US special relationship shaky following Brexit vote](#), *Financial Times*, 27 June 2016.

# 19. International development

## 19.1 Development cooperation and humanitarian aid

The EU has been one of the UK's largest multilateral aid partners.

The UK's total aid budget was £11.726 billion in 2014 – of this, £1.144 billion was channelled through the European Commission.<sup>553</sup> The UK channels funds for development cooperation and humanitarian aid through two budget lines, both of them managed by the European Commission:

- The development part of the EU budget
- The European Development Fund

In 2014, nearly 10% of the UK's aid budget would have required reallocation if the UK had not been an EU member state

### The development part of the EU budget

According to DFID:

Development investment provided through the European Union (EU) budget funds programmes in Asia, Latin America, Eastern Europe, the Middle East and North Africa. It also funds some thematic programmes and the EU's humanitarian assistance, through ECHO.<sup>554</sup>

DFID has described its engagement with the development part of the EU budget as follows:

The EU budget-development is managed by the EC. Funding is split by regional and thematic lines, with decisions taken by committees for the regional instruments. The UK uses its position in the Council of the EU to influence EU development policy.<sup>555</sup>

In 2012 the development part of the EU budget was the largest recipient of UK aid. In 2013 and 2014, it was second.<sup>556</sup> The UK contributed £816m to the development part of the EU budget in 2014.<sup>557</sup>

In the 2011 Multilateral Aid Review, the development part of the EU budget (excluding its humanitarian arm, ECHO) was assessed as "adequate value for money".<sup>558</sup>

The Review acknowledged strengths in the development part of the EU budget: for example, it funded programmes in countries which were UK priorities but which did not receive UK aid; it funded programmes which promoted EU enlargement and the European Neighbourhood Policy;<sup>559</sup>

<sup>553</sup> DFID, [Statistics on International Development 2015](#), December 2015, Tables 2 and 9.

<sup>554</sup> DFID, [Annual Report and Accounts 2013-14](#), HC 11, 15 July 2014, p98. ECHO is the Directorate-General for Humanitarian Aid and Civil Protection – the humanitarian arm of the Commission.

<sup>555</sup> Ibid

<sup>556</sup> DFID, [Statistics on International Development 2015](#), December 2015, Table 9.

<sup>557</sup> DFID, [Statistics on International Development 2015](#), December 2015, Table 9.

<sup>558</sup> DFID, [Annual Report and Accounts 2013-14](#), HC 11, 15 July 2014, p98.

<sup>559</sup> Some observers argue that these programmes mean that EU development cooperation is insufficiently focused upon poverty-reduction in the poorest countries.

and financial accountability was found to be strong and well-established. However, the development part of the EU budget was assessed as weak in the following categories: gender equality, focus on poor countries, contribution to results, strategic and performance management, and financial resources management.<sup>560</sup>

A 2013 DFID review of the progress made in addressing weaknesses identified during the Multilateral Aid Review reached the following conclusions:

Progress on aid allocation and ensuring staff have development expertise. Some progress on gender and a results framework. More progress needed on evaluation and managing for value for money.<sup>561</sup>

In the UK Government's 2011 Multilateral Aid Review, the humanitarian arm of the Commission, ECHO, was assessed as "very good value for money".<sup>562</sup>

## European Development Fund

According to DFID:

The European Development Fund (EDF) is the main funding instrument for European Commission (EC) development spending in 78 African, Caribbean and Pacific countries (ACPs) and 25 European Union (EU) overseas countries and territories. The EDF is a separate Member State fund that sits outside the EU's budget.

The EDF has a strong poverty focus with 80% of funds going to low income countries. Its size, focus on poverty and cross-cutting development impact makes the EDF critical for progress on the MDGs and poverty reduction.<sup>563</sup>

DFID has described its engagement with the EDF as follows:

The EDF is a fund managed on behalf of EU Member States by the EC. EDF decisions are taken by a Member State committee, by consensus wherever possible. The UK also uses its position in the Council of the EU to influence EU development policy.<sup>564</sup>

In 2014 the EDF was the third largest recipient of UK aid.<sup>565</sup> The UK contributed £328m to the EDF in 2014.<sup>566</sup> The UK is set to contribute 14.7% of the EDF during the 2014-2020 funding round.<sup>567</sup>

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<sup>560</sup> DFID, [Multilateral Aid Review: Assessment of European Commission budget](#), February 2011.

<sup>561</sup> DFID, [Multilateral Aid Review update 2013](#).

<sup>562</sup> DFID, [Annual Report and Accounts 2013-14](#), HC 11, 15 July 2014, p98.

<sup>563</sup> Ibid, p97.

<sup>564</sup> Ibid

<sup>565</sup> DFID, [Statistics on International Development 2015](#), December 2015, Table 9.

<sup>566</sup> DFID, [Statistics on International Development 2015](#), December 2015, Table 9.

<sup>567</sup> [Internal Agreement](#) between the EU Member States on the financing of EU aid under the multiannual financial framework for the period 2014 to 2020, in accordance with the ACP-EU Partnership Agreement, and on the allocation of financial assistance for the Overseas Countries and Territories to which Part Four of the TFEU applies. OJL 210/1, 6 August 2013.

## Balance of Competences Review

The Government's [Balance of Competences Review on development cooperation and humanitarian aid](#), July 2013, identified a number of "advantages and disadvantages of working through the EU". These are summarised in the boxes below.

### Advantages

The EU is a major contributor to global efforts to reduce poverty and make progress towards the other Millennium Development Goals.

The Commission's large aid budget, which is pooled from mandatory contributions by all Member States, provides economies of scale and strengths in key areas, for example infrastructure and regional projects.

The EU's global reach is greater than that of any of the Member States acting individually.

Working through the EU gives the UK access to the EU's comprehensive range of external actions, which can be combined to tackle problems in fragile states and address a range of global development challenges.

The close alignment of UK and EU development objectives, and the EU's perceived political neutrality and global influence, mean the EU can act as a multiplier for the UK's policy priorities and influence.

### Disadvantages

Although policy making at the EU level is often critically important, it can sometimes result in compromise positions that do not give full effect to UK priorities or that lack impact.

EU development programme management and delivery are overly complex and inefficient, and the EU does not systematically measure the results that EU aid achieves.

The division of roles between the Commission Directorates-General and the EEAS<sup>568</sup> is unclear and there can be a lack of coordination between Brussels and EU Delegations overseas.

The EU institutions' capacity and development expertise is limited in relation to their scope and scale, although ECHO's humanitarian expertise is widely recognised.

Although the EU's size and global influence make it one of the most important platforms for achieving Policy Coherence for Development (PCD), the EU is not implementing it with full effect.<sup>569</sup>

<sup>568</sup> [European External Action Service](#) – the European Union's diplomatic service.

<sup>569</sup> According to the European Commission's 'International Cooperation and Development' [website](#): "Through Policy Coherence for Development, the EU seeks to take account of development objectives in all of its policies that are likely to affect developing countries. It aims at minimising contradictions and building synergies between different EU policies to benefit developing countries and increase the effectiveness of development cooperation." Over the years, commentators have often criticised the EU for a lack of coherence in its development policy.

## Public debate in the run-up to the referendum

While there continued to be extensive public debate about aspects of UK policy on development cooperation and humanitarian aid during the first half of 2016, the implications of leaving the EU were not a major part of that debate. However, some think-tanks and NGOs in the field did begin to discuss the issue as the referendum approached.<sup>570</sup>

## Post-referendum reaction

### Official statements

DFID ministers have made several statements on the implications of the vote to leave the EU for UK aid policy.

**Baroness Northover (LD):** My Lords, is DfID now looking at the implications of Brexit and the potential end of the UK's major influence over the EU's aid budget? If so, what are the implications for what the UK might do bilaterally now?

**Baroness Verma:** My Lords, we expect some challenges and change following the decision to leave the EU, which will affect some parts of the development work that we are undertaking, but it is a very small percentage of the work that we deliver through the European Development Fund. We will very much continue to work with our partners through multilateral institutions. I emphasise that we have committed ourselves to the 0.7%—that will be our commitment and we will continue to help shape global events and work with our multilateral partners to do so.<sup>571</sup>

### Other reaction

Think-tanks and NGOs in the field are beginning to publish reactions to the vote in favour of leaving the EU.<sup>572</sup> Experts at the Overseas Development Institute have looked at how developing countries might be affected by Brexit. Below is a summary of the key findings of their report:

- Brexit will have major implications for developing countries.
- Different countries will be affected in different ways, in the short-term and in the long-term, depending on how the UK exits. There are mostly negative effects for developing countries, but there may also be opportunities.
- The pathways of impact are through trade, financial markets and investment, growth, aid and development finance, migration and remittances, and global collaboration.

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<sup>570</sup> For example, see K. Watkins, "[What would a Brexit mean for EU development assistance?](#)", devex.com, 6 June 2016; K. Watkins, "[What would Brexit mean for UK aid and trade?](#)", devex.com, 15 June 2016.

<sup>571</sup> [HL Deb 6 July 2016 c2006](#). See also [HC Deb 29 June 2016 c286](#). Further details about the official response may come when the Bilateral and Multilateral Aid Reviews are finally published. Publication was delayed until after the referendum.

<sup>572</sup> See, for example, "[Brexit: first post-referendum thoughts](#)", European Centre for Development Policy Management, 1 July 2016.

- In the short-term, the threat of Brexit led to currency and stock market fluctuations, which have not spared emerging markets and poorer countries.
- We estimate that the 10% devaluation of the pound in the first week post-Brexit, coupled with lower GDP in the UK (estimated at 3%), will lead to lower exports by developing countries (\$500 million in least developed countries).
- The devaluation will also reduce the value of aid by roughly \$1.9 billion. The combined cost (through aid, trade and remittances) of the devaluation for developing countries is expected to be \$3.8 billion. If the pound continues to fall, the effects could increase.
- The long-term effects will depend on UK trade deals, EU trade deals (with the UK no longer influencing them), the way aid and other development finance will be maintained and allocated, the way in which global collaborations is affected, the way financial markets react, and the way immigration and remittances are maintained. This will be a long process.
- The opportunities of Brexit for developing countries rely on specific commodity price changes (e.g. gold exporters gain), changes in distribution of aid, cheaper imports from the UK, and the ability to gain from new trade deals, including through targeted Aid for Trade.
- Greater policy consideration is needed on what the UK alone can and should offer to developing countries on trade.<sup>573</sup>

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<sup>573</sup> M. Mendez-Parra, P. Papadavid and D. Willem te Velde, "[Brexit and development: how will developing countries be affected?](#)" Overseas Development Institute briefing, July 2016". On the same topic, see also Ian Scoones, "[Uncertain trade, less progressive aid and a new colonial-minded PM? What Brexit means for Africa](#)", *African Arguments*, 27 June 2016.



## 20. Defence and the armed forces

### Summary

While generally supportive of the EU's Common Security and Defence Policy (CSDP), successive UK governments have been cautious in their approach to greater European defence integration, regarding it as entirely complementary to NATO and essential for strengthening European military capabilities within that alliance, as opposed to the pro-European view that the EU should establish an independent military capability outside the NATO framework.

Until the UK formally leaves the EU it will remain part of its CSDP planning structures and the EU military operations to which the UK has committed forces.

The impact of Brexit on the UK's military is arguably minimal in the near term. In the longer term, however, the UK's ability to influence or shape the CSDP agenda going forward will be significantly curtailed. Questions have also been raised over future UK defence spending if economic growth predictions fail to materialise in the aftermath of the Brexit vote. The affordability of the MOD's Defence Equipment Plan, should the defence budget be cut at some point in the future, could be brought into question.

The UK's relationship with NATO will be unaffected.

### Projection of military power

The UK is one of the largest and most advanced military powers in the EU and is one of only five EU countries capable of deploying an operational HQ, and therefore capable of taking command of a mission. Militarily, a UK withdrawal would more likely place the EU at a disadvantage, with fewer assets and capabilities ultimately at its disposal. From the UK's standpoint its ability to project military power will be largely unaffected, and any military shortfalls could be compensated for through bilateral arrangements with countries such as France. The UK could also choose to continue its participation in CSDP operations as a third party state.

### Capabilities development

The UK has consistently sought to develop the operational capability of CSDP as a means of strengthening both the EU and NATO. That position is unlikely to change with Brexit, as capabilities development remains a central tenet of NATO's smart defence agenda. The UK is also involved in an increasing number of bilateral capability development initiatives with other European nations, such as France. The UK could also continue to participate in European Defence Agency projects as a third party country if it chooses to do so.

### EU defence directives

If, during withdrawal negotiations, the substance of the two defence directives agreed in 2011 are retained in the withdrawal agreement, the applicability of their provisions to the UK will not change. If the UK chooses to operate outside of the directives, however, it would have little impact on the UK's general procurement approach. Any changes would focus more on the specific rules that the UK would no longer have to abide by.

### Future direction of CSDP

The most significant implication of Brexit is the very limited ability that the UK will possess to influence or shape the EU's defence agenda going forward. Given that the UK has been one of the main driving forces behind the development of CSDP, it has been

suggested that, without the UK's support, the strategic ambition of a "common European defence" could ultimately falter. However, as the main source of opposition to integrationist proposals thus far, the absence of the UK from CSDP decision making could equally be the opportunity that pro-European states, such as Germany, have been looking for to further the EU defence project in the longer term. Once outside the EU the UK will, for example, have no negotiating power in discussions over recently published German proposals for a permanent military planning headquarters, which will duplicate existing NATO assets.

### **Impact on the UK defence budget and equipment plan**

There have also been questions over future UK defence spending if economic growth predictions fail to materialise in the aftermath of the Brexit vote. The affordability of the MOD's Defence Equipment Plan if the defence budget is cut at some point in the future could subsequently be brought into question.

### **A second Scottish independence referendum?**

The prospect of a second referendum on Scottish independence in the aftermath of Brexit has reignited the debate about the location of the UK's strategic nuclear deterrent at Faslane in Western Scotland.

The EU's security and defence policy (CSDP) has had a chequered past. First set down as an aspiration in the 1992 Maastricht Treaty, the intergovernmental nature of this policy area has meant that its evolution has been entirely dependent upon political will and the convergence of competing national interests among the EU Member States, in particular the UK, France and Germany. The major turning points for CSDP over the last 10 years have come about largely as a result of Franco-British proposals. Thus far the goal of a "common union defence policy" under Article 42 (2) has failed to be realised.

While generally supportive, successive UK governments have been cautious in their approach to greater European defence integration. The development of an EU defence policy has been regarded as entirely complementary to NATO and essential for strengthening European military capabilities within that alliance, as opposed to the more pro-European, and French, view that the EU should establish an independent military capability outside the NATO framework.

To that end, UK involvement in the evolution of CSDP has been significant in that it has allowed the UK to influence and shape its

### **Article 42 (2), Treaty on European Union**

"The common security and defence policy shall include the progressive framing of a common Union defence policy. This will lead to a common defence, when the European Council, acting unanimously, so decides [...]

The policy of the Union in accordance with this Section shall not prejudice the specific character of the security and defence policy of certain Member States and shall respect the obligations of certain Member States, which see their common defence realised in the North Atlantic Treaty Organisation (NATO), under the North Atlantic Treaty and be compatible with the common security and defence policy established within that framework".

development.<sup>574</sup> This has been particularly evident in efforts to improve EU Member States' military assets and capabilities, including the creation of the EU battlegroups,<sup>575</sup> and the establishment of the European Defence Agency.<sup>576</sup> The UK has also been influential in determining the parameters of the EU military decision making and planning structures that have developed, in particular ensuring their complementarity with NATO.<sup>577</sup>

In 2009 the European Commission also passed [two defence directives](#), which currently apply to the UK, aimed at regulating defence procurement across the EU and the intra-community transfer of defence goods and services. The first introduces harmonised EU rules on the procurement of defence and sensitive non-military security equipment. The second simplifies national licensing procedures governing the movement of defence products and services within the EU.<sup>578</sup>

Analysts largely concur, however, that over the last seven years the EU's defence policy has lost much of its momentum. While there has been progress in civilian crisis management, with the EU becoming a notable 'soft power' actor,<sup>579</sup> and in efforts to achieve greater regulation of the defence market; arguably very little notable progress has been made in developing the 'hard power' aspects of CSDP.

Despite over a decade of work on capabilities development the EU collectively still suffers from major capability shortfalls and the flagship

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<sup>574</sup> The history of CSDP is charted in a number of Library briefing papers: RP00/20, *European Defence: From Pörttschach to Helsinki*; RP00/84, *Common European Security and Defence Policy: A Progress Report*; RP01/50, *European Security and Defence Policy: Nice and Beyond*; RP06/32, *European Security and Defence Policy: Developments Since 2003*; RP08/09, *The Treaty of Lisbon: amendments to the Treaty on European Union*, SN04807, *Priorities for ESDP under the French Presidency of the EU* and SN06771, *The EU's Common Security and Defence Policy: a Fresh Impetus?*, December 2013.

<sup>575</sup> The EU Battlegroup concept was launched in 2004 and designed to allow the EU to rapidly respond, in a military capacity, to a crisis or urgent request from the UN. They achieved full operational capability in 2007 although, to date, no EU battlegroup has been deployed on operations. Further information on the EU Battlegroups is available at: [EU Battlegroups](#), April 2013.

<sup>576</sup> To support efforts to improve the EU's military capabilities, the European Defence Agency was established in 2004. In addition to several multinational procurement projects, among its most recent initiatives is the Code of Conduct on Pooling and Sharing, which was signed in 2012.

<sup>577</sup> In 2000 the Nice European Council agreed the creation of permanent political and military structures within the EU for CSDP purposes. In 2003 an EU civil-military planning cell, which would operate in parallel with a European cell based with NATO's operational planning HQ (SHAPE), was also created. Initially France, Germany, Belgium and Luxembourg had proposed the creation of an entirely independent EU military planning cell. It was only UK influence that led to the proposals being watered down, placing the new EU planning capability firmly within the NATO framework and subject to an operational planning hierarchy that would give first refusal to NATO and then to any national operational HQ before the EU planning cell would play a role.

<sup>578</sup> For more detail on these directives see Standard Note 4640, [EC Defence Equipment Directives](#), June 2011.

<sup>579</sup> The EU has launched more than 30 CSDP missions in Africa, Asia and Europe, the majority of which are focused on crisis management, security sector reform, training, monitoring and humanitarian aid. Further information is available at: [http://www.eeas.europa.eu/csdp/missions-and-operations/index\\_en.htm](http://www.eeas.europa.eu/csdp/missions-and-operations/index_en.htm)

EU battlegroups have never been deployed in nearly eight years since their creation. Crucially, there continues to be no consensual EU approach to foreign policy crises<sup>580</sup> or, in the longer term, a vision for CSDP at the highest political level. While the EU Treaty makes reference to the eventual development of “a common defence”, sharp divisions have remained among EU Member States about what they want CSDP to achieve. Decision making also remains cumbersome and the financing of operations is complex often resulting, at a time of financial austerity, in States reluctant to commit assets.

## 20.1 Implications of Brexit

Until the UK formally leaves the EU it will remain part of its CSDP planning structures and the military operations to which the UK has committed forces, including EU naval operations in the Mediterranean (Operation *Sophia*) and off the Horn of Africa (Operation *Atalanta*) and the longstanding EU operation in Bosnia (Operation *Althea*), among others.

Arguably the near term impact of Brexit on the UK military will be minimal. In the longer term, however, the UK’s ability to influence or shape the CSDP agenda going forward will be significantly curtailed. Questions have also been raised over future UK defence spending if economic growth predictions fail to materialise in the aftermath of the Brexit vote. The affordability of the MOD’s Defence Equipment Plan, should the defence budget be cut at some point in the future, could be brought into question.

The UK’s relationship with the United States<sup>581</sup> and NATO, which the Government has referred to as “the bedrock of our defence in the United Kingdom”,<sup>582</sup> will be unaffected.

### EU military operations and financing

The UK is one of the largest and most advanced military powers in the EU in terms of manpower, assets, capabilities and defence spending.<sup>583</sup> It is also one of only five EU countries capable of deploying an operational HQ, and therefore of taking command of a mission.<sup>584</sup>

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<sup>580</sup> The approach of the major European military powers to events in Libya and Mali in 2013 have been seized upon as evidence of the EU’s inertia. A collective EU response was largely absent in both cases with France and the UK opting to pursue military action outside of the EU framework. The EU battlegroups, which were devised with Africa in mind, remain unused. The EU’s involvement in both theatres has instead focused on the delivery of soft power initiatives such as border assistance and training.

<sup>581</sup> See Pentagon press release, [Readout from Secretary Carter’s call with UK State Secretary for Defense Michael Fallon](#), 24 June 2016

<sup>582</sup> HC Deb 27 June 2016, c2

<sup>583</sup> According to [NATO’s compendium of defence expenditure 2016](#), the UK defence budget is currently 2.21% of GDP, compared to France which spends 1.78%, Germany which spends 1.19%, Italy which spends 1.11% and Spain which spends 0.91%. The 2015 Strategic Defence and Security Review stated that “the UK’s defence budget is the second largest in NATO, after the US, and the largest in the EU” (Cm 9161, p.13). It also stated that “we are strengthening our armed forces so that they remain the most capable in Europe...” (p.24)

<sup>584</sup> France, Germany, Greece, Italy and the UK

Military assets are provided to CSDP missions on a case-by-case basis and, with the exception of common costs,<sup>585</sup> operations are financed on a national basis.<sup>586</sup> Thus far, the UK has been a consistent contributor to EU-led operations, often as lead nation,<sup>587</sup> and since the Battlegroups concept was launched in 2004, the UK has provided, or led, a Battlegroup five times, including the current EU battlegroup which will deploy until December 2016.<sup>588</sup>

In terms of military power and projection, therefore, the UK's withdrawal is more likely to place the EU at a disadvantage, with fewer assets and capabilities ultimately at its disposal. This is particularly true of certain strategic assets such as tactical airlift and intelligence, surveillance and reconnaissance assets. From the UK's standpoint its ability to project military power would be largely unaffected, and any military shortfalls could be compensated for through bilateral arrangements with countries such as France and Germany.<sup>589</sup>

Indeed, some may argue that fewer military commitments at a time of economic austerity and significant reductions in the size of the Armed Forces should be welcomed. Yet as the Ministry of Defence itself has acknowledged, EU-led operations can play a key role in achieving stability in certain situations, thereby avoiding a more costly intervention by either NATO or the UN:

When successful, EU action can achieve results where others find it difficult to act. CSDP has helped to establish stability in the Balkans, Georgia and Indonesia, and in the process avoided the need for more costly and risky interventions through NATO or the UN. In Afghanistan the EU police mission plays an essential role alongside NATO in increasing capacity of the Afghan National

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<sup>585</sup> CSDP operations with military implications cannot be financed from EU funds. For the common costs, the Council established a special mechanism (ATHENA) in 2004. Common costs are financed on the basis of a GNI-based indicator. The UK share is presently 14.82% of eligible common costs. The total UK cost share for 2014 was €8.8m. Funding is drawn from the Peacekeeping budget which is managed by the FCO.

<sup>586</sup> The expenditure arising from the deployment of assets to an EU-led military operation is met by the individual member States on a "costs lie where they fall basis".

<sup>587</sup> Over the last ten years the UK has made a contribution to 11 CSDP military operations. Most notably: [Operation Althea](#) in the Balkans, the counter-piracy [Operation Atalanta](#) off the Horn of Africa (which the UK has operational command of) and [Operation Sophia \(EU NAVFOR MED\)](#) which is currently tackling people smuggling in the Mediterranean.

<sup>588</sup> In the first half of 2005, the latter half of 2008 and 2010 and the latter half of 2013, in conjunction with Sweden, Latvia, Lithuania and the Netherlands. The current battlegroup (July-December 2016) will also include personnel from Ireland and Lithuania.

<sup>589</sup> In 2010 the UK and France agreed a series of measures intended to enhance defence co-operation between both country's armed forces, including the signing of two new defence treaties (the Lancaster House treaty). The 2015 Strategic Defence and Security Review places an emphasis on further developing the UK-France defence and security relationship. It also makes specific reference to the deepening defence relationship between the UK and Germany (Cm 9161, November 2015, p.52).

Police. The EU continues to lead the international effort to counter piracy and protect World Food Programme aid.<sup>590</sup>

Ensuring the success of CSDP operations remains in the UK's interest. However, being a member of the EU is not necessarily a prerequisite for achieving this aim. Outside the EU the UK could choose to continue its participation in CSDP operations as a third party state. Indeed, under the Berlin-plus arrangements agreed in 2002 the EU already has recourse to NATO assets and capabilities for the conduct of EU operations, where the alliance as a whole chooses not to be engaged.<sup>591</sup> Several non-EU countries, including Canada, Norway and the US<sup>592</sup> have also implemented framework agreements that allow them to participate in EU military and civilian crisis management operations. As a result, Canada and Norway have both contributed forces to Operation *Althea* in Bosnia; Canada has provided personnel for EU police missions in Bosnia and the Democratic Republic of Congo, while Norway has contributed assets to Operation *Atalanta* (EUNAVFOR) and has provided forces to the EU Nordic Battlegroup.

## Capabilities development

The development of the EU's military capabilities has been on the agenda for over a decade through a mixture of EU and NATO initiatives. The UK has consistently sought to develop the operational capability of CSDP by encouraging other EU Member States to invest their defence equipment budgets more wisely, particularly in the current economic climate, as a means of strengthening both the EU and NATO. That position is unlikely to change with the UK's withdrawal from the EU, as capabilities development remains a central tenet of NATO's smart defence agenda. The UK also remains a member of the Organisation for Joint Armament Cooperation (OCCAR)<sup>593</sup> and is involved in a number of bilateral capability development initiatives with other EU Member States, such as France.

Even though outside of the EU the UK could not participate in the European Defence Agency, it could continue participating in EDA projects as a third party country.<sup>594</sup> In 2006, for example, Norway signed an administrative agreement with the EDA which allows it to participate in the Agency's research and technology projects. Switzerland also has a similar cooperation agreement.

Withdrawal from the EU is therefore unlikely to have a major impact. The UK already adopts a multi-faceted approach to defence procurement, and is likely to continue doing so. Exit from the EU will also not prohibit the UK from participating in exercises with individual,

<sup>590</sup> MOD Policy: [Meeting NATO and EU Treaty Defence Commitments](#).

<sup>591</sup> See Research Paper 03/05, *NATO: The Prague Summit and Beyond*, January 2003.

<sup>592</sup> Respectively, *Official Journal of the EU* L315/21, 1/12/2005; OJL 67, 14/3/2005, and OJ L143/2, 31/5/2011.

<sup>593</sup> Further information on OCCAR is available at: <http://www.occar.int/185>.

<sup>594</sup> Although it would no longer have a seat on the Steering Board and would not have any say on how the EDA is run or the projects it focuses on. The UK would no longer, however, be obliged to pay towards the common costs of the EDA, which costs the UK between £3m and £4m per annum.



or groups of, EU nations; nor will it prevent them from deploying together on military operations that fall outside of the EU's remit. During Defence Questions on 27 June the Secretary of State acknowledged that the UK will have to "work hard to ensure that these bilateral relationships are kept in good repair". He went on to comment:

We have strong defence relationships and defence sections in these embassies across Europe, and we will have to look at them independently and make sure in the Brexit negotiations that none of that co-operation – the joint training, the exercising and the co-operation in capabilities – is put at risk.<sup>595</sup>

## EU defence directives

The defence directives agreed in 2011 were originally conceived as a means of making the EU internal defence market work better, and in the case of the directive on defence procurement, to increase competition in the EU defence sector by making more EU governments put non-sensitive defence contracts out to tender.

Both directives were transposed into UK law in August 2011. If, during withdrawal negotiations, the substance of the two defence directives is retained in the withdrawal agreement, the applicability of their provisions to the UK will not change.

Being relatively new, little official assessment of their success or impact on UK policy has been made to date.<sup>596</sup> Therefore, if the UK chooses not to retain the two directives, it is unclear whether withdrawal from their provisions would have any serious impact on the UK. The Government already seeks to procure where possible through open and fair competition.<sup>597</sup> Within the framework of the directive on defence procurement, the Government also retains liberty of action in what contracts it chooses to exempt from EU public procurement rules, under Article 346 TFEU. Government-to-government sales and 100% research and development contracts are also excluded from the directive's provisions. Therefore, operating outside the EU directive on defence procurement would arguably have little impact on the UK's general procurement approach. Any changes are likely to focus more on the specific rules that the UK would no longer have to abide by. It would not, for example, be obliged to tender contracts EU-wide, and it would not have to ensure non-discrimination among EU Member States in its assessment of bids.

Indeed, since its inception, the usefulness of the procurement directive has been questioned, as numerous EU Member States have either

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<sup>595</sup> HC Deb 27 June 2016, c4

<sup>596</sup> The European Commission's first report on the functioning and impact of the directives is not due until later in 2016. In June 2015 the Directorate General for External Policies within the European Parliament published a [report](#) which attempted to make an initial assessment of the success of the directives, thus far.

<sup>597</sup> This approach was set down in the MOD's 2002 *Defence Industrial Policy*, and more recently in the 2005 Defence Industrial Strategy and the 2012 White Paper *National security through Technology: Technology, Equipment and Support for UK Defence and Security*.

delayed transposing the directive into law,<sup>598</sup> or have flouted its provisions by continuing to promote protectionist procurement practices or by exploiting the government-to-government sales exemption, in order to safeguard their respective domestic defence industrial bases.<sup>599</sup> In October 2010, for example, the Greek Defence Minister was reported to have commented that “countries must have the right to nourish their own industries”.<sup>600</sup> In 2013 the European Commission also expressed its concern over the intention of several European countries, notably Bulgaria and Romania, to fulfil their fighter aircraft requirements through a single source government-to-government purchase in order to bypass the competitive provisions of the directive.<sup>601</sup> In June 2014 the Commission subsequently presented a roadmap of measures intended to strengthen the European defence market. Among those intended reforms was a commitment to issue guidance on the acceptable use of exclusions under the defence directives.<sup>602</sup>

Indeed a European Parliament report published in June 2015 on the impact of the defence directives concluded that:

While the number of documents published on TED over these past two years has been increasing, this increase is not as significant as expected, and above all it is due to a small group of Member States (France, Germany, and the United Kingdom). This initial survey demonstrates an important disparity in the Member States’ publication practices (contract notices and contract awards). This poses the question of reciprocity. In value, contract awards notified between the 21st August 2011 and the 31st December 2014 represent around €10.53 billion. The year 2014 accounts for around 65% of the total, due to significant contracts notified by the United Kingdom in the field of services and facilities management, and by France on the segments covering Repair and maintenance services of military aircrafts.

The Directive 2009/81/EC is today favoured for contracts dealing with services, the acquisition of equipment deemed to be of a low strategic value, and sub-systems. Over the past three years, all of the major military equipment contracts, thus those that have had a structural effect on the DTIB, were notified without going via the Directive. Previous practices have continued, notably the use of Article 346 [...]

Concretely today acquisition practices seem to show an incomplete and incorrect application of the Directive, with de facto a limited or even non-existent impact on the DTIB. It is indeed too hasty and premature to draw conclusions from such a

<sup>598</sup> See [Commission list](#) of the infringement cases it has opened in the past with respect to this directive.

<sup>599</sup> See “EU procurement directive prompts industry concern”, *Jane’s Defence Weekly*, 9 February 2011.

<sup>600</sup> “Greece to boost industry with contentious contracts”, *Jane’s Defence Weekly*, 4 May 2011.

<sup>601</sup> See “Europe poised for confrontation over Bulgarian F-16 procurement”, *Jane’s Defence Industry*, 13 February 2013.

<sup>602</sup> Further information is available at: [European Commission: Actions for a more competitive and efficient defence and security sector](#), 24 June 2014. In November 2015 the Government set out its opinions on that defence roadmap during a [session of the House of Commons’ European Union Committee](#).



short period, all the more so given that it generally takes 5 to 10 years for a directive to be fully applied, and this is referring to the civilian sector. Although this new regime is not yet functioning satisfactorily at the present time, the Directive represents an important step in a sector such as defence, which is marked by a significant degree of opacity in acquisition practices.<sup>603</sup>

## Evolution of EU defence

Since 2003 proposals to enhance CSDP, most notably the creation of a standing EU military headquarters independent of NATO and/or a 'European Army', have periodically become a priority for the EU, or the focus of individual countries.

Proposals for an independent operational military HQ to be established using the Permanent Structured Co-operation mechanism were, for example, reinvigorated as part of France's Presidency priorities in 2008.<sup>604</sup> The development of such capacity was regarded as a fundamental tenet of the package of measures intended to improve the EU's ability to field an intervention capability and avoid becoming tagged as a mechanism purely for civilian crisis management. At the time those proposals made little progress in light of the crisis over the Irish 'no' vote on the Lisbon Treaty.

This idea re-surfaced again during the Polish EU presidency in 2011, which prompted the UK Government to threaten to wield its veto over the issue. Former Foreign Secretary, William Hague, stated at the time:

I have made very clear that the United Kingdom will not agree to such a permanent OHQ. We will not agree to it now, we will not agree to it in the future. That is a red line for us...

We are opposed to this idea because we think it duplicates NATO structures and thirdly, a lot can be done by improving the structures that already exist.<sup>605</sup>

In September 2012, 11 EU Member States (excluding the UK)<sup>606</sup> published a communiqué on *The Future of Europe* which called for a new model defence policy, designed to create a "European Army" and more majority based decisions in defence and foreign policy, in order to "prevent one single member state from being able to obstruct initiatives".<sup>607</sup> Those proposals were supported in a further communiqué issued by France, Germany, Italy, Poland and Spain in November 2012, which also called for a "new military structure" for EU-led operations to be established.<sup>608</sup> In March 2015 the EU Commission President, Jean-Claude Juncker, also suggested that an EU army should be created "to build a common foreign and national security policy, and to collectively

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<sup>603</sup> European Parliament, Directorate General for External Policies, *The impact of the 'defence package' directives on European defence*, June 2015.

<sup>604</sup> For more detail see Standard Note 4807, *Priorities for ESDP under the French Presidency of the EU*.

<sup>605</sup> "UK blocks bid for permanent EU security headquarters", *EurActiv*, 19 July 2011.

<sup>606</sup> Austria, Belgium, Denmark, France, Germany, Italy, Luxembourg, Netherlands, Poland, Portugal and Spain.

<sup>607</sup> As reported in "Ministers call for stronger EU foreign policy chief", *EU Observer*, 18 September 2012.

<sup>608</sup> "Five EU countries call for new military structure", *Stratix*, 16 November 2012.

take on Europe's responsibilities in the world". He also argued that it would "show Russia that we are serious when it comes to defending the values of the European Union".<sup>609</sup>

This is a position supported by the current German government which stated in 2015 that "a European Army is Germany's long term goal".<sup>610</sup> Indeed, a [German defence White Paper](#) published on 13 July 2016 reiterated that "Germany is striving to achieve the long-term goal of a common European Security and Defence Union". Specifically it proposes the greater use of permanent structured cooperation and the creation of "a permanent civil-military operational headquarters in the medium term. This will be a civil-military planning and command and control capability that is not yet available in this form in the EU member states".<sup>611</sup>

Any decision to expand the remit of the planning cell or further European defence integration will require unanimity among EU member states. While the UK is still a formal member of the EU it will still have a veto, which Earl Howe recently suggested would be used in the event of proposals to establish a European Army:

The noble Lord asked about the long-running issue of an EU army. I take this opportunity to emphasise that, while the UK remains a full member of the EU until such time as we leave it, UK forces will not be part of an EU army. In no circumstances could Brussels, in any case, direct deployment of UK forces without the specific agreement of the UK Government. That agreement will not be forthcoming. Defence is entirely a national competence and if an EU army were to be proposed, it would be subject to national veto.<sup>612</sup>

Following Brexit, however, the UK will not be party to any discussions or have any formal powers over decision-making on EU defence. The UK's ability to influence the progress, or otherwise, of any EU defence proposals (as it did in 2003 and 2011), would therefore be limited to the diplomatic pressure it could bring to bear through other foreign policy channels.

Without the UK's support it has been suggested that the strategic ambition of a "common European defence" could ultimately falter. However, the absence of the UK from CSDP decision making could equally be the opportunity that pro-European states, such as Germany, have been looking for to further the European defence project, in the longer term. As Philip Worré, Director of ISIS Europe, noted in a January 2013 briefing:

A British exit would undoubtedly cause much turmoil, and CSDP will have lost a key contributor and supporter. From a strictly CSDP – and European defence integration – perspective, however,

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<sup>609</sup> "Create an EU army to keep back the Russians", *The Daily Telegraph*, 8 March 2015.

<sup>610</sup> "Our goal is an EU Army says Germany's defence chief", *The Daily Mail*, 4 May 2015

<sup>611</sup> German Federal Government, [White paper on German security policy and the future of the Bundeswehr](#), 13 July 2016.

<sup>612</sup> HC Deb 11 July 2016, c46

Britain's departure could create opportunities in terms of military cooperation and accelerate the establishment of permanent structured cooperation, because of a more unified approach among the remaining Member States.<sup>613</sup>

## Impact on the UK defence budget and future equipment plan

At present the Government is committed to meeting the NATO target of spending 2% of GDP on defence, until 2020/2021. It has also committed to continue funding the equipment budget at 1% above inflation until the end of this Parliament.<sup>614</sup> The MOD is currently earmarked to spend £178 billion on defence equipment over the next 10 years, to 2025.<sup>615</sup>

Within the context of Brexit a number of analysts have raised concerns over the impact of currency fluctuations on existing defence procurement programmes, such as the F-35 Joint Strike Fighter. In a commentary piece for RUSI Professor Trevor Taylor has argued that "the depreciation of the pound against the dollar in the wake of Britain's decision to leave the European Union raises major doubts about the affordability of the country's current defence equipment plans".<sup>616</sup>

Speaking in the House on 11 July 2016 the Defence Secretary, Michael Fallon, suggested that it is too early to determine what the impact of Brexit would be on the defence equipment plan. He commented:

It is a little too early to be sure exactly where the sterling-dollar exchange rate will end up. Like any large commercial organisation, we take precautions against fluctuations in the currency, but it is too early to say whether that current level is likely to be sustained.<sup>617</sup>

In the longer term questions have also been raised over whether it will be possible to maintain the commitment to spending 2% of GDP if economic growth predictions fail to materialise in the aftermath of the Brexit vote. Malcolm Chalmers of RUSI has argued, for example, that "it is unrealistic to expect that the defence budget can be entirely exempted from the expenditure cuts that will probably be needed in a post-exit spending review".<sup>618</sup> In a report published on 10 July 2016 the Joint Committee on the National Security Strategy also expressed this view:

A May 2016 report by the UK-based Institute for Fiscal Studies (IFS) highlighted analysis that UK GDP might be reduced by between 2.1% and 3.5% in 2019 as a result of Brexit. The IFS continued: "A hit to GDP of this magnitude would imply a hit to the public finances, after taking account of the reduced EU contribution, of between £20 billion and £40 billion in 2019–20."

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<sup>613</sup> Philip Worré, "[The consequences of a British exit from the EU and CSDP: An Analytical Timeline](#)", *ISIS Europe Occasional Paper*, January 2013.

<sup>614</sup> Ministry of Defence, "[Defence Equipment Plan 2015](#)"

<sup>615</sup> [Ministry of Defence press release](#), 23 November 2015

<sup>616</sup> Trevor Taylor, "Brexit and UK defence: put the equipment plan on hold?" *RUSI Commentary*, 6 July 2016.

<sup>617</sup> HC Deb 11 July 2016, c52

<sup>618</sup> "After the Brexit, what's next for defense?", *Defence News*, 25 June 2016

In that context, even if the new Government were again to commit to spending at least 2% of GDP on defence, a stagnant or contracting UK economy might mean that the defence budget would be reduced in real terms. This would impact on the ambition and capabilities set out in the NSS & SDSR 2015.<sup>619</sup>

The Committee goes on to state that “economic contraction caused by Brexit could limit the ability of the armed forces to fulfil their role effectively”.<sup>620</sup>

In defence questions on 27 June 2016 the Government reiterated its commitment to spending 2% of GDP on defence until the end of this Parliament. The level of defence spending beyond 2020 has yet to be determined. Philip Dunne stated:

As was made clear in last year’s comprehensive spending review at the same time as the strategic defence and security review, and as I have already said this afternoon, the defence budget is going up in real terms in each year of this Parliament [...]

I am not going to join those in the Opposition who seek to talk the economy down. We have a clear commitment to meet the NATO defence spending pledge and that is what we will do.<sup>621</sup>

The need for a new SDSR in the event of Brexit, and earlier than the next scheduled review in 2020 is now the subject of debate.

## Impact of a second independence referendum in Scotland?

The prospect of a second referendum on Scottish independence in the aftermath of Brexit has also reignited the debate about the location of the UK’s strategic nuclear deterrent at Faslane in Western Scotland. For the present the MOD has said that it is not anticipating another referendum and there are no plans to move nuclear weapons from Scotland.<sup>622</sup> How political events unfold with respect to Scotland over the next few years will determine whether the MOD needs to revisit its position in the longer term. The biggest concerns for the MOD would be identifying suitable alternative locations, and the costs of relocation which in 2014 they described as “a gargantuan sum of money”.<sup>623</sup>

### Box 5: Brexit and defence: suggested reading

- Royal United Services Institute: [Brexit Briefings](#)
- Chatham House: [After Brexit: Britain’s Future](#)
- International Institute for Strategic Studies: [Brexit](#)

<sup>619</sup> Joint Committee on the National Security Strategy, *National Security Strategy and Strategic Defence and Security Review 2015*, HC153, July 2016.

<sup>620</sup> *ibid*

<sup>621</sup> HC Deb 27 June 2016, c12

<sup>622</sup> “No plans to move nuclear weapons from Scotland”, *BBC News Online*, 15 July 2016.

<sup>623</sup> Scottish Affairs Committee, The referendum on separation for Scotland: Terminating Trident – days or decades, HC 676, October 2012.



## 21. The devolved legislatures

If the UK leaves the EU there could be further policy and legislative divergence in areas of devolved competence, as the UK Government and Devolved Administrations will no longer be required to implement the common requirements of EU Directives. This would probably be particularly noticeable in policy areas such as the environment or agriculture, which are currently strongly governed by EU policy and legislation.

The following sections look briefly at the relationship of the devolved legislatures with the EU and possible effects on these nations of a UK withdrawal.

### 21.1 Scotland

#### Introduction

##### **The EU Referendum result in Scotland**

In Scotland, 62.0% of voters on a turnout of 67.2% voted to Remain in the European Union. Just over 1.02 million people voted Leave and 1.66 people million voted Remain.

Electorates in all 32 Scottish Local Authorities voted to Remain. The biggest Remain vote was in the City of Edinburgh, where 74.4% of those who voted did so to Remain, whilst Moray saw the lowest Remain vote with 50.1%. A [Scottish Parliament Information Centre \(SPICe\) Infographic](#) provides details of the result by Scottish local authority area.

##### **Scotland's current constitutional relationship with the European Union**

Schedule V of the [Scotland Act 1998](#) reserves all aspects of foreign affairs to the UK Government and Parliament including relations with the European Union. This means the UK Government is responsible for managing relations with the EU, including leading on all policy and legislative negotiations. However, the Scotland Act does give the Scottish Government and Scottish Parliament responsibility for implementing European obligations where they relate to devolved matters.

This means, as with the other devolved legislatures, the Scottish Parliament is responsible for transposing and implementing a wide spectrum of EU legislation in areas such as agriculture, fisheries and the environment. The Scottish Government is also responsible for administering the spending of European funds such as Structural Funds and the Common Agricultural Policy in Scotland. In other areas where the UK Government has competence, such as EU economic policies and areas of Single Market legislation, the Scottish Government and Scottish Parliament have an interest in monitoring how EU laws will impact on Scotland including in devolved areas.

## The value of the EU to Scotland

In October 2015, the Scottish Parliament Information Centre (SPICe) published a briefing analysing "[The impact of EU membership in Scotland](#)". The briefing set out what EU membership means for Scotland, including an analysis of the data relating to Scotland's economic and social links with the EU. Data in the briefing was updated in [papers](#) provided to the Scottish Parliament's European and External Relations Committee in July 2016.

On 23 August 2016, the Scottish Government published a paper outlining the [Potential Implications of the UK leaving the EU on Scotland's Long Run Economic Performance](#). The paper summarised the impact that leaving the EU could have on Scotland's GDP and public spending up to 2030. The key conclusions presented by the Scottish Government were that by 2030 "Scottish GDP is projected to be between £1.7 billion and £11.2 billion per year lower than it would have been if Brexit does not occur" and "Tax revenue is projected to be between £1.7 billion and £3.7 billion lower."<sup>624</sup>

### Access to the Single Market

The EU is the main destination for Scotland's international exports, "accounting for around 42% of Scotland's international exports in 2014, with an estimated value of around £11.6 billion"<sup>625</sup>.

The latest Scottish Export Statistics for 2014 show that of Scotland's top ten international export destinations, six are EU Member States (Netherlands, France, Germany, Ireland, Spain and Denmark). However, the Scottish Government's export figures for 2014 also indicate that international exports to countries outside the EU are forming an increasing share of all Scotland's international exports – in 2014 they made up 58% of Scotland's international exports.

Since 2002 exports to the EU, as a share of total Scottish exports, have actually decreased from 54% to 42%. This is because whilst exports to the EU have grown by 6% since 2002, exports to the rest of the world have grown by 74%. One reason for the declining reliance on the EU market may be the increase in bilateral free trade agreements being negotiated by the EU, which has exclusive competence to negotiate international trade agreements.

Food and drink is Scotland's biggest export in terms of sector. The value of food and drink exports to the EU was £1,775m in 2014. This reflects an increase of 57% (£645m) since 2002. However, exports have fallen by 3% (£55m) since 2013<sup>626</sup>. As a proportion of all food and drink exports, those going to the EU have shrunk from a peak of 45% in 2008 to 37% in 2014.

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<sup>624</sup> Scottish Government, [Brexit research shows economic risk to Scotland](#), 23 August 2016.

<sup>625</sup> Scottish Government, [Export Statistics Scotland](#).

<sup>626</sup> Scottish Government, [Export Statistics Scotland 2014](#).

The Single Market also allows businesses from across the EU to invest across Member State borders. Figures from the [Financial Scrutiny Unit in SPICe](#) show that in Scotland in 2013, nearly 4,600 business sites owned by non-UK European companies had a combined turnover of £42.1 billion and added £15.8 billion in Gross Value Added (GVA) to the Scottish economy. This made up 15.6% of all Scotland's GVA, making it the most reliant region of the UK on European-owned companies. The figures exclude some financial service activities and public sector activities. Whilst European-owned companies are an important component of Scotland's economy, their investments lean towards the energy and food and drink sectors. It is not clear whether any of this investment would be lost when the UK leaves the EU.

In terms of jobs, the Financial Scrutiny Unit in SPICe has calculated that around 150,000 jobs were sustained directly in Scotland from exports to the EU in 2013.

### **Migration and Freedom of Movement**

The principle of free movement has allowed Scots to travel to other EU Member States to work or study. Likewise, other EU nationals are able to come and work or study in Scotland.

In the period between the UK joining the EU in 1973 and 2003, the Scottish population either saw minimal or decreased growth. The average change over the period was a population reduction of 0.1% per year. From 2004 when the EU expanded with the accession of eight central and eastern European countries and Malta and Cyprus, the Scottish population has increased by at least 0.3% a year. The latest estimates suggest that in 2014 there were around 173,000 people in Scotland who had the nationality of another EU Member State, equating to 3.3% of the overall population.<sup>627</sup>

### **Higher Education**

EU membership has influenced Scotland's higher education sector both in terms of student mobility and access to funding. Non-UK EU nationals are entitled to study at Scottish universities for free. In 2014-15, 14,440 EU students studied at Scottish universities at a cost to the Scottish Government of £27.1 million.<sup>628</sup> Although few Scottish students choose to undertake their full degree in another Member State, the main study abroad option for UK nationals wishing to spend part of their time studying at an institution in another EU Member State is ERASMUS+ which replaced ERASMUS in 2014. The total number of UK students taking part in the ERASMUS scheme rose from 11,723 in 2009-10 to 15,566 in 2013-14. The proportion of students from Scottish HEIs taking part in ERASMUS remained at around 13% during

<sup>627</sup> National Records of Scotland, [Mid-2014 Population Estimates Scotland Population estimates by sex, age and administrative area](#), 30 April 2015, Correction: 8 May 2015.

<sup>628</sup> Student Awards Agency Scotland, Higher Education Student Support in Scotland 2014-15. [Statistical summary of financial support provided to students by the Student Awards Agency for Scotland in academic years 2014-15](#), October 2015.



this period. Scottish participation in the programme is slightly higher than in other parts of the UK (relative to Scotland's overall population in UK).<sup>629</sup> There are not yet any figures available on participation in ERASMUS+.

## European funding

Scotland has benefited from both pre-allocated and competitive European funds over the last four decades. European funding programmes such as Structural Funds and the CAP see funds pre-allocated to Member States. The allocation of CAP funds and European Structural Funds between the countries of the UK is negotiated by the UK Government with the Devolved Administrations.

Between 2007 and 2013 Scotland benefited from around €4.5 billion of CAP funding. Between 2014 and 2020 Scotland is likely to benefit from around a further €4.6 billion.<sup>630</sup>

Between 2007 and 2013 Scotland received around €800 million in European Structural Funds. During the 2014 to 2020 Multiannual Financial Framework, Scotland's programmes will benefit from a total of €985 million; with match funding from the Scottish Government and other public sector organisations, total funding will be around €1.9 billion.<sup>631</sup>

Scotland has also been successful in accessing competitive funding. The biggest programme that Scotland has benefited from is the research and development programme, now named Horizon 2020. By March 2016, Scottish organisations were awarded over €217 million.<sup>632</sup> This figure equates to 11.6% of the funding awarded to the UK (over €1 billion).

Higher education institutions (HEIs) and research institutes have been the main beneficiaries, securing almost 80% (€173 million) of the funding awarded to Scottish organisations. Of this total, €157 million went to HEIs and over €16 million to research institutes. A further €39 million of Horizon 2020 funding was awarded to Scottish businesses, almost €29.5 million of this going to small and medium enterprises.

Figures up to February 2016 show that the University of Edinburgh is currently the most successful Scottish HEI within the UK for Horizon 2020 funding – ranking 6<sup>th</sup> across the EU and gaining over €59 million in funding to date. The University of Glasgow ranks 18<sup>th</sup> in the EU, having gained over €35 million in Horizon 2020 funding to February 2016.<sup>633</sup>

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<sup>629</sup> [Erasmus + website](#).

<sup>630</sup> Gov.uk, 8 November 2013, [UK CAP allocations announced](#).

<sup>631</sup> Scottish Government, 19 December 2014, [Scottish economy to benefit from multimillion European investment](#).

<sup>632</sup> Scotland's engagement in Horizon 2020: Third performance monitoring and analysis, update March 2016; provided by Scotland Europa.

<sup>633</sup> Information provided to SPICe by Universities Scotland (July 2016) (personal communication).

Prior to the start of the programme, Scotland had also successfully accessed EU research and innovation funding via the 7<sup>th</sup> Framework Programme (which ran from 2007 to 2013). Figures provided to the Scottish Parliament Information Centre by Scotland Europa in September 2015 indicated that Scotland was awarded €741 million in total under this programme.

While Scotland has benefited from European funds being spent in Scotland, it has also contributed payments to the EU Budget as part of the UK. Projections done by the Scottish Government in 2009 and by the Financial Scrutiny Unit in SPICe suggests Scotland is a net contributor to the EU budget.<sup>634</sup>

## The Scottish Government's position on the UK decision to leave the EU

Following the announcement of the EU referendum result, the First Minister of Scotland, Nicola Sturgeon, made a [statement](#) on Friday 24 June in which she said that she regarded it as "democratically unacceptable" that Scotland should face the prospect of being taken out of the EU against its will. The First Minister also said:

I want to make it absolutely clear that I intend to take all possible steps and explore all options to give effect to how people in Scotland voted - in other words, to secure our continuing place in the EU and in the single market in particular.

To that end, I have made clear to the Prime Minister this morning that the Scottish Government must be fully and directly involved in any and all decisions about the next steps that the UK government intends to take.

We will also be seeking direct discussions with the EU institutions and its member states, including the earliest possible meeting with the President of the European Commission.

I will also be communicating over this weekend with each EU member state to make clear that Scotland has voted to stay in the EU - and that I intend to discuss all options for doing so.<sup>635</sup>

The First Minister also used her speech to address the issue of a second independence referendum in light of the EU referendum result. She said:

Lastly, let me address the issue of a second independence referendum.

The manifesto that the SNP was elected on last month said this:

"The Scottish Parliament should have the right to hold another referendum...if there is a significant and material change in the circumstances that prevailed in 2014, such as Scotland being taken out the EU against our will."

Scotland does now face that prospect - it is a significant and material change in circumstances - and it is therefore a statement

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<sup>634</sup> SPICe, [Scotland in the European Union](#).

<sup>635</sup> Scottish Government, 24 June 2016, [First Minister: EU Referendum Result](#).

of the obvious that the option of a second referendum must be on the table. And it is on the table.

Clearly, though, there are a lot of discussions to be had before final decisions are taken.

It would not be right to rush to judgment ahead of discussions on how Scotland's result will be responded to by the EU.

However, when the Article 50 process is triggered in three months' time, the UK will be on a two year path to the EU exit door.

If Parliament judges that a second referendum is the best or only way to protect our place in Europe, it must have the option to hold one within that timescale.

That means we must act now to protect that position. I can therefore confirm today that in order to protect that position we will begin to prepare the legislation that would be required to enable a new independence referendum to take place if and when Parliament so decides.

In the week following the EU referendum, the Scottish Parliament debated the outcome. At the conclusion of the debate, the Parliament passed the [following motion](#) by 92 votes to 0 votes with 31 abstentions:

That the Parliament welcomes the overwhelming vote of the people of Scotland to remain in the European Union; affirms to citizens of other EU countries living here that they remain welcome and that their contribution is valued; mandates the Scottish Government to have discussions with the UK Government, other devolved administrations, the EU institutions and member states to explore options for protecting Scotland's relationship with the EU, Scotland's place in the single market and the social, employment and economic benefits that come from that, and instructs the Scottish Government to report back regularly to parliamentarians, to the European and External Relations Committee and the Parliament on the progress of those discussions and to seek Parliament's approval of the outcome of that process.

During the debate, the First Minister announced the formation by the Scottish Government of a Standing Council on Europe to advise on legal, financial and diplomatic issues.

On 29 June the First Minister visited Brussels and met with the President of the European Commission, Jean-Claude Juncker, as well as the President of the European Parliament, Martin Schulz, and the leaders of a number of the political groups in the European Parliament. According to the Scottish Government, she "stressed that Scotland chose to remain part of the European Union, and her determination to ensure all options are considered to enable Scotland to remain in the EU". Following the First Minister's meetings she held a [press conference](#) at which she said:

In my discussions during the day, I've heard, as you would expect, deep concern about the impact of the referendum not just on Scotland, the UK and the European institutions, but on people in all our countries and on the EU itself.

For my part, I've emphasised that Scotland voted to remain part of the EU.

If there is a way for Scotland to stay, I am determined to find it.

We are in uncharted territory, and none of this is easy. My task is to bring principles, purpose and clarity to the situation, and to speak for all of Scotland.

We are early in this process. The referendum is not yet a week behind us - a long week for all of us.

My concern at this stage is to ensure that once the UK negotiation with the EU starts, all the options are on the table. I don't underestimate the challenges but I am heartened by the discussions. Here, I've found a willingness to listen: open doors, open ears and open minds.

In the weeks following the referendum, the Scottish Government has also sought to send a message to the 173,000 non-UK EU citizens living in Scotland that they continue to be welcome in the country. In addition, the Scottish Government has called for the rights of European Union nationals living in Scotland to be protected.<sup>636</sup>

## The Scottish Parliament and the EU

### The Scottish Parliament and EU law

Under the current devolution settlement, when the UK leaves the EU, the competences exercised by the EU will be repatriated to the UK. Where those competences relate to devolved matters, an effect of UK withdrawal from the EU will be that the Scottish Parliament will obtain a competence to legislate on those matters, which it did not have before the withdrawal takes effect.

Section 29(2)(d) of the Scotland Act 1998 also requires that all legislation of the Scottish Parliament is compatible with EU law. As a result, a decision by the UK to leave the EU may require amendments of the Scotland Act 1998 to remove various references to the EU or EU law.

In addition, a repeal of the European Communities Act 1972 would not of itself end the domestic incorporation of EU law in the devolved nations, given that EU law is implemented in Scotland within very many pieces of primary and secondary legislation, and not all legislation implementing EU law relies on the 1972 Act.

### Scotland's role in the triggering of Article 50

Neither the Scottish Government nor the Scottish Parliament has a formal role in the UK Government's decision on the notification of Article 50. However, the UK Government may choose to consult with the Devolved Administrations ahead of notifying the European Council of its intention to leave the EU. Following her meeting with Scotland's First Minister, the new Prime Minister, Theresa May, said:

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<sup>636</sup> Scottish Government, 3 July 2016, [Protection for EU citizens' rights](#) and Scottish Government, 5 July 2016, [Reassurance following EU referendum](#).

I have already said that I won't be triggering Article 50 until I think that we have a UK approach and objectives for negotiations - I think it is important that we establish that before we trigger Article 50.<sup>637</sup>

The Prime Minister also indicated that she “wanted the Scottish Government to be fully engaged in our discussion” about the UK Government’s approach to negotiations with the EU.

### **The Scottish Parliament’s role in the leaving process**

As mentioned above, the Scottish Parliament does not have a formal role in the notification of Article 50. However, the Scottish Parliament has taken an active interest in the process following the referendum vote.

In addition to the debate held in the Scottish Parliament on 28 June 2016, the Parliament’s European and External Relations Committee has started an inquiry into the [EU referendum and its implications for Scotland](#). The Committee took evidence on the implications for Scotland of the decision to leave the EU at its meeting on 28 July, with a focus on economic issues and on some of the sectors affected by the decision to leave. The Committee has also issued a [call for evidence](#) to gather more information on the impact of the decision to leave the EU. The Committee’s inquiry will continue over the coming months.

## **21.2 Wales**

### **Introduction**

Wales has primary responsibility for transposing and implementing EU legislation within the 20 areas of devolved competence set out in Schedule 7 to the [Government of Wales Act 2006](#), as well as direct interest in influencing and shaping relevant EU policy and legislative proposals within these areas.

These include a number of areas where the EU has extensive competence, such as agriculture, fisheries and rural affairs, animal health and welfare, food, and environment, and where there is an established body of EU law and regulation that Wales must already comply with. Notably, for two of the other main Welsh competences – education and health – the scope for EU intervention is limited (with the exception of the impact of ‘horizontal’ EU legislation such as anti-discrimination law, public procurement rules, and rights of equal access for EU citizens). EU-level action in these areas is primarily focused around information exchange, benchmarking of best practice, and mobility of professionals and learners.

For other policy areas where the UK retains the lead competence, the Welsh Government, National Assembly for Wales and other Welsh stakeholders and organisations also have an interest in the potential impact of EU policy and legislation in Wales. These include aspects of economic development and employment policy, competition policy

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<sup>637</sup> BBC News, 15 July 2016, [Brexit: PM is 'willing to listen to options on Scotland](#).

(including public procurement), financial services, and (most aspects of) energy policy.

## Value of EU membership to Wales

At an event in Cardiff in April 2015, the First Minister for Wales, Carwyn Jones AM, [outlined](#) what he saw as the economic benefit of EU membership to Wales:

About 500 firms from other EU Member States are based in Wales, employing over 54,000 people. The Single Market is also Wales' primary export destination. The total value of Welsh exports to the EU in 2014 was £5.6 billion.

Wales has access to considerable funding opportunities from the EU, notably from the CAP and Structural Funds (as well as a plethora of other funding streams). "Under the current round of CAP, 2014-2020, Wales will receive approximately £250 million of funding per annum in direct payments to farmers in addition to €655 million for its 2014-2020 rural development programme".<sup>638</sup>

Between 2014 and 2020, Wales will receive around £1.8 billion in EU Structural Funds from the Cohesion Policy for programmes covering West Wales and the Valleys ('Convergence' region) and East Wales ('Competitiveness' region). Welsh farmers' payments from the CAP are estimated to be worth £240 million a year.<sup>639</sup> In addition, Wales will receive €355 million for its rural development plan for 2014-2020.<sup>640</sup> "Together with match funding, the funds will drive a total investment of at least £2.7bn across Wales".<sup>641</sup>

It has been estimated that the CAP provides around 80-90% of the basic farm income in Wales.<sup>642</sup> The Deputy Minister for Farming and Food, Rebecca Evans, has said that the cessation of direct payments to farmers without any domestic replacement from the UK Government would be 'hugely damaging' to the farming industry.<sup>643</sup> The Welsh Government's 2014 [Wales and the European Union: Annual Report](#) outlined the following accomplishments of the 2007-14 round of Structural Funding in Wales:

...these include the investment of over £1.9bn of EU Structural Funds in 290 projects, representing £3.7bn of total project investment (including match funding) across Wales, cumulatively

<sup>638</sup> National Assembly for Wales, Research Briefing, [Wales and the EU: What does the vote to leave the EU mean for Wales?](#) Research Service, Legal Service and EU Office, June 2016.

<sup>639</sup> Welsh Government, Press Release, [EU exit would have "catastrophic consequences for Wales" says Rebecca Evans](#), 20 July 2015.

<sup>640</sup> House of Commons Library, House of the Oireachtas Library & Research Service, Northern Ireland Assembly, National Assembly for Wales, and the Scottish Parliaments Information Centre, [CAP Reform 2014-2020](#), November 2014.

<sup>641</sup> Welsh Government, [European Structural Funds 2014-2020](#), updated 28 July 2016

<sup>642</sup> [Welsh Government written evidence](#), December 2010, to the House of Commons Environment, Food and Rural Affairs Committee's inquiry: 'The Common Agricultural Policy after 2013'.

<sup>643</sup> Welsh Government, Press Release, [EU exit would have "catastrophic consequences for Wales" says Rebecca Evans](#), 20 July 2015.

up to the end of 2014 for the 2007-2013 programmes. This investment has helped EU projects to deliver important benefits for people, businesses, the environment, and communities during 2014, supporting some 190,800 people to gain qualifications and over 62,800 into work, and creating some 30,600 jobs and over 10,400 enterprises.

In addition, organisations from Wales are eligible to participate in a range of different EU funding programmes supporting a number of different EU policy goals. Examples include:

- Horizon 2020, the EU Research Development and Innovation Programme;
- the Territorial Co-operation Programmes (including a Wales-Ireland Cross Border Co-operation programme worth around €100 million in EU funding);
- Erasmus+ (supporting innovative mobility and co-operation activities in the fields of education, training, youth and sport);
- Creative Europe Programme (support for media, cultural and other creative industries);
- European Maritime and Fisheries Fund and many more.<sup>644</sup>

## Implications of Brexit

In the EU referendum Wales voted to leave by 52.5% to 47.5%. The Environment and Rural Affairs Secretary, Lesley Griffiths, spoke on ITV Wales about the uncertainty following the referendum result, but also said he wanted to “make sure that we embrace all the opportunities that will come our way, as well as rising up to the challenges”.<sup>645</sup>

On 9 August the First Minister announced that he would be setting up a European Advisory Group made up of “business people, politicians and experts with a detailed understanding of the European Union” to advise the Welsh Government “on the wide-ranging impact on Wales of the UK’s exit from the EU and how Wales can overcome challenges to secure a prosperous future and a continued positive relationship with Europe”.<sup>646</sup>

In August the Chancellor Philip Hammond said that EU funding for farmers, scientists and other projects would be replaced by the Treasury after Brexit for EU-funded projects signed before this year’s Autumn Statement. Agricultural funding currently provided by the EU would also continue until 2020.<sup>647</sup> Carwyn Jones said on 13 August in response to these statements:

We need a ‘full guarantee’ that funding will continue for our existing EU programmes to 2023. It’s also not unreasonable to expect further funding to address Wales’ economic and social needs, particularly support for our most deprived areas after this date. We have made clear to the UK Government that there is now an overwhelming case for a major and immediate revision of

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<sup>644</sup> [EU funds in Wales](#), updated 16 August 2016.

<sup>645</sup> [ITV Wales, 18 July 2016](#).

<sup>646</sup> Welsh Government, [Work underway to shape Wales’ future relationship with Europe](#), 9 August 2016.

<sup>647</sup> BBC News, 13 August 2016, [Brexit: Government guarantee for 2023 EU funds](#).



the Barnett Formula, to take into account Wales' needs arising from EU withdrawal.<sup>648</sup>

The Welsh Secretary, Alun Cairns, told the House of Commons in July that Wales would "get its fair share" of funding but did not guarantee that Wales would receive the same amount of funding as it would from the EU after Brexit.<sup>649</sup>

On 18 July Theresa May met Carwyn Jones in Cardiff, telling him she wants the Welsh Government to be "involved and engaged" in Brexit negotiations.<sup>650</sup>

## 21.3 Northern Ireland

### Introduction

In the EU referendum Northern Ireland voted by 55.8% against 44.2% to remain. For political, economic, geographic and social reasons, the impact on Northern Ireland of UK withdrawal from the EU might be expected to differ in important ways from the impact of withdrawal on other parts of the UK. Northern Ireland is the only region of the UK to share a land border with another EU Member State and UK withdrawal would, therefore, mean that "an external border of the European Union would run through the island of Ireland".<sup>651</sup> The final terms of any withdrawal agreement would undoubtedly mitigate some potential impacts identified and the Common Travel Area is an example of such cooperation which predates the UK's and Ireland's entry into the European Communities.<sup>652</sup>

Like the UK, the Republic of Ireland (RoI) joined the then EC in January 1973 and this common membership facilitated the development of improved relations between the two States, as they worked together to resolve the conflict in Northern Ireland. In March 2012 a Joint Statement by Irish Taoiseach Enda Kenny and former Prime Minister David Cameron set out a programme of work to reinforce the British-Irish relationship over the following ten years. It emphasised the importance of the two countries' shared common membership of the EU for almost forty years and described them as 'firm supporters of the Single Market' who would '...work together to encourage an outward-facing EU, which promotes growth and jobs'.<sup>653</sup> It has been suggested that a 'British withdrawal, however unlikely, would be a source of enormous

<sup>648</sup> Welsh Government, [Statement](#) by the First Minister of Wales on the UK Government's announcement on EU funds, 13 August 2016.

<sup>649</sup> Independent, 14 July 2016, [Wales told not to expect same level of funding as it got from the EU - despite voting Brexit](#).

<sup>650</sup> [BBC News, 18 July 2016](#); see also Wales Online, 18 July 2016, [Carwyn Jones reveals he laid out Wales 'bottom line' on Brexit to Theresa May](#).

<sup>651</sup> The Institute of International and European Affairs (Aug 2012) [Towards an Irish Foreign Policy for Britain](#).

<sup>652</sup> For an overview of the possible consequences of a UK exit, see Centre for Cross-Border Studies, EU Referendum Briefing Papers Briefing Paper 1, [The UK Referendum on Membership of the EU: What does it mean for us?](#) February 2016.

<sup>653</sup> [Joint statement](#) by the Prime Minister David Cameron and the Taoiseach, Enda Kenny, 12 March 2012.



instability and turbulence for Ireland',<sup>654</sup> and it is possible that the political arrangements established by the [Belfast \(Good Friday\) Agreement](#) would not be entirely protected from this instability. The Agreement, which included the establishment of a Northern Ireland Executive and Northern Ireland Assembly, also enshrined North-South<sup>655</sup> and East-West<sup>656</sup> co-operation, effected constitutional changes and established cross-border bodies. The status of the UK and Ireland as EU Member States is woven throughout the Agreement.<sup>657</sup> Both the Northern Ireland Assembly and the Executive have been working to develop 'European engagement'<sup>658</sup> and the Northern Ireland Assembly has increasingly sought to engage with European issues (there have been two Committee inquiries examining this issue).<sup>659</sup>

Stormont's first minister, Arlene Foster, has said that Northern Ireland and Scotland cannot stay in the EU when the rest of the UK leaves.<sup>660</sup> She added that her job was, with Deputy First Minister Martin McGuinness, "to get the best deal possible for all of the people of Northern Ireland".<sup>661</sup> But Martin McGuinness has said the wishes of the people of Northern Ireland "must be respected" by the British Government. It is not clear how these views will be reconciled, but both the SDLP and Sinn Fein have suggested creating an all-Ireland national forum to consider the implications of Brexit.<sup>662</sup>

Enda Kenny has raised the prospect of a referendum on uniting Ireland.<sup>663</sup>

Proceedings have been brought in Northern Ireland about triggering Article 50.<sup>664</sup> The N.I. case was lodged in the High Court in Belfast on 19 August 2016. The claimants include members of the Northern Ireland Assembly, people with links to the voluntary and community sector, and human rights organisations. The press release states that the claim differs from the judicial reviews brought in the Divisional Court in London in that, among other things, they raise issues of N.I. constitutional law, the Good Friday Agreement, and EU law incorporated into N.I. law by the European Communities Act 1972.

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<sup>654</sup> The Institute of International and European Affairs (Aug 2012) [Towards an Irish Foreign Policy for Britain](#).

<sup>655</sup> This refers to co-operation between Northern Ireland and the Republic of Ireland.

<sup>656</sup> This is co-operation between the Republic of Ireland and Great Britain.

<sup>657</sup> Indeed, the section entitled 'Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland' speaks of "close co-operation between (the) countries as friendly neighbours and as partners in the European Union".

<sup>658</sup> Northern Ireland Executive (May 2012) [European Priorities 2012-13 – Winning in Europe](#).

<sup>659</sup> Committee of the Centre (March 2002), Approach of the Northern Ireland Assembly and the Devolved Government on EU Issues Committee for the Office of the First Minister and deputy First Minister (January 2010), Report on its Inquiry into Consideration of European Issues.

<sup>660</sup> BBC News, 17 July 2016, [Brexit vote: NI first minister says 'whole of UK is leaving EU'](#).

<sup>661</sup> Ibid.

<sup>662</sup> BBC News, 2 July 2016, [What are the implications of Brexit for Northern Ireland?](#)

<sup>663</sup> RTÉ News, 18 July 2016, [Kenny raises prospect of border poll](#).

<sup>664</sup> See [press release](#), 19 August 2016.

## Policing and border issues

It has been argued that “the devolved institutions and EU programmes have facilitated engagement and embedded Northern Ireland as a region deeper into EU than at any time before”.<sup>665</sup> A UK withdrawal could represent a significantly changed context for the work of the institutions, which might be subject to any stresses emerging in UK-Ireland relations following a UK EU exit.<sup>666</sup> UK withdrawal might also have implications for Anglo-Irish co-operation in dealing with cross-border crime and terrorist activity. In discussions on the UK opt-out from policing and justice measures in 2014, the Northern Ireland Executive’s Justice Minister, David Ford, highlighted the enhanced co-operation between authorities on both sides of the border as a result of the devolution of policing and justice powers to the Northern Ireland Assembly.<sup>667</sup> The former RoI Justice Minister, Alan Shatter, was concerned that a UK withdrawal from police and justice measures “would be a retrograde step in the area of security co-operation”.<sup>668</sup>

The UK and the RoI make great use of the EAW. Figures indicate that in 2004-2012, of the 50 EAW requests that Northern Ireland made to other Members States, 30 were made to Ireland.<sup>669</sup> Prior to the introduction of the EAW in 2004, a number of European and domestic measures in the UK and Ireland regulated extradition proceedings, including the 1957 Council of Europe (CoE) Convention on Extradition, the *Backing of Warrants (Republic of Ireland) Act 1965* in the UK and the *Extradition Act 1965* in Ireland. The Convention system no longer applies in Ireland with respect to the UK, and although it would be possible to enact legislation to bring this back into force, one commentator suggested this would not “provide a satisfactory basis for an alternative system of extradition between the two countries, with all the defects, its imperfections, all its outdatedness, all its afflictions and all its potential for endless litigation with an uncertain outcome in relation to the surrender of individuals”.<sup>670</sup> The Lords EU Committee concluded that while the EAW was not perfect and had resulted in serious injustices such as long periods of pre-trial detention in poor prisons, the 1957 Convention was not an adequate alternative between the UK and Ireland.<sup>671</sup>

<sup>665</sup> *Northern Ireland: 40 Years of EU Membership*, Journal of Contemporary European Research, vol. 8 Issue 4 (2012).

<sup>666</sup> The Agreement set up the North-South Ministerial Council, a British-Irish Council and a British-Irish Intergovernmental Conference. It also gave rise to the North-South Implementation Bodies: Waterways Ireland, Intertrade Ireland, the Special European Programmes Body, Food Safety Promotion board, the Language Body, Foyle, Carlingford and Irish Lights Commission. One might expect the impacts described to also impact on these bodies.

<sup>667</sup> Evidence given by David Ford, Northern Ireland Justice Minister to House of Lords European Union Select Committee “EU police and criminal justice measures.

<sup>668</sup> Alan Shatter, TD “[Official Report of Dáil Éireann](#)” 15 May 2013.

<sup>669</sup> Lords EU Committee “EU Police and Criminal Justice Measures: The UK’s opt-out decision”, 2012-2013, p 91.

<sup>670</sup> *Ibid* para 264, p 92.

<sup>671</sup> *Ibid* para 264, see executive summary and p 92.

Before the referendum the former N.I. Secretary Theresa Villiers said a post-Brexit border could remain free-flowing. This view was shared by the ruling Democratic Unionist party (DUP), which backed Brexit. But the UK Government did not think the situation would continue as it is. The then Chancellor, George Osborne, said on a visit in June that “a hardening of the border” would be unavoidable.<sup>672</sup> The border issue is also discussed in Section 11.2 (above) of this paper.

The UK Government’s March 2016 document [Alternatives to Membership: possible models for the United Kingdom outside the European Union](#), “It is not clear that the Common Travel Area could continue to operate with the UK outside the EU, and Ireland inside, in the same way that it did before both countries joined the EU in 1973”.

The new UK Prime Minister, Theresa May, said during the EU referendum debate that it was “inconceivable” that there would not be any changes to border arrangements in the event of Brexit.

## Free movement of people and the Common Travel Area

The 2011 census shows 45,331 people in Northern Ireland were born in another EU state (excluding the Republic of Ireland).<sup>673</sup> Many of Northern Ireland’s agricultural and in particular food processing businesses rely heavily upon workers from outside Northern Ireland. Free movement of labour within the EU has been crucial to the growth of many of these businesses, and an EU exit could cause problems in terms of the ability of these businesses to prosper or develop further if access to labour was restricted. Around 900 migrant worker households in Northern Ireland, primarily Polish but also Portuguese, Lithuanian and Latvian, receive social housing.<sup>674</sup>

The Common Travel Area (CTA) governs movement of persons between the UK and the RoI, the Channel Islands and the Isle of Man.<sup>675</sup> As an EU Member State, Ireland could not restrict the entry of EU citizens, so if the UK wanted to increase controls on EU citizens entering the UK through the Republic, it might reconsider the operation of the CTA. Any such reconsideration would have to be undertaken within the new context created by the Belfast (Good Friday) Agreement. There is no settled opinion on how Brexit will impact on the continued existence of the CTA and both the UK and Irish governments have expressed uncertainty about its future. The new Northern Ireland Secretary James Brokenshire [said on 14 July 2016](#): “Another huge challenge is to ensure that we make a success of the UK’s decision to leave the European Union. It is vital that Northern Ireland’s interests are fully protected and

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<sup>672</sup> [Belfast Telegraph, 6 June 2016](#).

<sup>673</sup> 2011 Census Table QS206NI Country of Birth: [http://www.ninis2.nisra.gov.uk/Download/Census%202011\\_Excel/2011/Country%20of%20Birth%20-%20Full%20Detail\\_QS206NI.XLS](http://www.ninis2.nisra.gov.uk/Download/Census%202011_Excel/2011/Country%20of%20Birth%20-%20Full%20Detail_QS206NI.XLS).

<sup>674</sup> As at 31 July 2012. Northern Ireland Housing Executive. Equality Bulletin No. 41 – BME and migrant worker mapping update, February 2013.

<sup>675</sup> This is established in Section 1(3) of the [Immigration Act 1971](#).

advanced including in relation to the border". An opinion article in [The Irish News, 18 July 2016](#), commented:

Unfortunately, while every rational observer accepts that imposing what is ominously described as a hard border would be disastrous, it is difficult to see how the existing open arrangements can be left entirely intact if and when the UK proceeds with its deeply contentious plans to withdraw from the EU.

## EU funding

Northern Ireland benefits significantly from EU funding. Table 1 below provides information on funding from six EU Regional Policy Programmes for 2014-2020:<sup>676</sup>

<b>EU Regional Policy Funding 2014-20 Programme</b>	<b>€m</b>
European Regional Development Fund	308 million
European Social Fund Programme	183 million
INTERREG VA	240 million
PEACE IV	229 million
European Fisheries and Maritime Fund	24 million
Rural Development Programme	227 million
<b>Total</b>	<b>1,211 million</b>

These are relatively significant sums which Northern Ireland could lose if the UK leaves the EU. Brexit would also impact on the future of the Special EU Programmes Body, which is responsible to the European Commission, the Northern Ireland Executive and the Irish Government for the delivery and management of the INTERREG and PEACE Programmes. In addition to the direct impact on spending, there could also be a particular impact on the community and voluntary sector, which in Northern Ireland plays an important role in addressing social and economic deprivation, training and employment, social enterprise, health and well-being, 'peace building' and building cross-community and cross-border relationships. The annual income of the Northern Ireland community and voluntary sector is reported to be around £741.9 million, of which approximately £70.1 million is estimated to derive from various EU funding programmes.<sup>677</sup> The sector is also an important employer in Northern Ireland, constituting around 4% of the total N.I. workforce.<sup>678</sup> A loss of EU funding could contribute to higher levels of

<sup>676</sup> For further information, see [The impact of EU Funding on the Region](#). The following paper illustrates the impact of PEACE and INTERREG Funding in Northern Ireland, the border region of Ireland (including Western Scotland 2007- 2013 INTERREG) over the past and future Programming periods: Part A 1995 to 2013. Part B 2014 to 2020.

<sup>677</sup> Northern Ireland Council for Voluntary Action (2012) State of the Sector VI, p2. This is not an exact reflection of the contribution of programmes to the voluntary and community sector. The figure includes funding for projects led by a voluntary or community organisation, but does not include the involvement of community and voluntary organisations in EU funded projects led by a public sector body.

<sup>678</sup> Northern Ireland Council for Voluntary Action (2012) State of the Sector VI, p9.

unemployment, particularly among women, given the predominance of women employed in this sector. Additionally, EU withdrawal could compromise the sustainability of many voluntary organisations in contributing to EU-sponsored networks and programmes.

## Manufacturing, R&D and innovation

Business leaders in Northern Ireland have expressed concern about the possible effects of a UK withdrawal on trade in general and with the RoI in particular.<sup>679</sup> A worst case scenario might see the introduction of tariff controls on the border. Table 2 shows exports to the RoI accounted for a quarter (25%) of total exports and just under a quarter (24%) of exports to the rest of the EU.<sup>680</sup>

Destination of NI Manufacturing Exports 2013/14

	<b>(£m)</b>	%
Ireland	1,553	25
Other EU	1,470	24
Outside EU	3,089	51
<b>Total</b>	<b>6,113</b>	<b>51</b>

The destination of exports by 'high potential' service companies in Northern Ireland is outlined in the table below (the most recent data available is for 2011/12). Exports from this sector to the RoI were valued at £69.8million in 2011-12 and accounted for 29% of all sectoral exports, which represents over three quarters of sectoral exports to the EU. Total exports to the EU were valued at £88.4million and were the equivalent of 37% of all exports in the sector. The sector did, however, export a greater proportion of total exports to countries outside of the EU (63% of total sectoral exports).<sup>681</sup>

Destination of exports by NI 'high potential' service companies 2011/12

	<b>(£m)</b>	%
Ireland	69.8	29
Other EU	18.6	8
Outside EU	151.9	63
	<b>240.3</b>	<b>100</b>

The data in the table above shows that both the RoI and the other EU countries represent significant trade partners for Northern Ireland. Any changes to trade relations that might limit Northern Ireland's ability to

<sup>679</sup> See for example The [Belfast Telegraph 24 January 2013](#).

<sup>680</sup> DFP [Results from the Northern Ireland Manufacturing Sales & Exports Survey 2011/12](#) (December 2012).

<sup>681</sup> DFP [Exporting Northern Ireland Services Study 2010](#) (July 2012).

trade with these regions would likely have a substantive and negative impact on Northern Ireland's economy. It is also possible that uncertainty itself about the UK's potential withdrawal from the EU might impact on trading with EU partners.

The importance of the EU Horizon 2020 programme to developing research & development and innovation (R&D&I) is recognised in the Department of Enterprise, Trade and Investment's [Horizon 2020 Action Plan](#). UK withdrawal from the EU would prevent Northern Ireland from accessing Horizon 2020 and subsequent EU R&D&I funding and could negatively affect its ability to improve its capacities in this area. Of the 121 projects with Northern Ireland involvement supported under Horizon 2020's predecessor, the Framework 7 programme, 84 included participation by the regions' universities. Through the work of the Barroso Task Force the European Commission directly engaged with the Northern Ireland Executive to support efforts in Northern Ireland to improve competitiveness, create sustainable employment, reduce dependence on the public sector and create a more dynamic private sector.<sup>682</sup>

On 14 January 2016 the European Commission announced its intention to continue the work of the Northern Ireland Task Force and its future priorities will be prepared with the Commission for finalisation in the first half of 2016.<sup>683</sup> Withdrawal from the EU would mean the termination of the NI Task Force and possibly the closure of the NI Executive Brussels Office.<sup>684</sup>

## Agriculture, the agri-food industry and the environment

Agriculture and the wider agri-food industry are key industries in Northern Ireland. Based on 2014 data, agriculture accounted for 1.4% of total Gross Value Added (GVA) as compared to the overall UK figure of 0.6%.<sup>685</sup> Agriculture also accounted for 3.4% of total civil employment in Northern Ireland as compared to the overall UK figure of 1.2%.<sup>686</sup> The biggest single EU-related benefit for Northern Ireland agriculture is the direct payments which totalled £293 million in 2014 (£246 in Single Farm Payment alone). Many local farmers rely on these direct payments to be viable, and the loss of such funding could significantly reduce the number of farms and farmers as well as farm production in Northern Ireland, while increasing the levels of rural unemployment and land dereliction. The loss of significant agricultural production could also restrict the ability of the Northern Ireland Executive to deliver on its ambitious plans for the development of the

<sup>682</sup> European Commission COM(2008) 186 final - [Communication from the Commission to the Council and to the European Parliament on the Report of the Northern Ireland Task Force](#) (p3).

<sup>683</sup> [NI Executive press release, 14 January 2016](#).

<sup>684</sup> For an assessment of the value of the Northern Ireland Task Force, see the Centre for Cross Border Studies' [Written Evidence](#) to the Committee for the Office of the First and Deputy First Minister: Inquiry into the Barroso Task Force.

<sup>685</sup> [DARD \(2012\) Statistical Review of Northern Ireland Agriculture 2012](#).

<sup>686</sup> Ibid

local agri-food industry (60% growth in turnover to £7 billion and a 15% growth in employment to 115,000 by 2020)<sup>687</sup>. Without direct support the diversity of Northern Irish agriculture could diminish, as currently economically challenging sectors such as the beef and pig sectors could contract. This could see the creation of what would effectively be a monocultural system in Northern Ireland based, for example, upon the currently commercially viable dairy sector.

The issue of increased access to and development of export markets is a key challenge for the Northern Ireland agri-food industry. If the UK left the EU, Northern Ireland, along with the rest of the UK, might be able to negotiate more quickly and easily new or enhanced access to countries outside the EU. Questions do, however, remain as to whether these terms would be better than those that can be secured within the auspices of the EU. By leaving the single market, Northern Ireland could find it difficult to gain the access to many EU markets that is currently crucial to the industry's profits. Being subject to import tariffs or conditions could increase the costs and reduce profits. These factors would present a particular challenge for Northern Ireland, as it is the only part of the UK to share a land border with another EU Member State, and as significant elements of the food supply chain effectively operate on an all-island basis.

Many of the improvements to water quality in N.I. have been delivered by providing financial support to local farmers under agri-environment schemes funded under the EU Rural Development Programme. EU regulation has also increased the financial burdens on farmers, however, through the need to improve facilities. An EU exit might reduce, maintain or even enhance the level of environmental regulation. The loss of EU agri-environment scheme support may well see a reduction in overall environmental quality and biodiversity, as farmers move from environmental protection to production as a sole means of securing income. In addition, the loss of direct payments and agri-environment schemes could lead to land dereliction levels soaring. A reduction in environmental regulation or a more pragmatic approach to implementation and enforcement could benefit the local agri-food sector, however. The poultry sector in particular may well be able to expand significantly, as the storage and removal of litter required in EU regulations is currently a major limiting factor.

## Sea fishing

In UK terms Northern Ireland's sea fishing industry is very small, employing a total of 832 fishermen in 2014.<sup>688</sup> In 2014 the total value of fish landed in Northern Ireland's fishing ports amounted to £24.8 million, with shellfish making up the most significant part of the overall catch. As a result of Total Allowable Catch (TAC) changes, the majority of the Northern Irish fleet has focused on catching prawns in the Irish

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<sup>687</sup> Agri-Food Strategy Board (April 2013) [Going for Growth, A Strategic Action Plan in support of the Northern Ireland Agri-Food Industry](#).

<sup>688</sup> [Marine Management Organisation, UK Sea Fisheries Statistics 2014](#) 2015.



Sea. The local industry could be characterised as being single species dependent. If the UK could set its own fisheries rules and restrict access to the UK EEZ by foreign vessels, the Irish Sea could potentially support a more species diverse industry with the potential for growth and development. A key factor would be the way scientific data was collected, analysed and used in relation to the management of stocks, and it is not clear whether this would be more effective if the UK left the CFP.

The European Maritime and Fisheries Fund (EMFF), effectively the replacement for the existing European Fisheries Fund, is an integral part of the recently reformed Common Fisheries Policy. The Northern Ireland EMFF has been allocated a total of €23.5 million for 2014-2020. Brexit will mean Northern Ireland's local fishing ports and their vessels losing access to this funding, which has been critical to the modernisation of the fleet and the facilities it requires.

The prawn fishery within the Irish Sea is the main focus for the Northern Irish fleet and is also fished by boats licensed in the RoI. If with Brexit the UK decides to enforce the UK EEZ, there could be serious ramifications for the relationship between the local and RoI-based fleets. Determining who can fish where and when would present considerable difficulties for all the fisheries within the Irish Sea. Eel fishing is also a comparatively large industry in Northern Ireland. If the UK were no longer bound by the *EU Regulation Establishing Measures for the Recovery of the Stock of European Eel*, eel management could continue, although the Northern Ireland Executive might alter its obligations regarding monitoring, restocking and minimum catch sizes. Given that the Lough Neagh eel industry produces around 25% of the total EU wild eel catch, Brexit might have an impact on Europe-wide re-stocking, control and monitoring systems currently operated under EU law. If the UK is outside the single market, there might be an effect on the exportability of eels into European markets such as the Netherlands.

### **Social security, welfare and education**

Brexit might impact disproportionately upon people in border areas, that is, those living in Northern Ireland but working in the RoI (and vice versa) in terms of the transferability of EU/EEA social protection entitlement, including social security, child maintenance and pensions. If the UK imposes restrictions on EU/EEA nationals' access to the UK social protection system, it is likely that Northern Ireland would impose similar restrictions because of financial constraints.

The EU has supported the development of cross-border projects and provided a legislative basis for cross-border access to services in specific circumstances. CAWT (Co-operation and Working Together), for example, aims to address the economic and social disadvantage that can result from the existence of a border and is part financed by the European Regional Development Fund through the INTERREG IVA cross



border programme, managed by the Special EU Programmes Body.<sup>689</sup> CAWT is the managing partner for a range of cross-border health and social care programmes on behalf of both Departments of Health in Northern Ireland and the RoI,<sup>690</sup> and for the period 2007-2013, £30 million was attributed to funding a range of programmes<sup>691</sup> separately from the core Departmental funding.<sup>692</sup>

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<sup>689</sup> CAWT website <http://www.cawt.com/>.

<sup>690</sup> Personal correspondence with Special EU Programmes Body 18.6.13.

<sup>691</sup> There are 12 EU INTERREG IVA funded cross-border health and social care themes, e.g. the development of cross-border acute hospital services and practical initiatives to enable health care staff to work more easily across both jurisdictions. [CAWT, Project Overview, Cross-border Workforce Mobility](#), accessed 26/03/13.

<sup>692</sup> Personal correspondence with Special EU Programmes Body 18.6.13.

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## BREXIT UPDATE AND EMERGING POSITION ON FUTURE REGIONAL POLICY

### Purpose

- 1 The purpose of this report is to provide an update on Brexit, to seek members' approval of a proposed emerging position on future regional policy (**Annex A**) and to seek members' views on the attached letter (**Annex B**) from the President of COSLA regarding local government's engagement in the Brexit process and post EU membership world.

### Background

- 2 Since the result of the UK's Referendum on EU membership on the 23<sup>rd</sup> of June 2016 the implications of the decision to leave the EU are still emerging. The planning for Brexit is also intensifying as the formal start of the negotiations becomes closer.
- 3 The focus of the WLGA's European work is now on raising awareness of the potential changes and impacts for local government, identifying both the challenges and opportunities to do things differently post Brexit and ensuring a key role for local government in all the planning for Brexit at the Wales and UK levels.

### Update on recent key developments

- 4 Key UK developments as follows:
  - Two new Departments of State created: Existing the EU and Trade
  - New Committees established: Cabinet Sub Committee; Joint Ministerial Committee European Negotiations; Parliament Brexit Committee
  - Resignation of UK's Ambassador to the EU, Sir Ivan Rogers, who describes the UK's Brexit negotiations as "*ill-founded arguments and muddled thinking*". He warned it could take the UK as long as 10 years to exit the EU at a cost of around £60 billion (3<sup>rd</sup> January 2017)
  - UK Government published Industrial Strategy Green Paper, naming five sectors that could receive special government support: life sciences, low carbon emission vehicles, industrial digitalisation, the creative sector and the nuclear industry (23<sup>rd</sup> January 2017)
  - Supreme Court ruled that the British Government cannot trigger Article 50 without the authorisation of Parliament but UK Ministers not legally compelled to consult the Devolved Administrations (24<sup>th</sup> January 2017)

- UK Parliament vote to enable the Prime Minister to formally start negotiations by triggering Article 50 by the end of March 2017 (1<sup>st</sup> February 2017)
- UK Government's White Paper "*The United Kingdom's exit from and new partnership with the European Union*" (published on 2<sup>nd</sup> of February 2017)
- European Union (Notification of Withdrawal Bill) voted through by the House of Commons and enters the House of Lords (expected to be voted through)

5 Key Wales developments as follows:

- Cabinet Sub Committee established, Brexit Special Adviser appointed and EU Transition Team set up in Welsh Government
- First Minister's European Advisory Group set up (WLGA represented by Cllr Phil Bale, European Affairs Spokesperson)
- New National Assembly for Wales Committee: External Affairs and Additional Legislation Committee. "*Implications for Wales of Leaving EU Report*" published January 2017, awaiting Welsh Government response
- Welsh Government and Plaid Cymru EU White Paper "*Securing Wales' Future: Transition from the European Union to a new relationship with Europe*" published (23<sup>rd</sup> January 2017)
- Discussions on Future Regional Policy started

## Potential timescales

- 6 The formal two year negotiating period will start once the Prime Minister invokes Article 50, by the end of March 2017. However, although there is a two years window to conclude the negotiations, the political and institutional realities (national elections in France, Netherlands and Germany and the requirements to take a deal through all EU Institutions and 27 Member States) mean there will be a much shorter timescale to get a deal done and that deal will need to be in place by Autumn 2018 to enable it to go through all the various processes required.
- 7 In contrast to the UK Government's view, many commentators believe that it could take up to 10 years for the UK to exit the EU thus it is becoming increasingly apparent that **transitional arrangements** will be required from March 2019 until whatever time the UK leaves. It could take another 10 years for the UK to negotiate new trade deals.

## Key issues for Local Government

- 8 As local government implements most of the legislation currently operating under EU law, operates within EU wide regulatory and policy frameworks and accesses funding under many European Programmes, the main implications of Brexit for us are in relation to **legislation, policy and funding** regimes. EU Legislative, Policy and Funding Frameworks in the following key areas of interest for local government will need to be replaced by UK and or Wales Frameworks, pending the nature of non-devolved and devolved areas of activity as follows:

- Competition Policy and State Aid
  - Employment and Workforce issues
  - Regulatory Services
  - Procurement
  - Environment, Planning, Waste
  - Agriculture and Rural Development
  - Regional Economic Development
- 9 In terms of **funding**, Wales is a net beneficiary of EU Funds, receiving around £680 million annually from different EU Funding streams, the biggest of which include the Structural Funds (ERDF and ESF) for our most deprived communities across North West Wales, West Wales and the Valleys and the direct payments to farmers and the wider Rural Development Funding under the Common Agricultural Policy.
- 10 The UK Treasury has guaranteed full funding to all projects signed prior to the Autumn Statement last November (2016) and that funding for projects signed after that and which continue post exit (from March 2019) will be honoured only if projects *“provide strong value for money and are in line with domestic strategic priorities”*. For projects in Wales the Welsh Government has received assurances from UK Treasury that they must be in line with Welsh domestic strategic priorities.
- 11 There is no guarantee of funding Post 2020. This will need to be negotiated with the UK Government. A strong case will be made based on the similar levels of funding that Wales would have received if we were to remain in the EU, according to need and circumstances, and, as with the EU funding, that it has to be in addition to the Block Grant Wales receives under the Barnett Formula as a recognition of our continued needs post Brexit. Further, as most economic forecasts predict that Brexit will lead to wider regional disparities across UK nations and regions the need for continued investments to Wales over and above the Block Grant will become even more evident.
- 12 The impact on wider **public finances** is potentially devastating for Wales, coming on top of the reductions in public expenditure already forecast. The lower economic growth forecasts for the medium to long term, leading to a reduction in tax receipts, combined with increased inflation and migration impacts will further constrain public finances in Wales.
- 13 Further, the most likely outcome if a ‘hard’ Brexit is pursued by the UK Government is trading according to WTO rules with high tariffs and more restrictions on migration. This will be detrimental for the Welsh Economy due to our relatively high dependency on manufacturing, public services, agriculture and higher exports.
- 14 Key considerations for us include what kind of access will our businesses have to the EU Single Market and at what cost; timescales, expertise and capacity to negotiate trade deals and implications of tariffs for key Welsh exports and sectors (manufacturing, farming, food and drinks etc) and public services.

15 The nature and scale of the **legal implications** of Brexit is starting to become apparent as the reality of the work required to replace over 40 years of legislation, policy and funding frameworks becomes apparent. Key issues for Wales as follows:

- The sheer scale of the legal implications and the necessary tasks in terms of transferring powers back is a major challenge for all UK legislatures and has the potential to completely take over the work of both Houses of Parliament and the Devolved Administrations for the next few years.
- Its looking increasingly likely that the transfer of powers back from the EU to the UK will require around 8-9 Parliamentary Bills i.e. not only the Great Repeal Bill but specific bills for specific matters e.g. Immigration Bill, Customs Bill, Agriculture Bill etc. these will need to be taken forward as a package of legislative proposals and enter into force by around the summer of 2018 to enable the necessary processes to be put in place to implement new arrangements post exit i.e. from 1<sup>st</sup> of April 2019.
- How many Legislative Consent Motions would the National Assembly for Wales need to prepare to repatriate powers in all devolved areas?
- No guarantees or assurances that devolved powers will be devolved back to the Devolved Administrations.
- Brexit has a serious potential to adversely impact and de-stabilise the whole current UK constitutional arrangements between the UK Government and the Devolved Administrations. New arrangements will be required to govern non-devolved competencies and new mechanisms will need to be put in place for formal and informal inter-governmental cooperation between the 4 UK Nations.

## **WLGA activity**

16 The key principles guiding all our Brexit activity are as follows:

- All EU laws, policy and funding in all devolved matters should be repatriated from the EU to Wales.
- New arrangements in terms of legislative, policy and funding mechanisms need to be as streamlined and simplified as possible, integrated and devolved to the local and regional levels, enabling local flexibility and freedoms in terms of governing, decision making and implementation.
- Similar levels of standards, protections and rights should be maintained for everyone currently living and working in the UK on exit from the EU.

17 Current WLGA Brexit activity is focused on raising awareness of the potential changes and impacts for local authorities; highlighting the challenges but also the opportunities to do things differently and ensuring that local government's interests are taken on board in all the planning and preparations at both the UK and Wales levels as follows:

- Working with the LGA, COSLA and NILGA: participating in the LGA Brexit Task and Finish Group; involved in meetings with the UK Department for Exiting the EU and making the case for local government involvement in the

negotiations and in all the planning for new legislative, policy and funding arrangements.

- Engaging with the Wales Office regarding the challenges and opportunities for local government, including the need to engage with the UK Industrial Strategy.
- Input into the work of the First Ministers' European Advisory Group (via WLGA representative Cllr Phil Bale, European Affairs Spokesperson).
- Responded to a number of consultations and inquiries conducted by National Assembly for Wales Committees on the implications of Brexit for Wales and specifically on the future of Agricultural and Rural Affairs Policy.
- Participated in a number of discussions on the future of agriculture, rural development and environment as part of the roundtable set of meetings with key stakeholders facilitated by the Welsh Government Cabinet Secretary for Environment and Rural Affairs Lesley Griffiths AM.
- Participated in initial discussions on future Regional Policy at meetings of the European Structural and Investment Funds Programme Monitoring Committee and the European Advisory Group.

18 The discussions on future regional policy are progressing on various levels, highlighting the need for local government to develop its position and influence the direction of travel at both the UK and Wales level. As a result, a proposed emerging position on future regional policy is presented to members in Annex A attached for consideration and approval to enable the WLGA to influence the discussions and to specifically respond to the following opportunities over the next few weeks:

- Providing oral evidence to the National Assembly for Wales' External Affairs and Additional Legislation Committee on Monday 6<sup>th</sup> of March on Future Regional Policy.
- Respond to the Welsh Government Consultation on Future Regional Policy: expected to be launched late March 2017.
- Respond to the UK Industrial Strategy Green Paper, April 2017.

19 We also need to respond to the attached letter from the President of COSLA (see Annex B) regarding local government's engagement in the Brexit process and post EU membership world. Whilst recognising the need for appropriate mechanisms to be established for local government to work with both the UK and Devolved Governments on the new legislative, policy and funding frameworks, we would not necessarily advocate the creation of a UK Committee of the Regions to replace the current EU Committee of the Regions. We are keen, however, to further explore the best solution to ensure local government involvement in the key discussions with both the UK and Devolved Governments and the need for continued local government engagement in the current Brexit process and post EU membership world. As a result, we would welcome an opportunity to discuss these issues further with colleagues from all 4 UK Local Government Associations at the next meeting of the UK Forum.

## Recommendations

20. Members are:

20.1 Invited to comment on any aspect of this report;

20.2 Invited to provide views and approve the proposed emerging position on Future Regional Policy as presented in Annex A

20.3 Invited to comment on the issues to raise in our response to the letter from the President of COSLA included as Annex B as proposed in point 19 above

---

**Report cleared by:** Councillor Phil Bale  
WLGA Spokesperson for European Affairs

**Author:** Lowri Gwilym  
Team Manager Europe and Regeneration  
**Tel:** 029 2046 8676  
**E-mail:** [lowri.gwilym@wlga.gov.uk](mailto:lowri.gwilym@wlga.gov.uk)



### Proposed WLGA Emerging Position on Future Regional Policy

#### Background

1. Wales has benefited substantially since the 1980s from European Structural Funds. Under EU Regional Policy Wales has been divided into two – West Wales & the Valleys (WW&V) and East Wales. The boundary was drawn in a way that ensured WW&V was eligible for the maximum rate of support from Europe in order to reflect the needs of deprived communities across the South Wales Valleys, West Wales and North West Wales, both urban and rural.
2. As the EU Regional Policy is the main tool for addressing regional disparities across the EU by focusing and targeting support on areas of most need, eligibility is decided on the basis of average EU GDP; the West Wales and the Valleys region has consistently qualified for the highest levels of EU Funding due to the fact that it's GDP remains below 75% of the EU average. The only other part of the UK to consistently qualify for this highest category of support is Cornwall.
3. East Wales has also benefited from EU Structural Funds, although lower levels of support have been available within that region due to its higher average GDP levels.
4. The Structural Funds have provided capital funding in the form of the European Regional Development Fund (ERDF) for supporting infrastructure, businesses, R&D and innovation and revenue funding in the form of the European Social Fund (ESF) for investments in people, skills and training.
5. Such funding, matched by domestic public and private funds, has provided long term (7-9 years), multi annual support to communities across Wales.
6. Wales has also qualified for funding under many other European Funding Programmes, such as the Territorial Cooperation Programmes (Wales Ireland Cross Border Programme; North West Europe and Atlantic Area Programmes) and many themed funding programmes focused on supporting Higher Education, R&D and Innovation, Education and Young People.
7. An initial paper on *Future of Regional Policy in Wales* was tabled by the Welsh Government for discussion at the meeting of the European Advisory Group on the 9<sup>th</sup> of February and will be further discussed at the meeting of the ESI Funds PMC on the 24<sup>th</sup> of February. We welcome some of the key messages in that paper, specifically:
  - the commitment to co-design future regional policy will all key partners
  - the emphasis on place based approaches
  - the recognition of the need to work with the UK Government to ensure it utilises it levers to facilitate more inclusive and balanced economic growth
  - the wider focus of supporting continued collaboration and participation in some EU programmes post Brexit and
  - the recognition from the OECD that regional policy can be effective not only at supporting growth ambitions, but also in helping to address inequalities,

particularly in rural and underdeveloped areas, should guide the development of an inclusive regional policy for Wales going forward.

## **Opportunities to develop different approaches**

- 8 Brexit provides an opportunity to develop different approaches to regional economic development across the UK. The removal of artificial geographical boundaries will enable future policy to better reflect functional economic areas based on economic realities such as travel to work patterns. Further, the removal of all the restrictions, conditions and requirements of EU Structural Fund Programming, which have been increased over the last few programming periods, will enable the development of much more flexible approaches that meet the needs and circumstances of different parts of Wales.
- 9 The scale of restrictions on utilising and targeting funding, combined with the Welsh Government's more 'strategic' national approach to EU Structural Funds over the last few programming periods has made it much more difficult to deliver regional, sub-regional and local interventions that can make a real difference to local communities across both urban and rural Wales.
- 10 The removal of the artificial boundaries and the requirements to focus investments on specific themes should enable the development of a much more flexible approach to utilising funds, based on priorities already identified by all partners regionally across Wales, including cross-border opportunities in some areas. It also provides an opportunity to develop radical new approaches towards regional policy, based on devolving funding, decision-making, governance, implementation and delivery to the regional and local levels across Wales. The opportunity to develop much more integrated approaches, investments and funding packages, combining capital and revenue funding, also needs to be taken advantage of as we move away from silo fund specific sources, rules and regulations.
- 11 Whilst regional economic development policy is devolved the key tools and levers for regional economic growth (assisted areas, competition and state aid, corporation tax etc.) and, crucially, most of the funding and finance, remain with the UK Government.
- 12 As a result, one of the key issues for Wales post Brexit will be the need to secure additional finance and funding from the UK Government in order to replace the funding received directly from the EU. In addition, Wales will need to up its game considerably and maximise all the funding and finance sources available from the UK Government.
- 13 A dual, parallel approach is thus required going forward that both influences the shape and direction of future regional economic development policy in Wales and the future direction of UK Regional Policy.

## **Key Principles for a Regional Economic Development Policy in Wales**

- 14 Good progress has been made over recent years at the regional level by local authorities working collaboratively and with key partners from the private sector and

Higher and Further Education. We now have four distinct regional partnerships in operation as follows:

- South East Wales – Cardiff Capital Region
- South West Wales – Swansea Bay City Region
- Mid Wales – Growing Mid Wales Partnership Board
- North Wales – Economic Ambition Board

These regions provide a strong basis for the development of regional policy in Wales. **Future regional policy needs to recognise the emergence of these four Regional Economic Development structures / partnerships** as they provide key building blocks for developing a new approach to regional economic development across Wales.

- 15 Funding should be devolved down to these four regions to enable them to decide how best to utilise investments, based on priorities identified and agreed by all key partners within their regions. This needs to include, as is currently emerging under the City Deal and Growth Deal discussions, the contribution of both Welsh and UK Government Funding and Finance sources, towards delivering agreed regional priorities.
- 16 The experience of progressing the City and Growth Deals has involved a new, much more rigorous approach towards development, and has required a step change in thinking and terminology, for example, the need to focus on investments not grants, finance not funding and exploring how best to unlock private sector investment, wider UK funding, Local Authority borrowing as well as different Welsh Government and wider alternative sources of finance, including LA municipal bonds. It has also involved a shift in focus to concentrating on joint outcomes, impact and co-design and co-delivery of agreed interventions. Such a fundamental step change in approach needs to be utilised and built upon in the development of future regional policy.
- 17 The decision-making, governance, implementation and delivery of future funding and finance should be devolved to the regions, as is currently happening with the City Deals in South East and South West Wales and the Growth Deal in North Wales, thus negating the need for national Wales wide programmes administered centrally by the Welsh Government.
- 18 Further consideration needs to be given as to how to ensure that Mid Wales also benefits from similar funding and finance opportunities.
- 19 Further consideration also needs to be given towards ensuring that the 4 regional approaches encompass both urban and rural economic development challenges and opportunities.
- 20 It will also be important to strike the right balance between need and opportunity as there will be a continued requirement to address both the fundamental structural weaknesses of the Welsh Economy and to invest in raising productivity, competitiveness and economic growth.
- 21 The role of the Welsh Government should include providing an overall framework, setting key objectives and providing strategic national direction for economic development but not direct delivery of interventions. The direct delivery of agreed

regional priorities and interventions should be managed regionally, either through commissioning activity or directly managing activity.

- 22 We would welcome a dialogue with relevant Welsh Government officials regarding how such a national / regional approach needs to be reflected in the Cabinet Secretary for Economy and Transport, Ken Skates AMs emerging Economic Priorities Strategy.
- 23 Further consideration and discussion is also required with relevant Welsh Government officials in relation to taking forward the proposal in the Welsh Government's Local Government Reform White Paper for 4 Regional Economic Development Structures / Partnerships but only 3 Joint Committees.

### **Maximising funding and finance from UK Government Programmes**

- 24 Although Economic Development is devolved to Wales, other key aspects of Regional Policy, such as the designation of assisted areas, competition and state aid remain UK Government competencies. As a result, it is vital that Wales influences the discussions in Whitehall on the future direction of Regional Policy as follows:
  - Consider and respond to the UK Government Industrial Strategy Green Paper
  - Influences the development of UK Frameworks for future competition and state aid rules

In terms of the UK Industrial Strategy it will be important to ensure that the identified sectors for support do not cut across efforts to support specific sectors in Wales via agreed themes for Enterprise Zones and wider sector specific priorities across Wales. A discussion will need to take place between the UK and Welsh Governments to ensure that the sectors supported are aligned.

A further discussion needs to take place between the UK and Welsh Government to ensure that any special provisions for some sectors in England, such as the much anticipated special provision for the financial services sector in London, does not reduce the prospects for attracting quality financial service sector jobs to Wales.

- 25 For the WLGA specifically it is vital that we continue our work with colleagues in all UK Local Government Associations (LGA, COSLA & NILGA) to ensure that future regional policy in the UK fully recognises devolution, not only to nations and regions across the UK but to the sub-regional and local levels; that funding, decision making, governance and accountability is also devolved down to the regional and local levels in line with the Devolution Deals and localism agenda so that regional and local areas are able to utilise funds to meet agreed local and regional priorities, in line with the principle of subsidiarity.

The WLGA will be working to influence the development of UK Regional Policy with colleagues across the UK Local Government family as follows:

- Involvement in the LGA Brexit Task and Finish Group
- Input into LGA commissioned work to inform the development of future regional policy

- Involvement in key meetings with Whitehall Departments, e.g. our meeting with the Minister of State in the Dexeu Department, David Jones MP, on the 21<sup>st</sup> of February
- Continued dialogue with the Wales Office

We would welcome a further dialogue with Welsh Government in order to ensure that we maximise all key partners' avenues and channels of engaging directly with the UK Government in order to strengthen Wales' voice in key discussions in Whitehall.

- 26 We welcome the recognition of the need to work with the UK Government to ensure that it utilises its levers to facilitate more inclusive and balanced economic growth. This also needs to involve ensuring that all partners in Wales maximise the opportunities to access key UK funding sources such as funding for Innovation, Productivity, Research and Development and Infrastructure, which, traditionally have been taken up by Local Enterprise Partnerships and other sub-regional and regional economic development partnerships in England.

### **Continued participation in some EU funding programmes, initiatives and networks**

- 27 We would support continued access for Wales and the UK to some EU funding programmes, initiatives and networks post Brexit as follows:

- Funding for Research, Development and Innovation via HORIZON
- Funding for Education and Young People via ERASMUS
- Favourable access to European Investment Bank facilities
- Funding for European Territorial Cooperation

- 28 In order that Wales and the UK maximises these opportunities it will be important to continue our involvement and participation in key European Networks to enable partnership working with other nations and regions and joint bids for funding. Key networks include the European Network for Rural Development, EURO CITIES, and networks involving Universities. This will also be important in identifying examples of best practice from around the world in terms of regional policy and how to adapt those in ways that would work for Wales.

- 29 It will be important for the 4 regions of Wales to establish direct links with similar areas both across and outside the EU in order to maximise opportunities from continued access to some key European funding programmes and initiatives that do not require EU membership to participate. We welcome the fact that both the UK and Welsh Governments have already indicated their willingness for continued access to some programmes.



From the President Councillor David O'Neill



8 February 2017

The Lord Boswell of Aynho  
House of Lords  
London  
SW1A 0PW

Dear Lord Boswell

I'm writing just by way of a short follow up for the evidence session last Wednesday in Edinburgh.

I mentioned my concern at the potential 'race to the bottom' and the need to co-ordinate UK wide policy to maintain the UK single market as we leave the EU and start new trade agreements. I also covered the need for a UK framework of support for the more fragile communities and sectors. It bothers me that while there is an enormous focus over where the powers of the EU institutions will end up and what can be done with them, there's been little attention paid to the EU's existing governance arrangements and whether these should frame how what is returned to the UK is exercised.

Because of the EU's recognition of the principle of subsidiarity, local (and regional) government is well represented in the mechanism for developing and altering the only trade agreement that we are party to, essentially the TEU and the 'acquis communautaire'. The Committee of the Regions was set up in 1994 to address two main issues. The first was that about three quarters of EU legislation is implemented at a local or regional level, so local and regional representatives need to have a say in the development of new EU laws. The second was to address the widening gap between the public and the process of European integration; involving the elected level of government closest to the citizens was one way of closing this gap.

Both of these matters are of particular relevance today, as a major factor in the Brexit vote appears to have been the felt remoteness people have had from decision making that affects them. The presence of the CoR has less formally opened up relations with both the European Commission and the European Parliament, both keen on getting our views. The CoR has not only considered the internal market arrangements, but also expressed views when new trade agreements have been proposed (including TTIP and CETA recently). While we prepare to leave the EU, consider how the returned powers could be used and scope out the potential content of new trade agreements, I believe we need to have something that will replicate the benefits of having the CoR in the UK.

As a starter I would welcome your views on having a UK Committee of the Regions (UKCoR) acting as a consultative body here for reserved powers where there are shared competencies with local government. For similar, but devolved areas, there may be a case for the Scottish UKCoR members having a similar role but complementing that of the Scottish Parliament and the Scottish

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Government. To us here it would, to some extent, simply revive the historic role of COSLA's predecessor, the Convention of the Burghs of Scotland, but modernise its relationship with the parliaments and governments that now exist. Another benefit of such an arrangement could be that the leaders of the various country delegations to the "UKCoR" would meet as part of the JMC arrangements to agree approaches to any shared competency fields.

I would be interested to see your views about how we address the need for local government's engagement in the Brexit process and post EU membership world.

Yours sincerely

A handwritten signature in black ink, appearing to read "David O'Neill". The signature is fluid and cursive, with a large, stylized initial "D".

Councillor David O'Neill  
COSLA President



External Affairs and Additional  
Legislation Committee  
**Implications for Wales of leaving  
the European Union**

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January 2017



**National Assembly for Wales**  
External Affairs and Additional Legislation Committee

Tudalen 621

The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

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External Affairs and Additional  
Legislation Committee  
**Implications for Wales of leaving  
the European Union or Wales of  
leaving the European Union**

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January 2017



**National Assembly for Wales**  
External Affairs and Additional Legislation Committee

Tudalen 623

# External Affairs and Additional Legislation Committee

The Committee was established on 28 June 2016. On 15 September 2016 its remit was agreed as:

(a) to examine the implications for Wales of the United Kingdom's withdrawal from the European Union and to ensure Welsh interests are safeguarded during the withdrawal process, in any new relationship with the European Union and in the intra-UK post-withdrawal arrangements for relevant policy, finance and legislation;

(b) to coordinate activity across Assembly committees in relation to point (a) above.

(c) to carry out the functions of the responsible committee under Standing Orders 21.8 to 21.11, with a consequential change to the remit of the Constitutional and Legislative Affairs Committee;

(d) to consider any other matter, including legislation, referred to it by the Business Committee.

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## Current Committee membership:



**David Rees AM (Chair)**  
Welsh Labour  
Aberavon



**Dawn Bowden AM**  
Welsh Labour  
Merthyr Tydfil and Rhymney



**Michelle Brown AM**  
UKIP Wales  
North Wales



**Suzy Davies AM**  
Welsh Conservative  
South Wales West



**Mark Isherwood AM**  
Welsh Conservative  
North Wales



**Steffan Lewis AM**  
Plaid Cymru  
South Wales East



**Jeremy Miles AM**  
Welsh Labour  
Neath



**Eluned Morgan AM**  
Welsh Labour  
Mid and West Wales

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# Introduction

Following the referendum on membership of the European Union, the National Assembly for Wales (the Assembly) established the External Affairs and Additional Legislation Committee to consider the implications of the referendum result for Wales and to safeguard Welsh interests as the UK Government negotiates the UK's exit from, and future relationship with, the European Union.

We decided to concentrate our initial work on obtaining expertise through a programme of thematic seminars and a first call for written submissions. This has allowed us to identify emerging sectoral issues for Wales.

Alongside this work, we have held scrutiny sessions with the Welsh Government and started to explore how the Assembly might develop its approach as the exit process progresses.

This, our first report, is arranged in two parts. The first part provides a summary of the issues for Wales that have emerged from our initial work. Whilst further exploration of some issues will be required, we now have a clearer understanding of the complex challenges Wales faces as the UK moves towards leaving the European Union.

Part 1 is organised according to the areas that were given prominence by the experts we engaged with at our seminars and by stakeholders in the written evidence we received.

We hope that this first part of the report acts as a point of reference to inform the broader debate around the UK's exit from the EU and assists in communicating the issues that are important for Wales.

The second part of the report focuses on the Welsh Government's response to the referendum, what we know of the UK Government's position, and the role of the National Assembly for Wales. This includes any more formal role that the Assembly might be required to play in the exit process.

A number of significant developments occurred during the period within which we were finalising this report, including the Prime Minister's Lancaster House speech, the publication of the Welsh Government's White Paper and the Supreme Court's judgment on the Article 50 case. Whilst we have made some reference to these developments, we will consider them further in our future work.

# Recommendations

**Recommendation 1.** We acknowledge that the Welsh Government's White Paper has provided additional evidence to support the Welsh Government's position. However, we recommend that the Welsh Government publishes all the evidence on which it bases its position, including details of the scenario modelling that has been done across all sectors and the studies it has commissioned internally and from external sources..... Page 44

**Recommendation 2.** We recommend that the Welsh Government provides a detailed assessment of the administrative changes it has made following the referendum and the financial implications of these changes. In doing so, it should be clear about those changes that have occurred as a direct consequence of the referendum outcome and those that were already planned or in progress. This assessment should include details of changes made in Wales and in the Welsh Government's office in Brussels..... Page 44

**Recommendation 3.** We recommend that the Welsh Government clarifies the role it sees its Brussels office playing in the negotiations. .... Page 44

**Recommendation 4.** We recommend that the Welsh Government provides us with its register of risks across all areas where Brexit will impact upon its activity. .... Page 44

**Recommendation 5.** We recommend that the Welsh Government sets-out the steps it has taken since 24 June 2016 to ensure that the maximum amount of European funding is secured and utilised before we exit the EU. .... Page 44

**Recommendation 6.** We recommend that the Welsh Government presses the UK Government for full involvement in shaping its negotiating position and direct participation in those negotiations which involve devolved areas of responsibility, or matters that affect devolved areas of responsibility, using the model of the devolved administrations' participation in the Council of Ministers. .  
.....Page 48



## Part 1: Emerging issues for Wales

- 1.** Our first phase of work focused on identifying emerging issues for Wales. Due to the complexity and breadth of questions posed by the referendum outcome, we decided to run a series of thematic seminars with expert witnesses to develop a high-level understanding of the main issues facing Wales.
- 2.** To engage a broader range of stakeholders during this first phase, we sought written submissions.
- 3.** The 'Brexit Seminars', combined with the written evidence received, have raised a range of issues that will require further consideration as the exit process unfolds.
- 4.** This part of the report provides a summary of the issues raised. If there was any doubt to begin with, the evidence gathered has confirmed that Brexit raises broad and complex issues for Wales. Brexit will cut across many areas of policy, as well as raising fundamental constitutional questions about devolution and the power dynamic between the UK Government, Parliament and the devolved administrations and legislatures.
- 5.** We also used the evidence we received to hold the Welsh Government to account. The second part of this report will focus on scrutiny of the Welsh Government, the role of the Assembly and emerging constitutional questions.

# 01. Future trade with the European Union and the Welsh economy

## Summary of the issues raised

- The vast majority of the evidence received showed that ensuring free access to the Single Market (i.e. no tariffs and no non-tariff barriers) is of crucial importance to the Welsh economy.
- Witnesses expressed the view that curbing the free movement of people is likely to have negative implications for some businesses, universities, public services and infrastructure projects.
- Trade in agricultural products is a particularly challenging area.

**6.** We have explored the wide-range of different trade relationships that could exist between the UK and the European Union. In Brussels, we explored Switzerland's relationship with the EU and we also discussed the Comprehensive Economic and Trade Agreement (commonly referred to as 'CETA') with the Canadian Government. We heard from an academic that was in favour of unilateral free trade and from those that would aim for an agreement that is as close to the status quo as possible.

**7.** We do not wish to repeat these debates here and refer interested readers to the transcript of our seminar on international law and trade<sup>1</sup> and the Research Service's summary of different trading models in its publication *Wales and the EU: What does the vote to leave the EU mean for Wales?*<sup>2</sup>

## Trade with the EU

**8.** The Welsh Government states that in 2014, more than 600 firms across Wales exported goods to the EU worth over £5 billion, equivalent to 43% of the total exports of goods. Furthermore it says that over 500 firms from other EU countries have operations in Wales, providing more than 57,000 jobs.

**9.** The Centre for Economics and Business Research (CEBR - March 2014) found that over 4 million direct and indirect jobs in the UK depend on exports to the EU. Approximately 200,000 of these jobs are in Wales, around 14% of the workforce.

**10.** UK Government Statistics for 2015 (HM Revenue and Customs) on Welsh exports of goods to the EU show that steel products accounted for just under 15% of the total, machinery and transport equipment around 25%, and export of petroleum, petroleum products and related materials just under 17% of the total. Food and live animals accounted for around 5% of the total exports of goods to the EU from Wales in 2015 (though in 2014, 90.7% of total exports of Welsh food and drink went to the EU with only 9.3% going to non-EU countries).

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<sup>1</sup> See RoP EAAL Committee 19 September 2016

<sup>2</sup> National Assembly for Wales Research Service and Legal Service, *Wales and the EU: What does the vote to leave the EU mean for Wales?*, June 2016

## The Welsh economy

**11.** Welsh GVA constituted 3.3% of total UK GVA for 2015. **Total Welsh GVA** was £55.8bn in 2015. Welsh GVA per head at £18,002 was 71% of the UK average, which was the lowest amongst the devolved countries and English regions.<sup>3</sup>

**12.** Manufacturing is the third largest industry in Wales **which constitutes 16% of the total Welsh GVA** at £8.9bn whilst agriculture is responsible for 0.7% of total GVA at £0.4bn. The contribution of agriculture to the Welsh GVA is greater than the UK national average. <sup>4</sup>

## Manufacturing

**13.** StatsWales publishes datasets on the **regional GVA by industry**. The data shows that the manufacturing sector in Wales makes the greatest contribution to regional GVA amongst the UK nations.<sup>5</sup>

Region	GVA (£ million) 2015	Percentage of total GVA
UK	166,868	10.1
England	138,645	9.7
Scotland	14,261	11.2
Wales	8,935	16.0
Northern Ireland	5,027	14.6

Source: StatsWales



Source: StatsWales

**14.** The profile of Welsh manufacturing is significant. Several large manufacturing sites in Wales are responsible for one link in a global value chain e.g. a car engine or an aircraft wing. The manufacture of this one part of a larger end product is likely to require the import and export (and re-import at times) of componentry. In a situation where tariffs are applied, the costs are multiplied thus

<sup>3</sup> Office of National Statistics, Statistical Bulletin: Regional gross value added (income approach), 15 December 2016

<sup>4</sup> StatsWales, Gross Value Added by area and industry, 15 December 2016

<sup>5</sup> StatsWales, Gross Value Added by area and industry, 15 December 2016

putting manufacturing sites linked to global value chains at a competitive disadvantage when compared to those situated within the Single Market.

**15.** Professor Gerald Holtham, when appearing before us on 21 November, provided an indicative illustration of how broken up and interlinked the supply chain is in the automotive sector:

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“BMW is assembling Minis in Oxford and it’s shipping half of the bits in and then shipping the car out. So, there’s a lot of to-ing and fro-ing, and it would require reorganisation of supply chains [if we were] facing an 8 per cent tariff or whatever it is. The problem in the car sector is that so much of the value is imported before you assemble the car that it’s all very well saying, ‘Well, you know, it’s only 8 per cent tariff’, but if the value added in the UK is only 25 per cent of the total, 8 per cent is a third of the local value added.

[...] that then starts to dwarf even the effect of a 20 per cent devaluation of the pound. It’s those broken supply chains that make it complicated. That would give, I’m sure, say, the German motorcar industry an interest in saying, ‘Let’s not rock the boat, let’s try and keep this going’, but you’ve got to get 23 countries to sign up. Spain and Slovakia will be eyeing up those car plants saying, ‘If they come out of the UK, they’ll probably come here.’ So, whether they would be so well disposed, I don’t know. I think that is one of the difficulties.”<sup>6</sup>

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**16.** Explaining that leaving the EU would increase the cost of trading, Professor Swati Dhringa from the London School of Economics stated that:

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“On average, the tariff rates that the European Union charged to countries that are members of the WTO were 6%, 18% and 3.3% in these sectors [plastics, meat processing and aircrafts manufacturing] in 2016. If the UK leaves the EU and is unable to negotiate duty-free access to the Single Market immediately, these tariff rates would apply to goods shipped from the UK to the EU.

Importantly, as UK and EU standards diverge, the non-tariff barriers to doing business would increase costs further. For example, the US is not part of the EU and faces substantial non-tariff costs when shipping transport equipment to the EU. These are estimated to be the equivalent of a tariff rate of 22% (Dhringa et al 2016). Leaving the EU would increase the tariff and non-tariff barriers that Welsh businesses would face when selling to the EU. This in turn would reduce trade and investment in Wales, leading to a contraction in manufacturing activity and jobs.”<sup>7</sup>

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**17.** As a further illustration, World Trade Organisation ('WTO') figures show that the average applied duty for sweets by the EU was 20.2% and for clothes was 11.4%, dairy products are 33.5% and animal products 15.0%, manufactures is 2.6%.<sup>8</sup>

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<sup>6</sup> RoP EAAL Committee 21 November 2016 c.11-12

<sup>7</sup> IOB 01 London School of Economics, Dr Swati Dhringa

<sup>8</sup> World Trade Organisation, Tariff profile for the European Union, Accessed on 20 January 2016

18. Professor Holtham also suggested the possible need for a shift in economic policy, away from a focus on attracting inward investment and towards stimulating the growth of “domestically-focused” companies.<sup>9</sup>

## Agricultural trade

19. At present, around 90% of Welsh food and drink exports go to the rest of the EU.<sup>10</sup> Agriculture plays a greater part in the Welsh economy than it does for the UK as a whole.

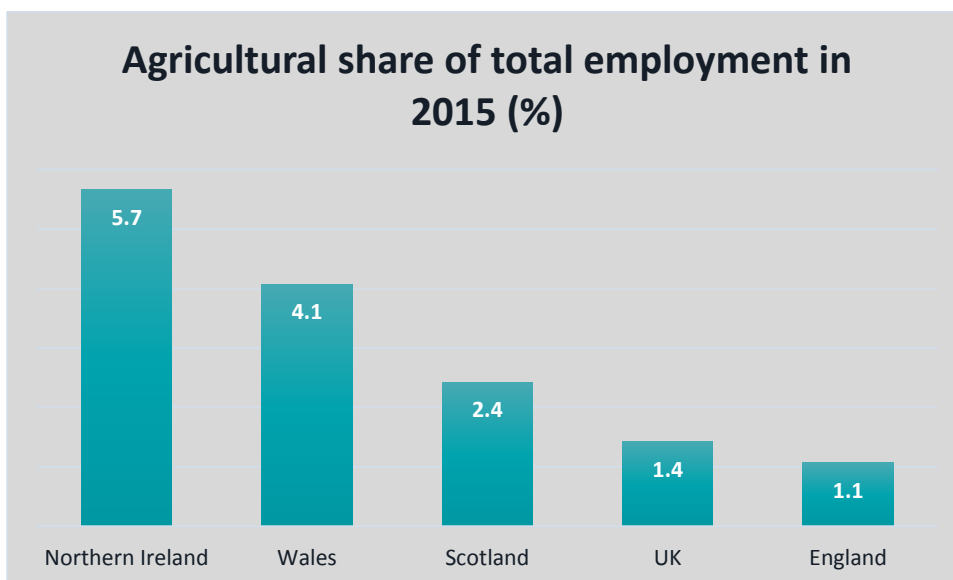
20. The UK Department for Environment Food and Rural Affairs (‘DEFRA’) published Agriculture in the United Kingdom 2015, which is a summary of findings sourced from the Agricultural and Horticultural Survey undertaken in June 2015.<sup>11</sup> The data allows comparisons to be made between the numbers of agricultural jobs across all regions in the UK.

21. The table shows the total number of jobs in the agriculture sector for both Wales and the UK. It also illustrates how dependent the Welsh economy is on the agriculture sector when compared to the UK.

	Wales	UK
Total farmers, partners, directors and spouses	41,619	294,000
Total farm workers	16,700	183,000
Total	58,319	476,000
Agricultural share of employment	4.07%	1.42%

Source: DEFRA

22. The data included in the DEFRA publication allows a comparison of the share of agriculture jobs as a percentage of total jobs for all UK regions.



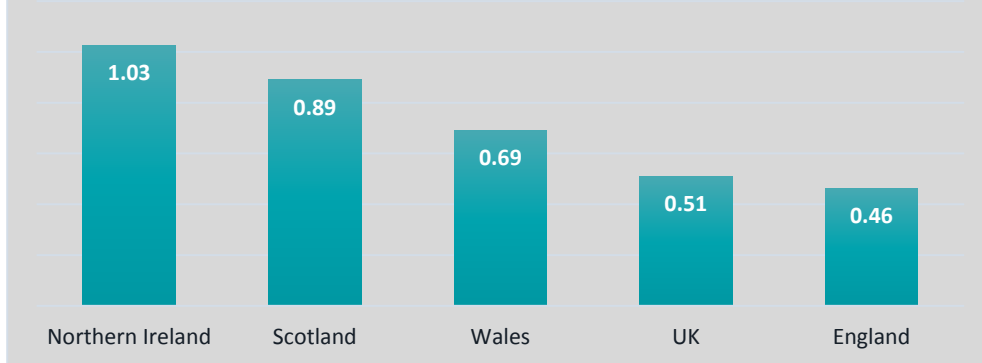
23. The GVA is approximately £0.4bn for agriculture in Wales which is 0.69% of the total GVA for Wales and £8.5bn for the UK, which is 0.51% of total UK GVA.

<sup>9</sup> RoP EAAL Committee 21 November 2016 c.26

<sup>10</sup> IOB 26 NFU Cymru

<sup>11</sup> DEFRA, Agriculture in the United Kingdom 2015, 2016

## Proportion of Agriculture GVA to Total GVA in 2015 (%)



**24.** Agricultural trade faces particular challenges outside the Single Market. It is not covered by the European Economic Area ('the EEA') agreement, meaning that in any of the Brexit scenarios the UK will need to negotiate a separate agreement for agricultural products or trade under WTO rules.<sup>12</sup>

**25.** Tariffs are high for agricultural products. For example, the EU's most-favoured-nation tariff on fresh lamb carcasses is 12.8% plus €1,713 per tonne. Trade negotiations in this area are difficult. Recent examples include the Doha Round, CETA and TTIP talks. Agriculture has been an area of dispute in each case.

**26.** In leaving the EU and the Single Market there will be additional costs (beyond the costs of any tariffs) associated with trade in agricultural markets. For example, the administrative cost of complying with rules of origin and conformity assessment procedures, reformulating products, labelling and packaging. These additional costs are estimated at around 5%-8% of the value of the product.<sup>13</sup> Whilst Free Trade Agreements ('FTAs') are a way of minimising such costs, they are particularly difficult to agree in this area. Professor Alan Matthews told the us that:

“within this new generation of free-trade agreements there are ways of trying to address these regulatory trade barriers, but they're difficult and they're time consuming.”<sup>14</sup>

**27.** In the event that the UK has to rely on WTO rules, it would have to comply with international rules on farm support. As existing farm support is under an 'amber box' in WTO terms (i.e. they are to be reduced), there is uncertainty around whether they would apply to the UK after Brexit. Professor Swinbank suggested that current direct payment schemes, and environmental schemes, may not be WTO compatible.<sup>15</sup>

**28.** This view is supported by Professor Fiona Smith. Professor Smith also suggests a minimum timeframe of three to five years before post-Brexit trade deals with other countries can be agreed:

<sup>12</sup> Our seminar on international law and trade provides a useful discussion of World Trade Organisation rules as they might apply to the Welsh context. See RoP EAAL Committee 19 September 2016.

<sup>13</sup> IOB 04 Professor Alan Matthews, Agricultural Dimension Professor Emeritus of European Agricultural Policy, University of Dublin.

<sup>14</sup> RoP EAAL Committee 19 September 2016 c.129

<sup>15</sup> IOB 02 Professor Alan Swinbank, Professor of Agricultural Economics, University of Reading.

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“Countries like Australia and the United States have indicated that they want to negotiate trade deals with the UK government post-BREXIT, but favourable agri-trade deals with these countries is unrealistic for at least the next three to five years.”<sup>16</sup>

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**29.** Under this scenario, the UK would have to rely on WTO rules for a number of years.

**30.** At our meeting on 7 November 2016, the First Minister voiced strong concerns about impact of Brexit on agricultural sector in Wales:

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“I think the most difficult sector will prove to be agriculture, where tariffs are sky high, because, if you look, for example, at most trade deals, including that with Norway, agriculture, if I remember, is excluded. Trading blocs are particularly protective of their farming industries, so I do have a particular concern for farming and the export market we have, particularly for Welsh lamb, because history tells us that farming has tended not to do well if a trade-deal approach is used.”<sup>17</sup>

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**31.** The First Minister suggested that differences in farming practice across the nations of the UK further complicates this:

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“The other issue that’s complicated in farming is the four different nations often have four different priorities within farming. So, we all have different priorities... For me, it’s a question of making sure that all agricultural produce from all parts of the UK are all able to access the market on the same terms.”<sup>18</sup>

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**32.** Speaking during a panel discussion at the Oxford Farming Conference on 4 January 2017, the Cabinet Secretary for Environment and Rural Affairs built on comments made to the Climate Change, Environment and Rural Affairs Committee on 14 September 2016,<sup>19</sup> highlighting the fact that key areas of agricultural policy had been devolved to Wales since 1999, but that a UK framework which respected devolution may be needed in certain areas.

**33.** One mechanism commonly used in Free Trade Agreements are Tariff Rate Quotas (TRQs). TRQs are an agreed allocation of goods which can enter a market at no or low import tariff rates. For example New Zealand has agreed TRQs with the EU for New Zealand lamb and goat meat. This TRQ allows for 228,254 tonnes of New Zealand lamb to enter the EU market tariff free, once this tonnage has been imported any amounts above that are charged the full import duties charged to all other countries.

**34.** The future of such agreements is unclear, both in terms of the EU's agreement with New Zealand after the UK exits and any future trade agreement between the UK and New Zealand.

**35.** It is important to note that we have considered issues around agricultural trade from the perspective of the industry, rather than from that of the consumer.

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<sup>16</sup> IOB 03 Professor Fiona Smith, Warwick University

<sup>17</sup> RoP EAAL Committee 7 November 2016 c.91

<sup>18</sup> Ibid c.96

<sup>19</sup> Record of Proceedings, 14 September 2016 [para. 18]

## Our view

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**36. Manufacturing plays a greater part in the Welsh economy than elsewhere in the UK and the principal market for Welsh manufacturers is the EU. The imposition of tariffs poses significant risks for this sector, especially for manufacturers that exist within global value chains.**

**37. There are significant risks to the trade in agricultural products, particularly if the UK has to rely on WTO rules for a period of time (which appears likely). Welsh farmers do not want to see agriculture (which is culturally and economically important to Wales) traded off in favour of broader UK objectives such as access to service markets.<sup>20</sup>**

## Free movement of people

**38. Several organisations raised concerns around the need for continued access to European labour, for example the Food and Drink Federation<sup>21</sup> and the Institution of Civil Engineers Wales Cymru.<sup>22</sup>**

**39. The Food and Drink Federation provided an overview of the contribution its members make in Wales:**

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“In Wales, FDF’s members account for £4.3 billion in turnover – which has increased by 55 per cent over the last five years. This is significantly more than Welsh manufacturing in general, which grew by 11 per cent. The food and drink industry contributes almost £1.5 billion to the Welsh economy, support more than 22,000 jobs in Wales, contribute more than £302 million in Welsh exports, and invest more than £4 million in innovation, research and development. The productivity performance of Welsh food and drink manufacturing has increased steadily since 1997 and remains higher per employee than in the UK as a whole.”<sup>23</sup>

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**40. It also provided an overview of its members’ UK workforce:**

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“Around 29% of the UK’s food and drink manufacturing workforce are non-UK EU nationals – almost 116,000 workers. They bring with them talent, spending power, flexibility and huge diversity. While we continue to take steps to develop home-grown talent through ambitious graduate and apprenticeship programmes, EU workers provide a highly valued solution to our skills gap. Our sector’s growth potential was already under pressure due to our ageing workforce, with the industry needing to recruit a further 130,000 workers over the next decade.”<sup>24</sup>

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**41. We also heard concerns about the continued access to European labour from business and industry stakeholders at a workshop we held near Wrexham on 28 November 2016.**

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<sup>20</sup> IOB 26 NFU Cymru

<sup>21</sup> IOB 22 Food and Drink Federation and the British Soft Drinks Association

<sup>22</sup> IOB 15 Institution of Civil Engineers Wales Cymru

<sup>23</sup> IOB 22 Food and Drink Federation and the British Soft Drinks Association

<sup>24</sup> Ibid



**42.** The First Minister expressed the view that restricting the free movement of people was less of a priority for Wales than achieving unfettered access to the Single Market. We provide further details on this when considering the Welsh Government's response in the second part of this report.

**43.** The Office for National Statistics ('ONS') produces a report, Population of the United Kingdom by Country of Birth and Nationality, which is based on the Annual Population Survey. It is a survey of population, not of immigration. The latest figures, for 2015, were released on 25 August 2016.<sup>25</sup>

**44.** The estimates for the non-British population by nationality in Welsh local authorities in 2015 are shown in the table below:

Area	Total Population	European Union population Estimate	Thousands	
			Non-European Union population Estimate	
Isle of Anglesey	70	1	0~	
Gwynedd	121	2	3	
Conwy	114	3	1	
Denbighshire	94	1	0~	
Flintshire	153	4	0~	
Wrexham	136	8	1	
Powys	131	2	1	
Ceredigion	74	1	1	
Pembrokeshire	122	2	c	
Carmarthenshire	183	6	3	
Swansea	240	5	9	
Neath Port Talbot	140	1	1	
Bridgend	139	2	0~	
The Vale of Glamorgan	126	2	2	
Cardiff	353	11	20	
Rhondda Cynon Taf	236	2	2	
Merthyr Tydfil	59	2	0~	
Caerphilly	179	2	1	
Blaenau Gwent	69	1	c	
Torfaen	91	0~	2	
Monmouthshire	91	1	1	

<sup>25</sup> Office of National Statistics, *Population of the UK by Country of Birth and Nationality: 2015*, 25 August 2016

Newport	146	6	3
Wales	3,066	64	53
UK	64,265	3,159	2,408

c = not available due to disclosure control<sup>26</sup>

0~ = rounded to zero

Source: Compiled by the National Assembly for Wales Research Service using ONS data.

**45.** It should be noted that the above are estimates based on the Annual Population Survey – there is no national register of a resident’s nationality.

**46.** We also heard concerns about the ongoing status of EU citizens currently working in Wales, particularly in relation to Higher Education and health and social care. More on these sectors is provided in subsequent sections of this report.

### **Our view**

**47.** We recognise that perceptions of EU migration were a factor in determining the outcome of the EU referendum. Restricting the ability of EU citizens to work in the UK after Brexit will have adverse consequences for many public services, some businesses and future infrastructure projects in Wales. Careful consideration must be given to mitigating these consequence as a future immigration policy for the UK is developed.

<sup>26</sup> This is to protect the confidentiality of the data held. More information on disclosure control methodologies can be found on the Office of National Statistics website. Go to [www.ons.gov.uk](http://www.ons.gov.uk) and search for 'disclosure control'.

## 02. Education, research and skills

### Summary of the issues raised

- There is a need to clarify the status of EU students and academic staff in both Higher and Further Education Institutions.
- There has been a reliance on Structural Funds and European Investment Banks Funding to support capital infrastructure and work-based learning and skills development. Arrangements to replace this funding need to be made.
- Emphasis was placed on the importance of:
  - future participation in research and mobility programmes;
  - strategic partnerships and engaging globally; and
  - mutual recognition of educational qualifications (and continued participation in the existing EU schemes for this).

### EU Structural funding for Higher Education in Wales

**48.** EU funding is important to the sector, with EU Structural Funds being viewed as an important source to help 'fill' the funding gap, and to enable key investments that otherwise would not have taken place.<sup>27</sup> The Swansea Bay Science Campus is a good example of this, combining EU Structural Funds with European Investment Bank finance.

**49.** Another example is the support from COFUND (part of Horizon 2020), for an initiative Strengthening International Research Capacity in Wales, submitted jointly by the Welsh Government and Welsh HE. Around €10m of EU funding will be available to support a series of international fellowships into Welsh universities.

**50.** The Welsh Higher Education Brussels (WHEB) Office encapsulates this:

“These initiatives complement major strategic developments within the universities such as the research institutes at Cardiff University and campus developments at Aberystwyth, Bangor and Swansea Universities. These key investments, supported by ESIF, EIB, government and industry will provide the infrastructure to facilitate increased participation in Horizon2020 and capitalise on grant capture.”<sup>28</sup>

### EU Funding, Research and Investment

**51.** On 3 October 2016, we held our second Brexit Seminar with Professor Colin Riordan, Vice Chancellor of Cardiff University and Professor Iwan Davies, Deputy Vice Chancellor of Swansea University.

<sup>27</sup> National Assembly for Wales, Fourth Assembly's Enterprise and Business Committee, Inquiry into Horizon 2020, 2012

<sup>28</sup> Welsh Higher Education Brussels (WHEB) Office, *Written evidence in support of the Enterprise and Business Committee session with Welsh universities*, 21 October 2015

**52.** There were two aspects to the issues identified by Professor Riordan and Professor Davies. They can be characterised as ‘people and funding’.

**53.** In summary, the ‘people’ issues that need to be addressed are the:

- status of non-UK EU nationals who are currently studying in Wales or are planning to commence studying in Wales before the UK exits the EU;
- status of non-UK EU nationals working at Welsh universities; and
- the ability to recruit as freely as possible from within the EU and beyond (for students and staff).

**54.** In relation to staff currently employed by Welsh universities, Professor Riordan said:

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“We would certainly want to argue very strongly, as I’m sure many people in this country would—I’ve not heard anything very much to the contrary from any side, to be honest—that those colleagues who are presently in this country and presently employed by us should be able to remain on the same basis as they are now and that, whatever their status is, it’s converted into something that equates to leave-to-remain and residents’ and working rights.”<sup>29</sup>

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**55.** In relation to structural funds, Professor Riordan stated that:

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“... in the research and education space for the UK, we pay in about £5.4 billion and receive about €8.8 billion back. Again, that’s a gap that will need to be filled.”<sup>30</sup>

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**56.** Professor Riordan pointed to the substantial reductions to capital investment made available to universities in recent years:

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“I think it’s worth noting that one of the biggest changes that has taken place since the coalition changed the system and introduced tuition fees and so on and so forth—or higher tuition fees and student loans—is that, and this part is often not noted, we’ve had a big reduction in capital investment available to universities. So, we used to, in Cardiff, receive maybe £14 million to £15 million a year in capital grants. That’s now £2 million or £3 million, and everything else we have to make up ... One big element of that is European Union structural funds”<sup>31</sup>

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**57.** Looking to the future, Professors Riordan and Davies mentioned consideration of alternative forms of international co-operation and the establishment of an outward mobility agency for UK students. We heard a similar view from Bangor University during our stakeholder workshop near Wrexham on 28 November 2016.

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<sup>29</sup> RoP 3 October 2016 c.11

<sup>30</sup> RoP 3 October c.14

<sup>31</sup> Ibid c.13

## Qualifications

**58.** The Education Workforce Council raised questions about the future role it might have in the assessment of the professional status of EU citizens seeking to have their teaching qualifications recognised in Wales. This role comes from the EU Directive 2005/36/EC.

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“The Council will require clarification from the Home Office as to whether this scheme will continue to apply following Britain’s exit from the EU. Depending on the decision, the EWC and Welsh Government may need to develop alternative arrangements for persons from Europe who wish to have their existing qualifications recognised in order to teach in Wales, rather than retraining. In this regard, it is worth acknowledging that qualified teachers from countries outside the EU who wish to teach in Wales on a permanent basis already need to gain a teaching qualification here and are unable to have their existing qualifications recognised.”<sup>32</sup>

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**59.** Colleges Wales highlighted risks to competitiveness and the reputation of Welsh institutions should the recognition of qualifications cease on leaving the EU. Colleges Wales currently acts as a National Contact Point for three EU recognition tools.<sup>33</sup>

## Access to mobility programmes and the acquisition of international skills and experience

**60.** A number of written responses, including those from Colleges Wales, the Universities and Colleges Union, Cardiff University, Universities Wales and the NUS, called for continued access to Erasmus+ and Horizon 2020.<sup>34</sup>

**61.** Cardiff University and Universities Wales called for consideration to be given to domestic policies, such as a new outward mobility programme framework to be developed.<sup>35</sup>

**62.** A number of non-EU countries have access to Erasmus + and Horizon 2020. Professor Riordan's view on this was that:

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“They have absolutely no influence on what happens. I’ve also heard directly from a Commission official—and this was before the vote even, but it was along the lines that, ‘If you do remain part of it, you will only get out what you pay in. You won’t get more.’ So, the present imbalance in our favour, which is essentially based on the excellence [...] of our science and our research—it would no longer work in our favour.”<sup>36</sup>

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**63.** Professor Riordan outlined his view on the prospect of a new outward mobility programme:

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“One thing that the UK has never had is a well-funded student mobility programme for all UK students. [...] Maybe there’s an opportunity there to say,

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<sup>32</sup> IOB 06 Education Workforce Council

<sup>33</sup> IOB 14 Colleges Wales

<sup>34</sup> See IOB 14 Colleges Wales, IOB 23 Universities and Colleges Union, IOB 28 Cardiff University, IOB 29 Universities Wales and IOB 35 NUS

<sup>35</sup> See IOB 28 Cardiff University and IOB 29 Universities Wales

<sup>36</sup> RoP EAAL Committee 3 October 2016 c.32

‘Actually, what we really need is an outward-mobility agency for the UK that is well funded and provides grants to our students or, perhaps, helps organise work placements, or that pays for their travel or upkeep’. It could be a real opportunity, actually, to do something that we’ve never been able to do in this country before.”<sup>37</sup>

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## The status of EU nationals

**64.** Universities Wales acknowledged the ‘enormous’ contribution made by EU students to Wales, a sentiment that other respondents also acknowledged in both financial and cultural terms.<sup>38</sup>

**65.** It is estimated that EU students currently provide at least £24m to Welsh universities,<sup>39</sup> and the overall impact to Wales attributable to income from EU students was £47m. An EU student studying in Wales on average generates £19.7k for Wales, £9.8k of Welsh GVA and 0.19 FTE jobs. Additional impact is also generated in the rest of the UK from students studying in Wales. These are likely to be a conservative estimate according to HEFCW.

**66.** There is concern about the ongoing status of EU students, and in particular the 2018/19 cohort. Cardiff University has called for a guarantee to be offered to these students (as has been offered for the preceding two cohorts).<sup>40</sup>

**67.** Cardiff University’s written submission makes the following points:

“12. Cardiff University is an international community that values students and staff that come to work and study with us from around the world. 17% of our academic staff and 5% of our students are EU nationals (10% of our research students are EU nationals). This diversity fosters creativity and innovation and is an important part of our culture.

13. We would like to work with both the UK and Welsh Governments to secure greater certainty for our staff and students from the EU. The main areas of uncertainty remain clarity on access to financial support and fees for EU students and clarity around immigration rules for both students and staff.”<sup>41</sup>

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**68.** The University also advocates that any future agreement between the UK and the EU should:

“provide assurances that all existing EU staff will be able to remain in the UK following the UK’s exit from the EU, as well as allow Universities to recruit the best staff to work here”<sup>42</sup>

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<sup>37</sup> RoP EAAL Committee 3 October 2016 c.71

<sup>38</sup> IOB 29 Universities Wales

<sup>39</sup> In fees and other contributions based on 5,645 EU domiciled students studying in Wales using 2013/14 HESA data (The Economic Impact of International Students in Wales, UnisWales)

<sup>40</sup> IOB 28 Cardiff University

<sup>41</sup> IOB 28 Cardiff University

<sup>42</sup> Ibid

69. Universities Wales looks ahead and sees a role for the Welsh Government in making Wales an attractive destination for talented university staff after the UK leaves the EU:

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“Regardless of the final settlement between the EU and the UK, it is important that the Welsh Government continues to publicly affirm the value placed on EU students and their contribution to Welsh universities, invests in supporting future recruitment overseas through promotional activity, and provides reassurances to current EU students that they will remain welcome in Wales following its departure from the EU”<sup>43</sup>

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## Continuity of funding

70. Menai Science Park’s response focuses on the level of EU funding to the research community in Wales (through structural funds, Interreg and Horizon 2020). It calls for the Treasury to allocate additional funding to Wales to replace these sources of funding after the UK exits the EU. Further, it believes that Wales should negotiate with UK to secure a European Free Trade Association (‘EFTA’)–style arrangement in order to secure the “*highest levels of EU funds post Brexit*”.<sup>44</sup>

71. Colleges Wales, Cardiff University and Universities Wales advocate continued participation in European research funding streams or, failing that, national policies and funding to replace them.<sup>45</sup>

72. Cardiff University also called for reassurances over the status of the Cardiff and Swansea City Deals due to the involvement of higher education institutions and the European funding envisaged for these city deals.<sup>46</sup>

73. At our meeting on 7 November 2016, the First Minister recognised higher education and research as a priority. He identified three issues: (i) student numbers from EU; (ii) EU funding; and (iii) ensuring Wales is not seen as unwelcoming place for international academic community to come to. He also stated that the Diamond Review and its conclusions would not be affected by Brexit.

74. The Welsh Government is also looking at alternative models for funding lifelong learning and employability initiatives that have to date been supported using EU funding.<sup>47</sup>

## Our views

**75. We were encouraged by the positive way in which witnesses are approaching and addressing the challenges they face and to learn that they are already planning for their future outside the European Union.**

**76. The most urgent issue, as it appears to us, is the need to clarify the status of EU citizens studying and working at Welsh Universities and Colleges. We are aware of the Prime Minister's commitment to addressing this as soon as possible and hope that she is successful in doing so. We emphasise that this is an issue of utmost importance to Wales across many sectors.**

**77. There has been a reliance on Structural Funds and European Investment Banks Funding to support capital infrastructure and work-based learning and skills development. The Welsh**

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<sup>43</sup> IOB 29 Universities Wales

<sup>44</sup> IOB 09 M-SParc

<sup>45</sup> See IOB 14 Colleges Wales, IOB 28 Cardiff University, and IOB 29 Universities Wales

<sup>46</sup> IOB 28 Cardiff University

<sup>47</sup> RoP EAAL Committee 7 November 2016 c. 105 – 111.

and UK Government will need to ensure that arrangements to replace these sources of funding are made.

**78.** Emphasis was placed on the importance of future participation in research and mobility programmes. Whilst we see merit in this (and it would appear possible in return for a budget contribution) Professor Riordan also suggested establishing a UK outward mobility agency, of the type that currently exists in Germany and the USA. We believe that this should be investigated so that such a model could be developed after the UK exits the EU.

**79.** The mutual recognition of educational qualifications (and continued participation in the existing EU schemes for this) is important and must be addressed in the exit negotiations.



## 03. Environment, agriculture, marine and fisheries

### Summary of the issues raised

There are concerns that:

- environmental protection could be lessened on leaving the EU;
- cost-free redress mechanisms will be lost;
- important implementation and enforcement frameworks could be weakened; and
- environmental protection measures could become fragmented.

Issues relating to future agricultural policy are being considered by the Climate Change, Environment and Rural Affairs Committee. This committee has stated that:

- Decisions on future agriculture, environment and rural development policies should be taken in Wales as they are devolved areas of competence.
- Current levels of European funding should be maintained and provided by the UK Government in future.
- The Welsh Government should protect additional funding for investment in agriculture, environment and rural development policies.

### Agricultural policy

**80.** Beyond the significant concerns raised in relation to agricultural trade, which are covered in a previous section, concerns were raised over issues such as the shape of future investment in land management and the balance of power between the UK and Wales over agricultural policy.

**81.** From the UK's 2014-2020 Common Agricultural Policy allocation, Wales gets 8.96% of Pillar 1 funds and 13.7% of Pillar 2 funds. At our meeting on 7 November 2016. The First Minister said:

“There are some areas of expenditure where we wouldn’t want a Barnett share anyway. Agriculture is a prime example of it. If we had a Barnett share of spending on agriculture, we’d see significant cut in funding to Welsh farming. We’ve always been funded on the basis of the number of animals that we have, not people, which is fortunate because I think it's about five times higher as a result of that.”<sup>48</sup>

**82.** The Climate Change, Environment and Rural Affairs Committee (the CCERA Committee),<sup>49</sup> is at an advanced stage with its inquiry into the future of agricultural and rural development policies in Wales.<sup>50</sup>

<sup>48</sup> RoP EAAL Committee 7 November 2016 c.67

<sup>49</sup> The CCERA Committee’s homepage is available at: [www.assembly.wales/SeneddCCERA](http://www.assembly.wales/SeneddCCERA)

<sup>50</sup> Details of this inquiry are available at <http://senedd.assembly.wales/mgIssueHistoryHome.aspx?Id=15876>

**83.** The Chair of the CCERA Committee, Mark Reckless AM, made a statement to the Assembly on 9 November 2016.<sup>51</sup> He called on the UK Government to honour the promises of the leave campaign to maintain the same level of funding after Brexit. He also called on the UK Government to confirm that decisions on future agriculture, environment and rural development policies should be taken in Wales as they are devolved areas of competence.

**84.** Mr Reckless called on the Welsh Government to protect any additional funding provided by the UK Government for investment in these areas.

### **Our view**

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**85. We see agriculture as a key issue of concern for Wales.**

**86. We do not wish to duplicate the CCERA Committee's valuable work in this area.**

**87. The evidence we have received will be made available to the CCERA Committee. We look forward to the conclusion of CCERA Committee's current inquiry and will consider whether to take further evidence in this area at that time.**

### **Climate Change**

**88.** In October 2016, the Committee on Climate Change ('the CCC') published a briefing note *Meeting Carbon Budgets – Implications of Brexit for UK climate policy*.<sup>52</sup>

**89.** In summary, some the key points made by the CCC are that:

- New UK climate policies will be needed to reduce emissions where policies previously agreed through the EU no longer apply.
- Carbon budgets set by the UK are at least as challenging as the EU's commitments to tackle climate change. They must continue to be met after the UK has left the EU.
- Current EU policy approaches such as CAP do not directly target greenhouse gas (GHG) emissions – a UK based framework should link farming policies more closely with GHG emission reduction.
- EU Emission Trading System (EU ETS) covers emissions from electricity generation and heavy industry and provides a common carbon price for participants. The intent of the budgets must be preserved when the UK leaves the EU (i.e. expansion of low-carbon power generation).

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<sup>51</sup> RoP 9 November 2016 15:37 to 16:21

<sup>52</sup> Committee on Climate Change, *Meeting Carbon Budgets – Implications of Brexit for UK climate policy*, October 2016

## Our view

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**90. We are aware of the CCERA Committee's work on climate change scrutiny<sup>53</sup> and will forward this information to the Chair of that Committee.**

### Nature conservation (marine and terrestrial)

**91.** From the perspective of the academics we heard from and Welsh Environment NGOs, the continuation of current EU environmental law (or its transfer into domestic law) is a priority.

**92.** There is concern that leaving the EU will result in lower environmental standards and that ambitions set at a European level will be abandoned.<sup>54</sup> Examples include delivery of the ambition behind the Marine Strategy Framework Directive and the Nature Directives.<sup>55</sup>

**93.** The question of retaining European protected sites (such as Special Areas of Conservation and Special Protection Areas) in domestic law has been raised, with the suggestion that a less precautionary approach to their management and enforcement could prevail after Brexit.<sup>56</sup>

**94.** Whilst the UK Government has indicated that it will be transferring European law into domestic law through the so-called 'Great Repeal Bill', the details of how this is to be done remain unclear.

**95.** Writing in response to the European Commission's recent decision not to re-open the Nature Directives, Martin Harper (RSPB's Conservation Director) summarised some of the questions that remain unanswered in relation to the UK Government's proposed approach:

“... there are still many questions to be answered about the Great Repeal Bill. Can all EU environmental regulation be successfully converted into domestic law, and how will it be enforced? The European Court of Justice has been such a powerful force to ensure compliance with these laws, so who will play this role in the UK after we leave the EU?

The guidance and financial support mechanisms available at EU level, along with the monitoring and enforcement processes, have also played a key role in driving nature conservation progress in the UK. To date we have relied on these, and they have helped the UK Government deliver their nature conservation commitments. Replacing these will be a significant challenge.”<sup>57</sup>

**96.** We also heard concerns about the significant implications for marine science and monitoring as it is comparatively expensive and often requires large capital assets. Uncertainty remains around how funding gaps (created by the loss of European funding) will be filled in the future and how funding would be distributed within the UK; with this affecting both universities and R&D companies.<sup>58</sup>

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<sup>53</sup> See <http://www.assembly.wales/en/newhome/Pages/newsitem.aspx?itemid=1639>

<sup>54</sup> IOB 38 WEL Marine Group

<sup>55</sup> The Birds and Habitats Directive and Species Directives.

<sup>56</sup> RoP 31 October 2016 c.194, 205-207

<sup>57</sup> Harper, Martin, RSPB Blog Post, *The EU Nature Directives are safe - so what next for protection of UK wildlife?*, 8 December 2016

<sup>58</sup> RoP 31 October 2016 c. 241, 242, 245

## Guidance, implementation and enforcement frameworks, and redress

**97.** The loss of guidance offered by the European Commission, implementation and enforcement frameworks, and the inexpensive redress mechanisms offered by the European institutions are issues that will need to be addressed.

**98.** Currently, the European Commission acts as an enforcer of European law by referring matters to the European Court of Justice. This is free from costs to the complainant, with European Citizens and/or organisations able to raise matters with the European Commission for investigation.

**99.** It is difficult to see how such a system could operate in the UK post-Brexit. Short of new arrangements being developed, private individuals or organisations would have to rely on the UK judicial review process and bring proceedings at personal cost.

**100.** However, they will not be able to challenge the UK government itself (or any of the devolved governments either) for failure to enforce those standards.

**101.** This could be remedied if, in the 'Repeal Bill' (or elsewhere), the UK Government imposed an obligation on itself to ensure that the all the EU law applicable to the UK at the time of withdrawal was adhered to. The same obligation could be placed on the devolved governments, in respect of devolved policy areas and in respect of their territories.

**102.** The idea of a specialist Environmental Court has been mooted,<sup>59</sup> to fill the gap left by the Commission and ECJ. However, this would only enforce the law as it is in the UK and the question remains as to how protective of the environment that would be in future.

**103.** Processes such as the Strategic Environmental Assessment and Environmental Impact Assessment provide a strict framework against which implementation and enforcement can be judged. Professor Cowell identified a risk that these frameworks could be weakened and the loss of a cost-free facility for the pursuit of redress contributes to that weakening.<sup>60</sup>

## Non-EU treaties and the need for a cross-border approach

**104.** Wales Environment Link stressed the importance of upholding existing international agreements, such as the Convention on Biological Diversity, the Convention on Wetlands of International Importance (RAMSAR), the European Landscape Convention and climate change targets.<sup>61</sup>

**105.** There is a need for cohesion and consistency across intra-UK and international boundaries when it comes to protecting nature, managing common resources and tackling trans-boundary pollution. The oft-repeated phrase that air, water and wildlife do not recognise borders points to the need for a degree of consistency between European, UK and Welsh standards. This is particularly acute in the marine environment.<sup>62</sup>

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<sup>59</sup> RoP 31 October 2016 c.126

<sup>60</sup> RoP 31 October 2016 c.108

<sup>61</sup> IOB 20 Wales Environment Link

<sup>62</sup> IOB 38 WEL Marine Group

## Fisheries

**106.** The Welsh fishing fleet is different in scale and character to the rest of the UK, with 91% of vessels under 10 meters in length<sup>63</sup> and the majority of the Welsh fleet fishing shellfish. Shellfish are non-quota species and, consequently, are under Member State control (the Welsh Government for the Welsh Zone ('WZ')). For these two reasons, Welsh fisheries are not as affected by EU policy, such as quota allocation under the Common Fisheries Policy, as the UK as a whole.<sup>64</sup> That said there may be opportunities for new management regimes and future changes to quota allocation and distribution that could benefit the Welsh fleet, such as accessing quota for commercial stocks within the WZ.<sup>65</sup>

**107.** In terms of trade, the majority of shellfish landed in Wales are exported to the EU. This is another area where continued 'unfettered' access to the Single Market could be seen as a priority.

**108.** The European Maritime Fisheries Fund ('the EMFF') currently provides support for a range of activities including data gathering, fisheries enforcement measures and sustainable fishing practices. In the current funding round (2014-2020), Wales has been allocated €19.7 million. The Welsh Government will need to consider how this is to be replaced. We heard support for refocusing any replacement fund on sustainable management of fish stocks.<sup>66</sup>

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<sup>63</sup> Marine Management Organisation, UK Sea Fisheries Annual Statistics Report 2014, Last updated 21 September 2016

<sup>64</sup> RoP 10 October 2016 c.187

<sup>65</sup> RoP 10 October 2016 c.205, 210

<sup>66</sup> RoP 10 October 2016 c.259

## 04. Health and Social Care

### Summary of the issues raised

- There is uncertainty around data for EU nationals working in these sectors, particularly non-registered professions and low skilled employment;
- There are concerns about the impact on workforce planning if restrictions on free movement are introduced, as well as the need for better planning of future training/skills requirements within public services;
- There is a need to maintain access to medical research and international collaboration;
- The importance of EU agencies such as the European Medicines Agency and need to continue participation in this;
- The need to ensure a framework for recognising professional qualifications is maintained; and
- The benefits to public health of action at EU level.

### Public Health

**109.** The issue of cross-border health risks is particularly pertinent. The European Centre for Disease Prevention and Control (ECDC) is an EU agency designed to strengthen Europe's defences against emerging threats to human health posed by infectious diseases. The ECDC works in partnership with national health protection bodies across Europe to strengthen and develop continent-wide disease surveillance and early warning systems. By working with experts throughout Europe, ECDC pools Europe's health knowledge, so as to develop authoritative scientific opinions about the risks posed by current and emerging infectious diseases.

**110.** A number of responses expressed concerns about the potential impact on public health networks of exiting the EU. BMA Cymru Wales stated:

“The EU has a significant role in ensuring a cross-border approach to important public health issues, such as preventing pandemics and reciprocal access to healthcare through the European Health Insurance Card (EHIC). It is important, whether or not the UK remains part of the EEA, that an agreement to facilitate such cross-border cooperation remains.”<sup>67</sup>

**111.** The Royal College of Anaesthetists support this position,<sup>68</sup> as does the Royal College of Physicians (Wales), arguing that existing EU frameworks underpinning health protection must be replaced by equivalent or even stronger safeguards.<sup>69</sup> The Welsh NHS Confederation (WNHSC) response puts the case for negotiating continued access to EU coordination mechanisms, as they

<sup>67</sup> IOB 31 BMA Cymru Wales

<sup>68</sup> IOB 25 Royal College of Anaesthetists

<sup>69</sup> IOB 8 Royal College of Physicians (Wales)

believe it would be more difficult for the UK to tackle in isolation what are inherently transnational threats.<sup>70</sup>

**112.** BMA Cymru Wales, and the WNHSC in their responses, also set out their belief that the UK should maintain the public health regulations originating from EU Directives which have been enacted into UK law; the Royal College of Anaesthetists also argue for maintaining these safeguards.<sup>71</sup>

## Medicines regulation

**113.** The European Medicines Agency ('EMA') is responsible for the scientific evaluation, supervision and safety monitoring of medicines for use in the EU. EMA works closely with national regulatory authorities in EU Member States and is responsible for assessing drug licence applications within the EU and marketing authorisation for Member States, Iceland, Liechtenstein and Norway.

**114.** A significant number of responses set out strong concerns on this issue. These include those from Genetic Alliance UK,<sup>72</sup> Cancer Research UK,<sup>73</sup> the Royal College of Anaesthetists,<sup>74</sup> the Royal College of Physicians (Wales)<sup>75</sup> and the UK Faculty of Public Health;<sup>76</sup> they highlight the benefits to the UK of the existing single EU regulatory and authorisation framework and the influence this gives the UK in decision-making by the EMA. The responses also argue the need for continued alignment with EU regulatory frameworks for medicines and medical devices, and WNHSC state that:

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“Having a single EU regulatory framework has allowed new health technologies to be brought more quickly to the market for the benefit of patients. For example, pharmaceutical companies can make new medicines available everywhere in the EU through the single centralised marketing authorisation procedure provided by the European Medicine Agency, instead of having to apply for authorisation in each individual member state.”<sup>77</sup>

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**115.** BMA Cymru Wales, for its part also reflects these concerns and calls for a four-nation approach to the impact of leaving the EU on medicines regulation.<sup>78</sup>

## Patient access to healthcare

**116.** There is common legislation in place covering the European Economic Area giving access rights for citizens of the participating countries to the various health and social care services. This includes the European Health Insurance Card ('EHIC'), which gives access to state-provided medical care during a temporary stay in another EU country, and rest of the European Economic Area. Directive 2011/24/EU also introduced scope for citizens to apply for reimbursement of healthcare treatment provided certain criteria are met, in any member state and on the same basis as they would in their home state.<sup>79</sup>

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<sup>70</sup> IOB 10 Welsh NHS Confederation

<sup>71</sup> IOB 31 BMA Cymru Wales, IOB 10 Welsh NHS Confederation and IOB 25 Royal College of Anaesthetists

<sup>72</sup> IOB 41 Genetic Alliance UK

<sup>73</sup> IOB 33 Cancer Research UK

<sup>74</sup> IOB 25 Royal College of Anaesthetists

<sup>75</sup> IOB 8 Royal College of Physicians (Wales)

<sup>76</sup> IOB 45 UK Faculty for Public Health

<sup>77</sup> IOB 10 Welsh NHS Confederation

<sup>78</sup> IOB 31 BMA Cymru Wales

<sup>79</sup> Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare



**117.** The need for effective post-exit systems to ensure continued access to healthcare in another EU country was a key concern highlighted in a number of responses; these included the UK Faculty of Public Health, the Royal College of Surgeons of Edinburgh, the Royal College of Anaesthetists and WNHSC.<sup>80</sup>

**118.** Similarly, responses from the UK Faculty of Public Health, Cancer Research UK, and the Royal Colleges of Physicians (Wales) and Anaesthetists report concerns about potential post-exit limitations on access for UK patients to EU-wide clinical trials.<sup>81</sup> The Genetic Alliance UK and Cancer Research UK focus particular attention on this issue in terms of its implications for rarer conditions, which they believe have acquired a higher profile as a consequence of EU membership. The response from Cancer UK notes:

“To set up and run pan-EU trials efficiently and effectively, it is important that the legislation, guidance and standards governing their approval and conduct is aligned across member states. Such trials are especially important for rarer cancers and childhood cancers, where trials are often only feasible because they are able to recruit from a large pool of patients across the EU.”<sup>82</sup>

**119.** Cancer Research UK also underlined the importance of the benefits that compatibility of regulation and standards bring to the UK. They propose that the UK/Welsh Governments should look to align with the new EU Clinical Trials Regulation:

“The Welsh Government should continue to work with the UK Government to consider the importance of aligning with the new EU Clinical Trials Regulation, which the UK has played a key role in shaping for the benefit of UK research. In particular, it should seek agreements that allow for the UK’s participation in the central review process for approving clinical trials, which will provide our researchers with access to the new EU portal and database.”<sup>83</sup>

## Employment legislation

**120.** Several pieces of EU legislation within the field of employment impact on the delivery of health care services, including those concerning:

- mutual recognition of professional qualifications, enabling health professionals from EU countries to work in the health care systems of other EU Member States;
- working conditions such as the Working Time Directive.

**121.** The mutual recognition of professional qualification is identified as vital by the key professional bodies who responded, including BMA Cymru Wales, the Royal Colleges, and WNHSC.<sup>84</sup> WNHSC also highlight the need for continued importance of protecting worker’s rights and health

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<sup>80</sup> IOB 45 UK Faculty for Public Health, IOB 12 The Royal College of Surgeons Edinburgh, IOB 10 Welsh NHS Confederation and IOB 25 Royal College of Anaesthetists

<sup>81</sup> IOB 45 UK Faculty of Public Health, IOB 33 Cancer Research UK, IOB 08 The Royal Colleges of Physicians (Wales) and IOB 25 Royal College of Anaesthetists

<sup>82</sup> IOB 33 Cancer Research UK

<sup>83</sup> Ibid

<sup>84</sup> IOB 31 BMA Cymru Wales, IOB 10 Welsh NHS Confederation and consultation responses from the Royal Colleges



and safety legislation – views echoed by BMA Cymru Wales, the RCN and the British Association of Social Workers Cymru (BASW).<sup>85</sup>

## EU and third country workforce

**122.** The numbers of staff from EU countries working in Welsh health and social care is not reported centrally. The General Medical Council document *The state of medical education and practice in the UK report: 2015* show the majority of doctors in obstetrics and gynaecology were non-UK graduates, as were almost half of ophthalmologists. Between 2010-14 other key specialties such as medicine, psychiatry, paediatrics and pathology saw substantial increases in the number of non-UK graduates.<sup>86</sup> The Cabinet Secretary for Health, Wellbeing and Sport recently stated that around 6 per cent of doctors in Wales were trained in another EU country.<sup>87</sup>

**123.** The Royal College of Nursing Labour Market Review 2015 show that the proportion of nursing staff joining the workforce from the EU rose from two per cent in 2010-11 to 8.8 per cent in 2013-14.<sup>88</sup>

**124.** For social care, research undertaken by Independent Age indicates that nearly 1 in 5 care workers was born outside the UK – around 266,000 people. Non-EU migrants accounted for around 1 in 7 of these.<sup>89</sup>

**125.** Many respondents highlighted the significant recruitment and retention difficulties faced by Wales in health and social care. They subsequently set out the need to ensure that health and social care staff from the EU retained the ability post-Brexit to remain or commence working in the UK and vice versa. This view was included in the responses from the RCN, BMA Cymru Wales, UK Faculty of Public Health, the Royal Colleges of Surgeons (Edinburgh), Anaesthetists, Radiologists and Physicians, the BASW, Wales Council for Voluntary Action and WNHSC.<sup>90</sup>

## Medical research

**126.** Medical research is another area where the EU dimension is of particular interest. This includes participation by Welsh universities and research teams, through competitive bidding, in the EU's research programme Horizon 2020.

**127.** A number of responses identified this as an area to be addressed. The UK Faculty of Public Health set out their concerns that EU partners may be reluctant to involve UK partners in future research projects.<sup>91</sup> At the same time, they believe there are funding and partnership opportunities to be explored outside the UK,<sup>92</sup> and Cancer Research UK stated that:

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<sup>85</sup> IOB 31 BMA Cymru Wales, IOB 10 Welsh NHS Confederation, IOB 21 Royal College of Nursing, IOB 30 BASW Cymru

<sup>86</sup> General Medical Council, *The state of medical education and practice in the UK report: 2015*, November 2015 p.21

<sup>87</sup> Welsh Government Written Statement, Cabinet Secretary for Health, Wellbeing and Sport, *EU health and social care staff make huge contribution and are extremely valued, say Welsh Health Ministers*, 13 July 2016

<sup>88</sup> Royal College of Nursing, *A workforce in crisis? The UK nursing labour market review 2015*, October 2015

<sup>89</sup> Independent Age, *Moved to care: the impact of migration on the adult social care workforce*, November 2015

<sup>90</sup> IOB 21 Royal College of Nursing, IOB 31 BMA Cymru Wales, IOB 45 UK Faculty of Public Health, IOB 12 The Royal Colleges of Surgeons Edinburgh, IOB 25 The Royal College of Anaesthetists, IOB 16 The Royal College of Radiologists, IOB 08 The Royal College of Physicians (Wales), IOB 30 BASW Cymru, IOB 27 the Wales Council for Voluntary Action (WCVA) and IOB 10 Welsh NHS Confederation

<sup>91</sup> IOB 45 UK Faculty of Public Health

<sup>92</sup> Ibid

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“Wales and the UK must explore opportunities to strengthen its world-class science base, building on and developing new global collaborations. [...]The UK has an opportunity to set itself apart as the top global destination for industry to conduct clinical trials, securing crucial investment and enabling patient access to innovative treatments.”<sup>93</sup>

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The Association of the British Pharmaceutical Industry also set out that the UK needs to remain at the forefront of medical and bio-scientific research,<sup>94</sup> and WNHSC note the growing scale of bio-scientific work in Wales:

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“In Wales the life sciences sector employs around 11,000 people based at more than 350 companies and delivers a turnover of circa £2bn per year. These include companies in the ground-breaking fields of medical technology – biopharmaceuticals, regenerative medicine, diagnostics, e-health and biotechnology. Recognising this inherent strength and potential, the Welsh Government has established initiatives such as the Life Sciences Hub and Life Sciences Research Network Wales to ensure ongoing development of the sector in Wales, which is expected to deliver significant (over £1bn) economic impact by 2022.”<sup>95</sup>

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**128.** The WalesWorldWide.org website provides further information on biotech and pharmaceuticals industries in Wales. It sets out that Wales has 5% of the UK population but 10% of its life sciences workforce.<sup>96</sup>

**129.** There are several hundred Welsh biotech and pharmaceutical companies leading developments in Wales, including Ortho Clinical Diagnostics, Quotient Bioresearch and Quay Pharma. Larval therapy firm, formerly ZooBiotic (now known as **Biomonde**), dominates the world market in such products (having been the first spin-out from an NHS Trust). The European Headquarters of **Biomet**, the global leader in the orthopaedics market, is in Bridgend.

**130.** It should also be noted, that the RCN, BMA Cymru Wales, WNHSC, the Royal College of Physicians and others all emphasised the potential post-Brexit disadvantages for Wales in terms of what they saw as the likelihood of reduced access to research funding, research collaboration across EU networks and free movement of scarce research staff. The need was identified for frameworks to be developed to address these issues.<sup>97</sup>

## Access to other EU funds

**131.** Several responses, including that from the Welsh Local Government Association and the BASW also highlighted the way in which they believe deprived and rural areas of Wales have benefitted from EU funding, and ask whether new arrangements will be in place to plug any financial gaps.<sup>98</sup>

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<sup>93</sup> IOB 33 Cancer Research UK

<sup>94</sup> IOB 18 The Association of the British Pharmaceutical Industry

<sup>95</sup> IOB 10 Welsh NHS Confederation

<sup>96</sup> See <http://www.walesworldwide.org/sectors-list/biotech-pharmaceuticals/>

<sup>97</sup> IOB 21 Royal College of Nursing, IOB 31 BMA Cymru Wales, IOB 10 Welsh NHS Confederation, IOB 08 The Royal College of Physicians (Wales).

<sup>98</sup> IOB 36 WLGA, IOB 30 BASW Cymru.

## Our view

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**132.** There is uncertainty around data for EU nationals working in these sectors, particularly non-registered professions and low skilled employment. The Welsh Government needs to gather this information so that informed workforce planning can be undertaken and to strengthen Welsh input into the development of future UK immigration policy. It is vital that patient care needs are met and immigration from the EU and elsewhere in the world to meet these needs will continue to be necessary after we leave the EU.

**133.** There are concerns about the impact on workforce planning if restrictions on free movement are introduced, and we believe that there needs to be better planning of future training/skills requirements within public services.

**134.** In keeping with messages we received from the education sector, there is a need to maintain access to medical research and international collaboration.

**135.** The importance of EU agencies such as the European Medicines Agency were emphasised. Clarity over the future regulation of medicines is needed.

**136.** As with education, a framework for recognising professional qualifications must be maintained.

**137.** There are many public health issues that are best addressed at an international level. Continued cooperation with the EU should be part of Wales's approach to public health in future.

**138.** The future of reciprocal healthcare arrangements is unclear and will need to be addressed in negotiations.

## 05. Equality and community cohesion

### Summary of the issues raised

- The Welsh Government and the Assembly must be alert to any weakening of standards on equalities legislation;
- As the evidence of a spike in recorded hate crime at the time of the referendum suggests, Brexit has the potential to pose risks to community cohesion.

**139.** The Women’s Equality Network Wales (‘the WEN’) identified “the protection of equality, justice and human rights legislation” as a top priority for Wales and a Welsh Council for Voluntary Action (‘the WCVA’), survey of its members identified “equality and justice” as a top priority too.

**140.** The WEN calls on the National Assembly for Wales to commit to resisting any weakening of standards on equalities legislation post-Brexit:

“The EU has guaranteed standards for women's rights that are reflected in current UK legislation. While we understand that EU Directives won't disappear immediately following the UK's departure from the EU, there is a risk that, over time, rights could be rolled back because their continuance in legislation will depend on the political will of future governments. A number of key protections either derive from, or are guaranteed by, European law, e.g., maternity discrimination, maternity rights, equal pay, pension rights, part-time workers rights and the application of European discrimination law to all employers without exception. We are concerned that discrimination legislation which has been implemented via secondary legislation, e.g., maternity and parental leave regulations (1999) could be easier to repeal than primary legislation and could therefore be particularly vulnerable.”<sup>99</sup>

**141.** On the prospect of a ‘Repeal Bill’ (from an equalities perspective) WEN believes that Wales will need to prepare for two potential outcomes:

I. The entire body of European law and the EU directives (equalities, workers’ rights) are transferred into domestic law with no change in equalities legislation and employment protections. As a result, nothing will change immediately, but there will need to be vigilance about any future reforms.

II. The primary legislation is transferred into domestic law, but the EU Directives are not retained which would mean that the UK loses the equalities legislation and employment protections contained in the EU directives.”<sup>100</sup>

**142.** WEN also sought clarification on whether or not the EU Charter on Fundamental Rights will be transferred into UK law as part of the ‘Repeal Bill’.

<sup>99</sup> IOB 44 Women’s Equality Network Wales

<sup>100</sup> *ibid*

**143.** The WCVA and Wales Art International raised concerns about community cohesion and pointed to the role that third sector and arts organisations can play.<sup>101</sup> Wales Art International said:

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“If the Brexit vote has demonstrated anything, it is the need for public sector agencies to re-double their efforts to engage communities across Wales. Through our participation work, the Arts Council has valuable experience in showing how the arts can bridge into communities to celebrate diversity whilst also empowering those who feel marginalised.”<sup>102</sup>

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**144.** Churches in Wales emphasised the importance of maintaining the rights of and respect for minority communities.<sup>103</sup>

**145.** The National Unions of Students (‘the NUS’) noted that:

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“Perhaps the single most important concern that must be addressed, by both the National Assembly and the UK Parliament, is the rise in racism and hate-crime since the vote on 23rd June. By the middle of July, there had been a recorded rise of 42% in the reporting of hate-crime in England and Wales.”<sup>104</sup>

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**146.** Following the referendum, information released by the National Police Chiefs' Council (‘the NPCC’) showed an increase in the level of reported and recorded hate crime. At its peak, this showed a 58 per cent increase in the reporting of hate crime in comparison to 2015. This has since subsided and, whilst remaining at higher levels than 2015, the NPCC reports that reporting has returned to formerly seen levels for 2016. The Home Office Statistical bulletin *Hate Crime, England and Wales, 2015/16* includes an Annex that explores hate crime and the EU referendum.<sup>105</sup>

## **Our view**

**147. There should be no weakening of equalities legislation and employment protections when we leave the European Union. We note the Prime Minister's commitment to protecting and enhancing the rights people have at work.**

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<sup>101</sup> IOB 19 Wales Art International and IOB 27 Wales Council for Voluntary Actions (WCVA).

<sup>102</sup> IOB 19 Wales Art International

<sup>103</sup> IOB 13 Churches Together in Wales

<sup>104</sup> IOB 35 National Union of Students

<sup>105</sup> Home Office, Statistical bulletin: Hate Crime, England and Wales, 2015/16, 13 October 2016

## 06. European structural and investment funds

### Summary of the issues raised

- The implications for existing programmes in terms of closure and continuity of funding need to be set-out.
- The implications of potentially losing EIB investment are yet to be understood.
- The question of whether there will be a regional policy post-Brexit needs answering.

**148.** Under the 2014-2020 round of structural funds, Wales has been allocated almost £2 billion from the EU - with £1.6 billion going to West Wales and the Valleys and over £325 million to East Wales.

**149.** The Wales Governance Centre (the 'WGC') has published research that shows Wales – in contrast to the UK as a whole – is a net beneficiary of EU funds. Based on estimations of the Welsh contribution to the EU budget and Welsh public sector receipts from EU funding, it concludes that Wales had a net benefit of £245 million in 2014.

**150.** Dr Jayne Woolford, from the Wales Governance Centre, provided a written submission<sup>106</sup> based on an article she wrote on the implications of Brexit for UK ESIF programming and future regional policy. This article has been published in the European Structural and Investment Funds Journal.<sup>107</sup>

**151.** Dr Woolford's submission provides a thorough assessment of the situation in Wales and some of the issues that need to be addressed. She summarised the key points as:

“The financial implications of Brexit will vary across the UK regions. As a net beneficiary of the EU and allocated €3 billion euros during the 2014-2020 programming period, the loss of ESI [European Structural and Investment] funds will be significant for Wales.

The biggest vulnerability in relation to ESIF [European Structural and Investment Fund] financial allocations and their potential loss to Wales relates to the timing and content of Article 50 withdrawal negotiations. The negotiation of an end date for programme eligibility and the extent to which the established regulatory procedures around N+3 and programme closure will be applied will be crucial.

The level and timing of commitments to projects and expenditure on the ground is increasingly vital in ensuring Wales benefits as fully as possible from the funding envelope allocated, especially in light of the recent HMT [Her Majesty's Treasury] funding guarantee.

<sup>106</sup> IOB 47 Cardiff School of Law and Politics, Dr Jayne Woolford

<sup>107</sup> Woolford, J, 2016, *Implications of Brexit for UK ESIF programming and future regional policy*, European Structural and Investment Funds Journal, 2016 (Volume 4, Number 3), Lexxion, Berlin/Brussels

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Uncertainties exist around budget availability for EU reimbursements following Brexit and the conditional nature of the HMT guarantee. It is unclear whether WEFO [Welsh European Funding Office] will make use of flexibilities around programme modification and project reprofiling to manage risk.

Programme closure in the context of Brexit is additionally complicated by audit requirements that continue beyond the end of the programming period and hence EU membership.

Legal requirements under ESIF regulations suggest that, within the context of programme implementation, the UK will still be subject to all relevant aspects of EU law for a period of at least three years following withdrawal from the EU.

In terms of designating a future UK spatial policy, the debate can only be informed through the clear identification of the most successful targeting of localities, delivery models, funding priorities and types of initiatives to date – in the context of wider socio-economic policy and political developments.”<sup>108</sup>

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**152.** After considering the issues raised with us, we are left with a number of unanswered questions:

- What are the implications for the existing programmes (2014-2020) in Wales, including whether there will need to be a re-profiling of programmes and approved projects to take account of Brexit timeframe?
- Is there a risk of losing all or part of 2019 and 2020 funding allocations, despite the Chancellor’s guarantee?
- What are the implications of losing European Investment Bank support for important initiatives?
- Will the UK have a Regional Policy post-Brexit? and, if it does:
- How would this be managed?
- What role will the Welsh Government have?
- How will it be designed?
- What lessons can be drawn from the EU approach?

### **Our view**

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**153. Wales has benefited financially from European Structural and Investment Funds. It is vital that in transitioning to any future investment strategy we do not lose the capacity in Wales to manage schemes, and in particular the capacity that has been developed through European Social Fund programmes to increase employment.**

**154. It is our intention to seek answers to these questions and we will launch an inquiry in 2017 into future policies for addressing regional disparities in economic performance.**

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<sup>108</sup> IOB 47 Cardiff School of Law and Politics, Dr Jayne Woolford



## 07. Preparedness of public services

**155.** On 17 October, we held a seminar focused on the impact of Brexit on public services.<sup>109</sup>

**156.** At the point that we took evidence, there was concern raised at the lack of preparedness of public services for Brexit. It was recommended that, in the months leading up to the triggering of Article 50, such preparatory action be taken and that the Welsh Government should give a clear steer on this. One witness underlined the need for an “*authoritative source of advice and interpretation*” on Brexit for public services in Wales, stating that this should be the role of the Welsh Government.<sup>110</sup>

**157.** Dr Victoria Winkler, from the Bevan Foundation, told us that leaving the EU should not be used as a reason for delaying action to address other challenges that public services face:

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“[...] leaving the EU is absolutely not a reason to do nothing. ... Irrespective of where Wales is in the world, we’ve still got demographic change, we’ve still got technological change, we’ve still got climate change, we’ve still got a relatively weak economy, and those things are still there, and they’ll be there this week, next year, and in 10 years’ time. So, if you like, leaving the EU is just another difficulty to put into that mix that has to be managed. So, the last thing I think any public sector leader should be doing is parking the changes that need to be made because we don’t know about Brexit. I think there are some other big challenges out there too.”<sup>111</sup>

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**158.** Concerns were also expressed at the anticipated negative impact of Brexit on public finances, including the loss of EU funding, and the need to address this in future financing arrangements for Wales.<sup>112</sup>

**159.** For the UK as a whole, the Office for Budget Responsibility (‘the OBR’) provided updated forecasts of public sector net borrowing debt **at the same time as** the Autumn Statement 2016 which was published in November. This estimated borrowing would be £122.1 billion higher over the 5 years up to 2020-21 compared to previous forecasts in March. The OBR provided an analysis of what had been the causes of these net revisions in their modelling.

**160.** Over the period 2016-17 to 2019-20, £58.6 billion increase in estimated public sector net borrowing debt was attributed to “Brexit forecast changes”.

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<sup>109</sup> RoP EAAL Committee 17 October 2016

<sup>110</sup> Ibid c.23

<sup>111</sup> Ibid c.57

<sup>112</sup> Ibid c.100



## Sources of changes to public sector net borrowing since March 2016, £ bn

	2016-17	2017-18	2018-19	2019-20	2020-21
Effect of Government decisions	0.9	2.5	4.5	8.4	9.6
Brexit forecast changes	3.5	9.9	15.4	14.7	15.2
Non-Brexit forecast changes	7.8	7.3	4.6	3.0	2.9
Classification changes	0.5	0.4	0.5	6.4	4.1
Total	12.7	20.2	25.1	32.4	31.8

Source: OBR, [Economic and fiscal outlook](#), November 2016, Chart 1.4

Note: Figures may not add up to totals, due to rounding.

### Our view

**161. We intend to monitor the impact on public services and will be writing to all Welsh public bodies to alert them to our work and encourage them to engage with us.**

**162. We believe that the Welsh Government should take a lead in preparing public services for the challenges ahead and that it should be an authoritative source of advice and interpretation for public services when it comes to issues arising from exiting the EU.**

## Part 2: Scrutiny

### 08. The Welsh Government's response

**163.** Given the complexity of the issues raised by the referendum, we accept that the Welsh Government needed to take some time in articulating its position on responding to the challenges of Brexit.

**164.** The First Minister, the Rt Hon Carwyn Jones AM, issued a statement on 24 June 2016 setting out six priorities in the immediate aftermath of the vote to leave.<sup>113</sup> These were:

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Protecting jobs;

A full part to be played by the Welsh Government in discussions about the timing and terms of the UK withdrawal;

UK Government should negotiate access to the Single Market;

Continued participation in major programmes like CAP and Structural Funds up until end of 2020;

Overwhelming case for major revision of Barnett Formula to take into account needs arising from withdrawal from EU;

Constitutional shift resulting from Brexit means “the relationship between Devolved Administrations and the UK Government must now be placed onto an entirely different footing”.<sup>114</sup>

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**165.** The Welsh Government also announced the creation of a Cabinet Sub-Committee on Brexit and an External Advisory Group to help inform its thinking.

**166.** There have been subsequent statements by the First Minister and Cabinet Secretaries on their work on Brexit (which has included stakeholder group meetings and sectoral working groups). The First Minister has also appeared before us twice.<sup>115</sup>

**167.** Whilst the First Minister has stated on several occasions that his number one objective for the negotiations is full and unfettered, tariff-free, access to the Single Market, there was no comprehensive statement of the Welsh Government's priorities for the negotiations until the publication of its White Paper *Securing Wales' Future on 23 January 2016 ('the White Paper')*. We have not had an opportunity to scrutinise this White Paper. We intend to do so in our next phase of work.

**168.** The Cabinet Secretary for Finance and Local Government, Mark Drakeford AM, presented 10 priorities to a conference in Swansea on 25 November 2016 (the Swansea conference)<sup>116</sup> and has subsequently provided these to the Committee. These priorities carry particular weight due to Mr

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<sup>113</sup> Welsh Government Written Statement by the First Minister, *EU Referendum*, 24 June 2016

<sup>114</sup> Ibid

<sup>115</sup> 12 September 2016 and 7 November 2016

<sup>116</sup> *What will Brexit mean for Wales?*, Swansea University, 25 November 2016

Drakeford's role as the Welsh Government's representative on the main inter-governmental Brexit forum – the Joint Ministerial Committee on European Negotiations (JMC(EN)).

**169.** The Welsh Government published a White Paper on its priorities for Wales on 23 January 2017.

### Relationship with the European Single Market

**170.** There has been a debate over the past months on what 'access' to the Single Market means. We believe the First Minister's position on this is now clear, following his statement on 1 November 2016<sup>117</sup> and his appearance before us on 7 November 2016, where he said:

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"[...] the principle that is absolutely essential is that of full and unfettered access to the Single Market. For me, the settlement should be crafted around that one immovable principle."<sup>118</sup>

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**171.** In summary, we understand this to mean full and unfettered access, no sectoral approach,<sup>119</sup> tariff-free, and no regulatory barriers to participation.<sup>120</sup>

**172.** At the Swansea Conference, the Cabinet Secretary for Finance and Local Government called for:

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"Full, unfettered access to the Single Market, unencumbered by tariffs, quotas or any other technical barriers to trade."<sup>121</sup>

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**173.** The Prime Minister has been clear in stating that the UK Government is not seeking any form of membership of the Single Market. She is seeking an agreement that allows:

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"the greatest possible access to it through a new, comprehensive, bold and ambitious trade agreement".<sup>122</sup>

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**174.** The Prime Minister also alluded to the possibility of a sectoral approach, saying that the agreement "*[...] may take elements of current single market arrangements in certain areas*". She cites the export of "cars and lorries" and financial services as possible sectors.

**175.** The Welsh Government's White Paper states that:

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"We believe that full and unfettered access to the Single Market for goods, services and capital – including our key agricultural and food products – is vital for the forward interests of Wales and the UK as a whole and we urge the UK Government to adopt this as the top priority for negotiation with the EU."<sup>123</sup>

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<sup>117</sup> RoP 1 November 2016 14:16 to 15:12

<sup>118</sup> RoP EAAL Committee 7 November 2016 c.9

<sup>119</sup> Ibid c.84

<sup>120</sup> Ibid c.29

<sup>121</sup> First point made by the Cabinet Secretary for Finance and Local Government at the Swansea Conference.

<sup>122</sup> The Prime Minister's Office, 10 Downing Street, *The UK government's negotiating objectives for exiting the EU: PM Speech, 17 January 2017*

<sup>123</sup> Welsh Government, White Paper: Securing Wales' Future, 23 January 2016

## Freedom of movement

**176.** The First Minister has acknowledged that a future trade deal with the EU that allowed freedom of movement of people “*would be problematic*”.<sup>124</sup> He does not see restricting freedom of movement as being as high a priority as maintaining unfettered access to the Single Market:

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“If we look at freedom of movement, for example, to me it seems that many people are not content with the current system of freedom of movement, but I do think that it’s inevitable that there will be a need for a system of allowing people to move around Europe in order to keep economic growth moving. That, to me, is less important than the issue of full and unfettered access to the Single Market.”<sup>125</sup>

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**177.** The Cabinet Secretary for Finance and Local Government calls for a “*calibrated approach to free movement of people, which preserves its many advantages, while bearing down on exploitation of labour*”.<sup>126</sup>

**178.** The Welsh Government's White Paper states that:

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“In our view, the key is to ensure that, apart from students and those who are able to sustain themselves independently, freedom of movement of people is linked to employment. For students and researchers, we believe continued free mobility across Europe is in the best interests of Wales and the UK as a whole. Linking freedom of movement to employment should be complemented by rigorous enforcement of existing legislation to prevent exploitation of workers, particularly those in low-wage occupations.”<sup>127</sup>

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## Funding

**179.** At our meeting on 12 September 2016, the First Minister rejected post-Brexit funding of agriculture and structural funds based on Barnett formula allocations. He called for guarantees over future funding based on current levels.<sup>128</sup> He goes further and suggests the need for a fundamental review of financial funding mechanism within the UK to limit the power of the Treasury,<sup>129</sup> and a replacement of the Barnett formula with an inbuilt periodic review mechanism.<sup>130</sup>

**180.** At our meeting on 7 October 2016, Professor Michael Keating told us that Brexit is a big challenge for the Barnett formula. It has, in the past, dealt with incremental change but:

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“It’s never had a really big hit like this, a whack of new money coming through all at once.”<sup>131</sup>

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**181.** In response, Mr Akash Paun said:

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<sup>124</sup>124 RoP EAAL Committee 12 September 2016 c.28

<sup>125</sup> RoP EAAL Committee 7 November 2016 c.10

<sup>126</sup> Second point made by the Cabinet Secretary for Finance and Local Government at the Swansea Conference.

<sup>127</sup> Welsh Government, White Paper: Securing Wales' Future, 23 January 2016

<sup>128</sup> RoP EAAL Committee 12 September 2016 c.50

<sup>129</sup> Ibid c.58

<sup>130</sup> Ibid c.71

<sup>131</sup> RoP EAAL Committee 7 November 2016 c.384

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“I think the interesting thing about this moment, and the change is that the simplest thing to do—and almost certainly the preferred model from a Treasury perspective—will be just to add on the replacement funding for common agricultural policy and structural funds and other things on top of the block grant and then to ‘Barnettise’ it.”<sup>132</sup>

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**182.** Following a meeting of the Joint Ministerial Committee in October, the First Minister made a statement in Plenary on 1 November 2016. In relation to funding, he called for a revision of the Block Grant to Wales in light of the EU exit and said that this will become *“increasingly urgent for stability in the months ahead”* given the impact on access to EU funding.<sup>133</sup>

**183.** On the question of UK-wide mechanisms for financing agriculture and initiatives that may replace structural funds post-Brexit, the First Minister appeared open to exploring this, but was clear that such arrangements must be:

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“[...] agreed not imposed. Any kind of suggestion that, somehow, whatever replaces European structural funding should be controlled from London wouldn’t be acceptable.”<sup>134</sup>

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**184.** The Cabinet Secretary for Finance and Local Government has called for:

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“[...] a full guarantee that funding which flows from the EU today, and would continue to flow in the future, will be provided at or above that level by the UK Treasury, once Brexit has taken place.”<sup>135</sup>

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**185.** On 19 December 2016, an agreement was reached between the Welsh Government and the United Kingdom Government on the Welsh Government’s future fiscal framework.<sup>136</sup> This includes a new needs-based factor to be included in the Barnett Formula from 2018-19.

**186.** We have yet to consider how this new agreement might address the points raised with us and we will return to this question in our future work.

## Evidence to support the Welsh Government’s position

**187.** Until the publication of the White Paper, the Welsh Government had not provided details of the evidence underpinning its stated position. This contrasts with the Scottish Government which published an analysis of the potential implications of the UK Leaving the EU on Scotland's long run economic performance in August 2016.<sup>137</sup>

**188.** The recently published White Paper includes annexes that provide a summary of the potential economic impacts on Wales from 'Brexit' (prepared by the Welsh Government's Chief Economist) and an evidence summary on EU Migration in Wales.

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<sup>132</sup> RoP EAAL Committee 7 November 2016 c.385

<sup>133</sup> RoP 1 November 2016 14:16

<sup>134</sup> RoP EAAL Committee 7 November 2016 c.58

<sup>135</sup> Third point made by the Cabinet Secretary for Finance and Local Government at the Swansea Conference

<sup>136</sup> HM Government and Welsh Government, The agreement between the Welsh Government and the United Kingdom Government on the Welsh Government’s future fiscal framework, 19 December 2016

<sup>137</sup> Scottish Government, *Potential Implications of the UK Leaving the EU on Scotland's Long Run Economic Performance*, 23 August 2016

## Our view

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**189.** We understand the breadth and complexity of the issues faced by the Welsh Government and that the process of identifying priorities has been more difficult in light of the UK Government's hesitancy in outlining its position (more on this below). Accepting the challenges the Welsh Government has faced, we believe that the Welsh Government could have outlined its position, and the evidence behind it, at an earlier point in the process. The Welsh Government should continue to develop the evidence that supports its position and do so transparently. Its White Paper takes a positive step in this direction.

**Recommendation 1.** We acknowledge that the Welsh Government's White Paper has provided additional evidence to support the Welsh Government's position. However, we recommend that the Welsh Government publishes all the evidence on which it bases its position, including details of the scenario modelling that has been done across all sectors and the studies it has commissioned internally and from external sources.

**190.** The First Minister has established an EU Transition team. It reports direct to the First Minister. This team has the task of leading and co-ordinating the Welsh Government's approach to Brexit. Beyond this, the Welsh Government has not provided detailed information on the internal restructuring that has taken place in its departments in response to Brexit.

**Recommendation 2.** We recommend that the Welsh Government provides a detailed assessment of the administrative changes it has made following the referendum and the financial implications of these changes. In doing so, it should be clear about those changes that have occurred as a direct consequence of the referendum outcome and those that were already planned or in progress. This assessment should include details of changes made in Wales and in the Welsh Government's office in Brussels.

**Recommendation 3.** We recommend that the Welsh Government clarifies the role it sees its Brussels office playing in the negotiations.

**Recommendation 4.** We recommend that the Welsh Government provides us with its register of risks across all areas where Brexit will impact upon its activity.

**Recommendation 5.** We recommend that the Welsh Government sets-out the steps it has taken since 24 June 2016 to ensure that the maximum amount of European funding is secured and utilised before we exit the EU.

## The UK Government

**191.** Until the Prime Minister's speech on 17 January 2017, the UK Government had provided very few details of its approach to negotiations with the European Union, both in terms of the exit arrangements and any future relationship. Nor had it provided clarity on how issues such as future funding following the end of current European funded projects and how 'repatriated' powers that fall within areas of devolved competence will be managed.

**192.** The First Minister expressed his frustration at this lack of information on a number of occasions. On 1 November, he said:

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"It is disappointing, and damaging to confidence, that the UK Government has so far been unable to offer a coherent outline of its broad approach to EU negotiations. Their excuses for not doing so are running thin and the

credibility of the UK is not helped by prevarication and – it must be said – confused and mixed messaging. The UK needs to get its act together.”<sup>138</sup>

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**193.** Sir Emyr Jones Parry described the notion that the UK Government won’t discuss its position publicly because it doesn’t want to give away bargaining power as “one of the most ridiculous arguments I have heard” and:

“[...] if you were doing a negotiation properly, you would have been talking to all the member states, trying to get the Germans and the French and others on-line before you ever got to Brussels. If they don’t do that, they’re lost. So, they’ve done all that. The illusion that you can somehow keep it secret is just that. I suspect it covers up the fact that they don’t know what the policy is.”<sup>139</sup>

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**194.** Sir Emyr explained that:

“As to being poker faced, I think you go into the negotiations and be poker faced about the extent of any fallback position, any nuances in your position. But you go in with a set of demands, and those demands are going to have to be pretty public.”<sup>140</sup>

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## **Our view**

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**195.** We have sought the UK Government’s involvement in our work. It has been slow to respond to our requests. We elaborate on this in a subsequent section of this report.

**196.** Whilst the Prime Minister's speech provided high-level details of the UK Government's approach to the negotiations, many questions remain unanswered. We respect the need for aspects of the UK Government's position to remain confidential. However, we believe greater clarity is needed around issues such as the precise role she sees for devolved governments and legislatures in process.

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<sup>138</sup> RoP 1 November 2016 14:16

<sup>139</sup> RoP 21 November 2016 c.155

<sup>140</sup> Ibid c.172



## 09. Wales' voice in the negotiations

### Clarifying the different aspects to the negotiations

**197.** Before exploring some of the ways in which the Welsh Government might approach seeking to influence the negotiations, it is worth articulating the different elements that comprise the 'package' of Brexit negotiations that will take place over the coming years. These can be grouped into four possible negotiations for ease of communication, though in reality at least some of them may be combined or take place in parallel:

- **Withdrawal agreement:** this focuses on the separation between the UK and the EU including institutional arrangements (e.g. what happens to the status of the UK within the European Investment Bank, the various EU agencies etc.), budget contributions, structural funds, pensions, acquired rights of UK citizens in other EU countries and vice versa, and possibly addressing the border between Northern Ireland and the Republic of Ireland. The withdrawal agreement would require qualified majority voting (QMV) amongst the EU27 within the Council and consent of the European Parliament. Article 50 states that the withdrawal agreement is to "take account of the framework for [the leaving State's] future relationship with the Union", which gives the UK the opportunity to seek to link these negotiations with the second and/or third stream below, or to request that parallel negotiations take place on those, for timing reasons.
- **Post-Brexit framework for co-operation with the EU:** covering the different types of models of Brexit (EEA, Swiss Model, Free Trade Agreement, trading under WTO rules, bespoke deal etc.); implications of access to free market, participation in EU programmes; whether or how the UK continues to co-operate in areas such as public health. This framework will require unanimity amongst the EU27 in Council, probably ratification by all Member States according to their own constitutional arrangements, and consent from European Parliament. The CETA (Canadian-EU) free trade agreement, went through this process – with final ratification held up by the Bruxelles-Capitale and Wallonia regions in Belgium.
- **Transitional arrangements:** i.e. whether any 'transitional arrangements' will be put in place before and until a Post-Brexit framework is agreed, which would cover similar issues. The nature of the 'transitional arrangements' would determine how it was to be agreed in Council and Parliament: if it was part of the withdrawal agreement it would require QMV in Council; if not it is reasonable to assume that it would require unanimity within Council as a separate agreement between the UK and EU27. In both scenarios Parliament would be required to give its consent.
- **Internal UK arrangements post-Brexit:** including how to deal with areas which have been traditionally dealt with at EU level, such as agriculture, regional development policy, environment, marine and fisheries policy, some of which (like the examples cited here) fall within devolved competence in Wales and the other devolved nations of the UK

**198.** In terms of the Welsh interest in the 'withdrawal agreement' negotiation itself, issues around the following will be of interest: the treatment of the land border on the island of Ireland (and what implications this could have for the status of the Welsh sea borders with Ireland); budget contributions (if these have implications for the Welsh block grant and structural funds) and



treatment of 'acquired rights' (particularly if this addresses the question of the status of EU nationals in the UK and British nationals in the EU post-Brexit).

**199.** The primary Welsh interests, beyond these point, will therefore lie in the other three areas: namely the implications of decisions around post-Brexit relations with the EU, any provision for transitional arrangements, and internal UK arrangements, for Wales.

**200.** In our series of seminars and in scrutiny of the Welsh Government we heard a range of views on the mechanisms that are being put in place within the UK for the negotiations, focusing in particular on the Brussels-level negotiations, and the role that would be afforded to the Welsh Government in this process.

### Participation of Wales in the negotiations in Brussels

**201.** The UK Government has made it clear that it will lead in the negotiations in Brussels; indeed, the implication, as we see it, is that it will undertake them alone.

**202.** The First Minister appeared relaxed about the Welsh Government not being directly involved in the Brussels-level negotiations themselves, saying:

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“I don't think we necessarily have to be in the room in the negotiations, but it's important that there is an agreed position before those negotiations start”.<sup>141</sup>

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**203.** We heard evidence to the contrary from Professor Keating, from the University of Aberdeen, who suggested:

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“Being in the room is shorthand for a lot of other things. It's knowing what is going on, it's being there when the trade-offs are made, it's getting all the papers and being briefed for the meetings in advance.”<sup>142</sup>

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**204.** Professor Keating also acknowledge that the UK Government was unlikely to allow this level of access to the negotiations.<sup>143</sup>

**205.** The Cabinet Secretary for Finance and Local Government set-out a stronger position:

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“Full involvement in shaping the UK's negotiating position and direct participation in those negotiations which involve devolved areas of responsibility, using the model of the devolved administrations' participation in the Council of Ministers.”<sup>144</sup>

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### Our view

**206.** We take the view that the Welsh Government should push for access to the negotiations, along the lines suggested by the Cabinet Secretary for Finance and Local Government and for the reasons expressed by Professor Keating. It is our view that involving the devolved governments in this way would strengthen the UK's position and demonstrate its commitment to involve devolved governments meaningfully.

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<sup>141</sup> RoP EAAL Committee 7 November 2016 c.125

<sup>142</sup> Ibid c.346

<sup>143</sup> Ibid

<sup>144</sup> Seventh point made by the Cabinet Secretary for Finance and Local Government at the Swansea Conference.

**Recommendation 6.** We recommend that the Welsh Government presses the UK Government for full involvement in shaping its negotiating position and direct participation in those negotiations which involve devolved areas of responsibility, or matters that affect devolved areas of responsibility, using the model of the devolved administrations' participation in the Council of Ministers.

## UK position to be agreed with the devolved governments ahead of negotiations

**207.** The First Minister has insisted that the final UK negotiating position should be agreed by the four administrations and that the final deal reached with the EU should be ratified by the four UK parliaments and legislatures.<sup>145</sup>

## Joint Ministerial Committee

**208.** At a meeting of the Joint Ministerial Committee ('the JMC') on 24 October 2016, Ministers from the four governments established a new Joint Ministerial Committee on EU Negotiations (the 'JMC(EN)') as part of the wider JMC framework.

**209.** It has the following terms of reference:

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### Working together in EU Negotiations

Through the JMC(EN) the governments will work collaboratively to:

- discuss each government's requirements of the future relationship with the EU;
- seek to agree a UK approach to, and objectives for, Article 50 negotiations; and
- provide oversight of negotiations with the EU, to ensure, as far as possible, that outcomes agreed by all four governments are secured from these negotiations; and,
- discuss issues stemming from the negotiation process which may impact upon or have consequences for the UK Government, the Scottish Government, the Welsh Government or the Northern Ireland Executive."<sup>146</sup>

**210.** The JMC(EN) is chaired by the Secretary of State for Exiting the EU, the Rt Hon David Davis MP. The Cabinet Secretary for Finance and Local Government, Mark Drakeford AM, represents the Welsh Government. The JMC(EN) has agreed to meet monthly.<sup>147</sup>

**211.** When we questioned the First Minister on the role of the JMC (and JMC(EN)) he said:

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"Can I say it would absolutely not be acceptable for it simply to be a body where the UK Government brought forward its proposals for the other three Governments to accept or not? That's not in the spirit of partnership working.

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<sup>145</sup> RoP EAAL Committee 7 November 2016 c.64

<sup>146</sup> UK Government, Joint Ministerial Committee communiqué, 24 October 2016

<sup>147</sup> Department for Exiting the European Union, Joint Ministerial Committee on EU Negotiations communiqué, 9 November 2016

That's not what the Prime Minister said, so it's important that those words are adhered to."<sup>148</sup>

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**212.** In relation to the JMC(EN) and the need for a UK-wide negotiating position, he said:

"I would prefer to see a negotiating position adopted by the UK that has wide buy-in [...] Sensibly, they [the UK Government] would want to be in a position where they can get as much agreement as possible in order for there to be a degree of unity around that negotiating position. So, that is what this committee must do, but it has to do that on the basis of agreement and not take it or leave it."<sup>149</sup>

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**213.** In terms of dispute resolution, the First Minister accepted that the UK Government can ultimately take the final decision unilaterally:

"If you look at the dispute resolution process that we have in the JMC, ultimately, if there's a dispute with the UK Government, the matter is resolved ultimately by the UK Government. They are both party and judge in the same case, as it were. And that's an issue we've been arguing over for some time."<sup>150</sup>

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**214.** We received a mixed response to the creation of the JMC(EN).

**215.** We heard that the JMC structure is viewed as largely a weak mechanism, in which the UK Government has the prominent role. Whilst the JMC(EN) will meet more frequently than the existing JMC, with a work programme prepared in consultation with the devolved administrations, we heard scepticism around how strong a mechanism this would be for the Welsh Government (and other devolved governments) to shape the negotiations.

**216.** Dr McGowan, from Queen's University Belfast, described JMC(EN) as a "symbolic" body and "slightly weaker" than the existing JMC mechanisms.

**217.** Professor Keating set out his view:

"I think that that committee is weaker than the existing JMC mechanisms, which are themselves quite weak because the existing JMC mechanisms require circulation of papers; they require civil service back-up, committees at official level, and they're tied to a mechanism according to which devolved Ministers can actually go to the Council of Ministers as part of the UK delegation. Now, what I've seen from proposals for this committee has none of those extra features."<sup>151</sup>

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**218.** Mr Paun, from the Institute of Government, was more cautious about criticising the new JMC(EN):

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<sup>148</sup> RoP EAAL Committee 7 November 2016 c.114

<sup>149</sup> Ibid c.115

<sup>150</sup> Ibid c.121

<sup>151</sup> RoP EAAL 7 November 2016 c.340

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“Some of the signs have been quite discouraging; I would agree with that, but there is, at least, an agreement that this body will meet regularly.”<sup>152</sup>

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**219.** Sir Emyr Jones Parry described the JMC as follows:

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“The JMC machinery was designed for another purpose. [...] Can I be unkind and say more as a talking shop, as an exchange of information, certainly not as a decision-making body with powers? So, is that the body for Wales to seek to influence what’s happening? I think it has a role. It’s not a bad thing for the First Minister or one of his Ministers to go to that body and set out the arguments, but what is the effect? I’d much rather if there were Cabinet Office machinery looking after these various negotiations and that Wales were plugged into it. There are a number of difficulties with that, not least that there doesn’t seem to be such a Cabinet Office machinery.”<sup>153</sup>

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### **Our view**

**220.** Sir Emyr’s view is closest to that of our own, in that we believe that the Welsh Government should engage in the JMC process, however, on the basis of the evidence received, we have reservations about this structure. We believe that there is a need for a more equitable arrangement for facilitating inter-governmental relations within the UK. We believe that there is a case to be made for reform of the JMC so that it may become a UK Council of Ministers based on the principles of partnership and equality.

**221.** Where devolved issues, or matters that affect devolved issues, are being considered in Whitehall, we believe that the Welsh Government’s direct input should be sought. This includes the structures that are being established to inform the exit negotiations and future trade relationships with the EU and elsewhere.

**222.** There is also an important scrutiny role to play in monitoring inter-governmental arrangements. This is considered later in this report.

### **Welsh Government input into Whitehall**

**223.** Our first challenge in approaching the question of how to ensure Welsh interests are being considered within Whitehall is that the mechanisms for preparing the UK Government’s position are currently difficult to determine.

**224.** We had hoped to hear from the Secretary of State for Exiting the European Union during our first phase of work, so that we could better understand how Whitehall is configuring itself and the extent to which Welsh interests are being represented. We wrote to the Secretary of State twice, on 8 October 2016 and 15 November 2016. In addition, our clerks have made numerous approaches to his department.

**225.** We received a formal reply dated 18 January 2017. We are pleased that the Secretary of State has now agreed to send his Minister of State, the Rt Hon David Jones MP, to attend a meeting in February 2017.

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<sup>152</sup> RoP EAAL 7 November 2016 c.344

<sup>153</sup> Ibid c.123

## Our view

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**226.** Whilst we are disappointed by the time it has taken the Secretary of State to respond, we look forward to the attendance of his Minister of State at a future meeting. For us to perform robust scrutiny of the Welsh Government, and to fulfil our duty to ensure issues of importance to Wales are being properly considered in the process, we expect the UK Government to engage with our work.

**227.** We will continue to explore the level of formal input the Welsh Government has into Whitehall.

**228.** We agree with Sir Emyr Jones Parry's suggestion that Wales needs to be 'plugged into' the Whitehall groups or committees that will be involved in preparing the detail of the UK Government's position for the negotiations.<sup>154</sup> He mentioned several possible groups that he believes have been established. He also explained his view that many of the once centralised structures (historically situated within the Cabinet Office) that coordinated Whitehall input to negotiations have been spread across several of the new departments (such as the Department on Exiting the European Union (DExEU) and the Department for International Trade (DIT)).<sup>155</sup>

**229.** Our understanding is that DExEU was established to coordinate Whitehall efforts, but we remain unclear on whether this is the case across all policy areas.

## Transitional arrangements

**230.** At the Swansea conference, the Cabinet Secretary for Finance and Local Government called for:

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"A new focus on transitional arrangements. There must be no cliff edge to UK membership of the EU. The complexity of Article 50 negotiations means they will inevitably focus on how the UK will extricate itself from current arrangements. Future relationships with the EU and the rest of the world will have to be developed and agreed over a far longer period. Transitional arrangements which remain as close as possible to the existing position will provide the most stable platform for future negotiations."<sup>156</sup>

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**231.** This view was supported by a number of respondents and witnesses, including Professor Gerry Holtham who suggested organising "some interim soft-landing arrangements".<sup>157</sup>

**232.** Sir Emyr Jones Parry's view is that he has no doubt that:

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"[...] some form of transitional arrangements are going to be necessary, because there isn't the capacity either in legislatures or within the civil service to actually cover all those aspects that I've tried to set out within the time available."<sup>158</sup>

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<sup>154</sup> RoP EAAL 7 November 2016 c.123

<sup>155</sup> Ibid c.126

<sup>156</sup> Sixth point made by the Cabinet Secretary for Finance and Local Government at the Swansea Conference.

<sup>157</sup> RoP EAAL Committee 21 November 2016 c.4

<sup>158</sup> Ibid c.189

**233.** In her speech on 17 January 2017, The Prime Minister stated that she would “*seek to avoid a disruptive cliff edge*” but she would not seek “*some form of unlimited transitional status*”. She explained that she wants to reach an agreement on the UK's future relationship with the EU by the time the two-year Article 50 process has concluded.

**234.** In stating this, she acknowledge that:

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“From that point onwards, we believe a phased process of implementation, in which both Britain and the EU institutions and member states prepare for the new arrangements that will exist between us will be in our mutual self-interest. This will give businesses enough time to plan and prepare for those new arrangements.”<sup>159</sup>

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**235.** In the event that satisfactory deal cannot be reached, the Prime Minister suggested a change to UK's economic model with an emphasis placed on the freedom the UK would have to set competitive tax rates.

### **Our view**

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**236.** We support the Cabinet Secretary for Finance and Local Government’s call for a focus on transitional arrangements.

**237.** We recognise that even a relatively short period of time spent trading on WTO rules has the potential to be damaging to our manufacturing and agricultural sectors. This could have negative consequences for the Welsh economy.

**238.** Whilst the Prime Minister's objective of achieving a phased approach appears sensible, she did not address the consequences for the UK if this objective is not achieved. We need greater clarity around how the UK will mitigate the impact of having to trade under WTO rules.

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<sup>159</sup> The Prime Minister's Office, 10 Downing Street, *The UK government's negotiating objectives for exiting the EU: PM Speech, 17 January 2017*

## 10. Intra-UK relations and constitutional questions

**239.** Our first phase of work has brought into focus some fundamental questions about the adequacy of the existing constitutional arrangements in the UK, which have gained new prominence in the process of considering the Wales Bill, and been commented on in the work of Assembly Committees and more recently by the Public Administration and Constitution Committee in the House of Commons.<sup>160</sup>

### UK-wide frameworks

**240.** After leaving the European Union, there are several areas of policy that might benefit from an agreed UK-wide approach or framework. For example, agricultural, marine and environmental policies and regional development policy (to replace structural funds).

**241.** The First Minister appears open to the possibility of UK frameworks in some areas such as animal health and agriculture, but with the proviso that any framework must be developed and agreed between the governments of the UK and not imposed by the UK Government.

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“In some areas, it would make sense for there to be agreement—and I stress the word ‘agreement’—between the different Governments on a common policy: animal health, for example. It would be very difficult to have three different systems of animal health on this island. It would make sense for there to be one system—but agreed, not imposed; that’s the important issue from my perspective.”<sup>161</sup>

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**242.** According to the First Minister, over 5,000 pieces of legislation currently affect devolved areas and would need to be evaluated. The First Minister believes that many of these legal instruments will be needed in the future and it would make sense to enshrine them in UK law.<sup>162</sup> He also stated that in environment policy it would be sensible to agree minimum standards across the UK.<sup>163</sup>

**243.** The Cabinet Secretary for Finance and Local Government has called for:

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“Unambiguous recognition of the uninterrupted continuation of existing devolved competencies as the UK leaves the EU: devolved competencies currently regulated at the EU level must continue to be exercised by the devolved administrations, once we are no longer members of the EU: any new UK frameworks must be freely negotiated between all four Governments.”<sup>164</sup>

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and

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“Wholehearted commitment to redrawing the relationship between the component parts of the United Kingdom, in the post European Union period,

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<sup>160</sup> House of Commons Public Administration and Constitution Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, 6 December 2016

<sup>161</sup> RoP EAAL Committee 7 November 2016 c.58

<sup>162</sup> *Ibid* c.157-158

<sup>163</sup> *Ibid* c.171

<sup>164</sup> Eighth point made by the Cabinet Secretary for Finance and Local Government at the Swansea Conference.



including both the distribution of responsibilities and the machinery of government between the four nations.”<sup>165</sup>

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**244.** The Prime Minister has stated that:

“Part of that will mean working very carefully to ensure that – as powers are repatriated from Brussels back to Britain – the right powers are returned to Westminster, and the right powers are passed to the devolved administrations of Scotland, Wales and Northern Ireland.

As we do so, our guiding principle must be to ensure that – as we leave the European Union – no new barriers to living and doing business within our own Union are created,

That means maintaining the necessary common standards and frameworks for our own domestic market, empowering the UK as an open, trading nation to strike the best trade deals around the world, and protecting the common resources of our islands.

And as we do this, I should equally be clear that no decisions currently taken by the devolved administrations will be removed from them.”<sup>166</sup>

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### Shared competence and inter-governmental co-operation

**245.** In considering the need for governments to work together on common approaches, we must also consider whether there is a suitable mechanism for this. On the basis of the evidence received, it is clear to us that, at present, such a mechanism is lacking. The First Minister’s view is that:

“The UK doesn’t have a mechanism where governments can come together—call it a mini council of ministers, possibly—come together and agree these common standards and agree a common approach that benefits everybody. We don’t have that structure in place at the moment and we will need it in the future.”<sup>167</sup>

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**246.** Devolution has taken place in context of the European Union with an EU framework sitting above many key devolved areas. The European Union can be described as a model based on the pooling of sovereignty and shared competence.

**247.** In her written submission, Dr Jo Hunt from Cardiff University’s School of Law and Politics, suggests that the UK will need to move towards a shared competence approach in a number of areas post-Brexit, with the principle of subsidiarity used to determine the appropriate level of government at which action is to be taken.<sup>168</sup>

**248.** However, Dr Hunt points out that such an approach would be novel in the UK:

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<sup>165</sup> Ninth point made by the Cabinet Secretary for Finance and Local Government at the Swansea Conference.

<sup>166</sup> The Prime Minister's Office, 10 Downing Street, *The UK government's negotiating objectives for exiting the EU: PM Speech*, 17 January 2017

<sup>167</sup> *Ibid* c.173

<sup>168</sup> IOB 42 Dr Jo Hunt, School of Law and Politics, Cardiff University



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“Under the UK’s current constitutional structures, there is a tendency towards a binary allocation of competences as either devolved, for exercise at that level, or not devolved, and for exercise at the UK level. There is little experience of shared competence as practiced in the EU.”<sup>169</sup>

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**249.** Dr Hunt argues for:

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“[...] a post-Brexit redefinition of powers which embraces the notion of shared competence and the meaningful operation of the principle of subsidiarity – that decisions should be taken at the lowest most effective level, and where this is at a UK level there are robust structures for the four legislatures to work together to devise the legislative response. The current internal intergovernmental machinery will require development to be able to deliver this new settlement.”<sup>170</sup>

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**250.** Dr Rachel Minto, from the Wales Governance Centre, advanced the suggestion that when considering post-Brexit policy co-ordination within the UK, inspiration could be drawn from the operation of the European Union.<sup>171</sup> This complements Dr Hunt’s written submission<sup>172</sup> and her oral evidence.<sup>173</sup>

**251.** At our meeting on 7 November 2016, Professor Roger Scully, from the Wales Governance Centre, characterised the UK’s mechanisms for what he terms “shared rule” as “primitive”:

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“While devolution has advanced quite a lot in terms of what scholars sometimes term ‘self-rule’ for Scotland, Wales and Northern Ireland, we have very little substantial mechanisms and process of any type for what is sometimes termed, ‘shared rule’, whereby the sub-state units contribute to the formal decision making of the state as a whole, and will have formalised relations with the state-level Government. That remains to this day very primitive in the United Kingdom, compared to many international examples.”<sup>174</sup>

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**252.** Professor Scully describes his view of how shared competence is considered by Whitehall:

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“The predominant model that certainly Whitehall has understood has primarily been about bilateral negotiation at each of those individual unions, rather than incorporating them all into a structure that also then has to find some place for England, which remains the great unresolved question within the UK’s constitutional structures.”<sup>175</sup>

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**253.** Mr Paun, in addressing a slightly different question, makes a relevant point about how Whitehall might need to address policy areas that require a shared approach “[...] on those issues, the

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<sup>169</sup> IOB 42 Dr Jo Hunt, School of Law and Politics, Cardiff University

<sup>170</sup> Ibid

<sup>171</sup> Ibid c.233

<sup>172</sup> IOB 42 Dr Jo Hunt, School of Law and Politics, Cardiff University

<sup>173</sup> RoP EAAL Committee 7 November 2016 c.241

<sup>174</sup> RoP EAAL Committee 7 November 2016 c.228

<sup>175</sup> Ibid c.240

relevant bits of Whitehall would have to, in a way they're not accustomed to, think about themselves as the English Government.”<sup>176</sup>

**254.** In line with Dr Hunt's written submission, Professor Scully believes that it can be argued that “[...] there's a very strong case for more substantial and more formalised mechanisms of shared ruling and inter-governmental co-operation.”<sup>177</sup>

**255.** We also heard that the extent to which the devolution settlements are embedded in EU membership has been underestimated in London. Professor Keating provided us with an assessment of the impact this could have on the UK's evolving constitutional settlement:

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“I think one of the things that's not appreciated sufficiently in London is the way in which the devolution settlements are deeply embedded in EU membership, because we've only ever had devolution under the EU. This has permitted a much more expansive version of devolution than otherwise would be possible, because regulation was done at the European level, and therefore, Westminster was not worried about competition policy, state aids and so on, compared with what was proposed in the 1970s.”<sup>178</sup>

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**256.** Professor Keating also suggests that the relationship between devolution and EU membership has provided a space in which ideas about shared sovereignty can be rehearsed, so that sovereignty debates do not become “zero-sum”. It allows multiple perspectives on authority, rather than saying there's unitary authority.<sup>179</sup>

**257.** He suggests that the indirect way in which devolution, and the UK's broader constitutional settlement, has developed (“*the pragmatic British tradition*” as he terms it) is ill suited to dealing with matters of principle:

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“If you take an issue of principle: take back sovereignty—to where? To London or to Cardiff or to Edinburgh? [...] it means that the basis of the UK evolving constitutional settlement has been seriously undermined.”<sup>180</sup>

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#### Our view

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**258.** **There is much work to be done in relation to the development of inter-governmental and inter-parliamentary relations. Our remit requires us to consider intra-UK post-withdrawal arrangements and, in particular, attention needs to be given to the question of shared competence.**

**259.** **We are concerned that Whitehall may not fully appreciate how concepts of shared competence have developed in the context of devolution settlements that are rooted in EU membership.**

**260.** **The case for using the EU's approach to subsidiarity as a possible principle from which to develop new intra-UK relationships is put well and merits further consideration.**

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<sup>176</sup> RoP EAAL Committee 7 November 2016 c.378

<sup>177</sup> Ibid c.234

<sup>178</sup> Ibid c.393

<sup>179</sup> Ibid

<sup>180</sup> Ibid c.395

**261. We support the Cabinet Secretary for Finance and Local Government’s view that the Welsh Government should have “[...] direct participation in those negotiations which involve devolved areas of responsibility”.**<sup>181</sup>

**262. In addition, we believe that devolved governments should be fully involved in the development of polices and international agreements that affect areas of devolved competence.**

**263. Trade is highlighted as a very practical example of where future problems could arise (assuming the UK does not continue to be part of the EU Customs Union post-Brexit). International trade is currently a reserved (or non-devolved) competence; however, the terms of trade agreements could directly impact on devolved areas (such as agriculture and public service delivery).**

**264. We note arrangements elsewhere where similarly devolved governments and parliaments participate in trade processes, such as in Canada and Belgium. These deserve further exploration and the Welsh Government should consider them.**

### **The Welsh Government’s position**

**265.** Compared with Scotland and Northern Ireland, the Welsh Government is in a different position in terms of leverage on the UK Government and in the negotiations in Brussels given the leave vote in Wales.

**266.** Professor Scully described this as:

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“There’s the old saying ‘speak softly but carry a big stick’, well, in our case, I think maybe we’re going to have to speak softly because everyone knows we don’t have a stick.”<sup>182</sup>

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**267.** We were told that there are various ways in which the Welsh Government could respond to this tactically, including focusing on a limited number of priorities in the negotiations,<sup>183</sup> as well as identifying who best to ally with in the negotiations to pursue these interests.<sup>184</sup> This could be with the other devolved governments, the UK Government, other EU Member States and Regions, and/or the European Parliament.

**268.** Sir Emyr Jones Parry told us that:

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“[...] the primary interest of the Welsh Government, I think, is really in influencing the British Government and making sure that that position is one as compatible as possible with Welsh interests.”<sup>185</sup>

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### **Our view**

**269. We encourage the Welsh Government to build alliances with other devolved nations and regions within the UK in order to secure the best possible outcome for Wales.**

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<sup>181</sup> Seventh point made by the Cabinet Secretary for Finance and Local Government at the Swansea Conference.

<sup>182</sup> Ibid c.191

<sup>183</sup> Ibid c.257

<sup>184</sup> Ibid c.207

<sup>185</sup> RoP EAAL Committee 21 November 2016 c.196

**270.** The Welsh Government's priority should be influencing the UK Government's position, though it should continue to explore all avenues of potential influence.

# 11. Assembly scrutiny

## Scrutiny of inter-governmental relations

**271.** With the creation of the JMC(EN) there is a need to develop a more formalised scrutiny arrangement with the Welsh Government.

**272.** We are aware of the written agreement between the Scottish Parliament and Scottish Government that aims to improve the scrutiny of formal inter-governmental relations ('IGR').

**273.** This appears to offer a good starting point from which to develop our scrutiny of the Welsh Government's activity within the JMC(EN) structure, and other inter-governmental relations that relate to our remit (within and outwith the JMC structure).

**274.** We have discussed this with the Cabinet Secretary for Finance and Local Government, when he appears before us on 23 January 2017 and we intend to write to the Cabinet Secretary to ask that in lieu of any formal agreement he considers providing details of agendas for forthcoming JMC(EN) meetings and a written note on what transpired at each meeting within a fortnight of it being held.

**275.** The First Minister showed a willingness to share information with us in relation to the JMC(EN) meetings, saying *"it's very easy to discuss what is discussed at those meetings, and to agree what our position is going into those meetings."*<sup>186</sup>

### Our view

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**276.** We welcome the transparency the First Minister is willing to offer in relation to the JMC(EN) meetings and we look forward to developing appropriate scrutiny arrangements with the Cabinet Secretary for Finance and Local Government.

## Inter-parliamentary relations

**277.** A recent House of Commons report characterised inter-parliamentary relations as the "poorer and less well-developed relative of IGR [inter-governmental relations]" and that "at a formal level there is no direct parliamentary equivalent to the JMC".<sup>187</sup>

**278.** In the past, Assembly committees have successfully represented Welsh views at a European level by focusing on engagement with the European Parliament. This, in turn, provided a useful platform from which to scrutinise the Welsh Government's actions.

### Our view

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**279.** Whilst we recognise the absence of formal structures, the European Committees of the United Kingdom Forum<sup>188</sup> (the EC-UK Forum) has proved a valuable structure for sharing information at both elected member and official level.

**280.** We are committed to contributing to the EC-UK forum.

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<sup>186</sup> RoP EAAL Committee 7 November 2016 c.131

<sup>187</sup> House of Commons Public Administration and Constitution Committee, *The Future of the Union, part two: Inter-institutional relations in the UK*, 6 December 2016 p.79

<sup>188</sup> The EC-UK is a forum of the Chairs of the European committees in the Scottish Parliament, Northern Ireland Assembly, and both Houses of Parliament and meets bi-annually.

**281.** Additionally, we welcome the Scottish Parliament’s initiative to host a conference for the members of the ‘Brexit’ committees from each of the devolved legislatures and the London Assembly.

**282.** We also intend to hold a series of meetings in London before Easter and hope to meet with colleagues from Parliament and the London Assembly.

**283.** We can see that there may be a case for a more co-ordinated approach to scrutinising IGR and, particularly from our perspective, the JMC(EN). This is something that we are exploring informally at this stage. The agreement developed in Scotland offers a good starting point.

**284.** Earlier in this report, we recognise that the Welsh Government should prioritise engagement with London. We believe that our focus must also shift to engaging with colleagues in the UK Parliament and the devolved legislatures.

**285.** We endorse and encourage the development of relationships between the Assembly and all the UK legislatures.

## Repeal Bill

**286.** The Prime Minister’s conference speech proposing the introduction of a ‘Repeal Bill’ received significant interest in our subsequent evidence sessions.

**287.** The Legal section of the Assembly’s Research Paper of 24 June 2016 (section 5) identified the potential scope for this type of measure through use of a ‘transitional law’ to maintain all/most EU-based UK law for a period of time after withdrawal, to allow time for it to be reviewed and, potentially, repealed or amended. The Paper also sets out some issues that would need to be dealt with in the ‘Repeal Bill’:

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“The work involved in reviewing and potentially replacing all UK laws which give effect to EU law and/or refer to EU legislation is so great that it is likely that the responsible government would seek to enact transitional provisions to keep all/much of those laws in force during a period after withdrawal (although this may depend on the length of the withdrawal negotiation period). It would also be premature to repeal/amend these laws until it is clear whether the UK will be bound in future by any of the EU obligations it implements (as it would be under an EEA or EFTA model or under an association agreement with the EU).”<sup>189</sup>

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**288.** One question that will arise is where the power resides to make such a transitional/saving provision, to keep EU-based law in force for Wales after withdrawal, or indeed to amend or repeal some or all of these EU-based laws: whether this is with the Welsh Government and the Assembly in devolved policy areas, or with the UK Government and Parliament.

**289.** The Assembly’s Chief Legal Adviser’s view is that this power lies with the Welsh Government and Assembly. For example, the Assembly has competence over “environmental protection”. Currently, it can use this competence to implement EU environmental law in relation to Wales.

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<sup>189</sup> National Assembly for Wales Research Service and Legal Service, *Wales and the EU: What does the vote to leave the EU mean for Wales?*, June 2016

Therefore, if the UK Parliament, in the Repeal Bill, provides for EU-based environmental law to continue to apply in Wales post-Brexit, it will be “legislating with regard to devolved matters” – which normally requires the consent of the Assembly, under the Sewel Convention. The UK Government might seek to argue that Parliament would in fact be legislating about “relations with the EU”, rather than “environmental protection”. The Chief Legal Adviser does not consider that this argument would succeed – particularly as the Repeal Bill is not intended to come into force until the UK actually exits from the EU.

**290.** The same arguments would essentially apply if the Bill tried to affect a separate power, which the Welsh Ministers have, to amend or repeal, for Wales, a large number of laws based on EU Directives.

**291.** The Sewel Convention also calls for the Assembly’s consent before its competence can be modified by the UK Parliament – so, if the Repeal Bill attempted to remove the Assembly’s ability to legislate for environmental protection, agriculture, etc. where that legislation dealt with former EU laws, the Convention would dictate that the Assembly’s consent was needed.

**292.** It is possible that the ‘Repeal Bill’ will replicate the current position, under which UK Government Ministers have a parallel (‘concurrent’) power, with Welsh Ministers, to powers to make subordinate legislation on devolved policy areas for Wales, on issues originally derived from EU law. If the UK Government took a different view from the Welsh one on the desirability of mirroring existing EU law in devolved areas that could undermine devolved decision-making and lead to serious clashes. Such a provision in the ‘Repeal Bill’ would also, in principle, require Assembly legislative consent under the Sewel Convention, even though it would be reflecting the current position.

**293.** However, the Convention is subject to a number of exceptions. Moreover, the Supreme Court has now made clear, in its judgment of 24 January concerning the circumstances in which Article 50 of the Treaty on European Union can be triggered,<sup>190</sup> that the Convention is not legally binding - not even to the extent that it has now been entrenched in statute in the Scotland Act 2016 and, prospectively, in the Wales Bill currently before Parliament. This means that, if it is breached, no legal consequences can flow from that, although, as the Court said, political ones can and may. Such political consequences may be important, particularly as the Scottish Parliament and the Northern Ireland Assembly would, in principle, have the same expectations as the National Assembly for Wales in terms of application of the Convention. Moreover, the Supreme Court stressed the “important role” of the Sewel Convention “*in facilitating harmonious relationships between the UK Parliament and the devolved legislatures*”. The Court did not seek to diminish that role; simply, it clarified that it was a political role, rather than a legal one.

**294.** In the consultation we asked stakeholders to provide examples of areas where the introduction of a ‘Repeal Bill’ could have implications for Wales. The summary of consultation responses provides details on issues raised, and this provides a good starting point from which to undertake a detailed analysis in our future work in this area.

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<sup>190</sup> Formally known as R (on the application of Miller and Another) v Secretary of State for Exiting the European Union [2017] UKSC 5.

## Our view

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**295.** We believe that the UK Government should respect the constitutional spirit of the current Sewel Convention as it applies to Wales, and to seek the consent of the Assembly for any provisions of the Repeal Bill which would be within the competence of the Assembly or which would modify that competence, whether or not section 2 of the Wales Bill is in force at the relevant time.

**296.** We are undertaking preparatory work so that we are in a position to respond quickly to the Bill's introduction. We plan to engage with stakeholders to identify detailed issues for Wales that arise from the introduction of a 'Repeal Bill' during the first quarter of 2017 i.e. in advance of its proposed introduction.



## 12. Continuation Bill

**297.** In relation to the 'Repeal Bill' discussion there has been some discussion around the idea of a 'Continuation Bill' being brought forward for consideration by the Assembly. The idea of such a Bill would be to restate the existence, in the law of Wales, of:

- all domestic law applicable to Wales made for the purposes of implementing any EU-law obligation/discretion, and
- all directly applicable/directly effective rights and obligations deriving from EU law,

that fall within the Assembly's competence.

**298.** The intention would be to pre-empt any repeal of the European Communities Act 1972, and also to make the 'Repeal Bill' unnecessary, as far as devolved policy areas in Wales were concerned.

**299.** Such an Assembly Bill could not completely protect the continued existence of EU-based law in devolved policy areas in Wales, however. This is for two reasons.

**300.** The first is Parliamentary sovereignty. The UK Parliament could repeal the Assembly Act. By convention, it should not do so unless the Assembly consented; but in these extraordinary circumstances, the UK Government might try to use its majority in the House of Commons to force through such a controversial repeal in breach of the Sewel convention. Such an action would, however, be likely to raise the profile of the issue of distribution of powers post-Brexit, which, it could be argued, would be helpful to Wales.

**301.** The second reason is that, currently, UK Government Ministers have powers to amend or revoke a large amount of legislation, affecting devolved policy areas in Wales, that is based on EU law. The 'Continuation Bill' might seek to remove those UK Ministerial powers - either expressly or by implication. In many cases, this is likely to be outside the Assembly's competence unless the Secretary of State gave consent – which appears improbable. Therefore, it may be that most of these UK Ministerial powers would need to be left untouched by the Assembly Bill – which would mean that it contained an important weakness in terms of protecting EU-based law's application to devolved policy areas in Wales.

**302.** At our meeting on 23 January 2017, the Cabinet Secretary for Finance and Local Government was asked about the UK Government's level of engagement with devolved administrations:

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“There has been engagement, but it's been at lawyer to lawyer level so far. I know that lawyers in all devolved administrations have been asked to provide information to help the people who will be responsible for drafting the Bill. ... This needs to be stepped-up, significantly stepped-up”<sup>191</sup>

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### Our view

**303.** **Once we have had an opportunity to consider the Repeal Bill, and should our analysis suggest that it encroaches on the devolution settlement, we would support the principle of protecting the devolution settlement through the introduction of a Welsh Continuation Bill.**

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<sup>191</sup> RoP EAAL Committee 23 January 2017

## Legislative Consent Motions

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**304.** The Brexit process could involve multiple Acts of the UK Parliament, any or all of which could require under the terms of the Sewel convention, the legislative consent of the Assembly. The first Act will be an Act to authorise the UK Government to trigger notification under Article 50. Then there could be the 'Repeal Bill', as we explore earlier in this report. There could also be an Act of Parliament to approve the agreement on the terms of the UK's withdrawal from the EU. And there could be a separate Act approving the terms of the UK's future relationship with the EU, or, more traditionally, giving effect in domestic law to the terms of that future relationship (as the European Communities Act 1972 gave effect in domestic law to our relationship with the EU).

## Our view

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**305.** In our view, constitutional appropriateness would require the Assembly's consent for all of the potential Brexit-related Acts of the UK Parliament referred to above.

## 13. Beyond the Sewel convention

**306.** The Sewel Convention applies when the UK Parliament legislates on a matter which is normally dealt with by a devolved legislature as part of its work. Under the terms of the Convention, this will happen only when the devolved legislature has given its consent. The Convention is not legally binding, although it is politically important - a point clarified by the Supreme Court on 24 January 2017.

**307.** Beyond considering whether a legislative consent motion is required, a broader question remains around whether the Assembly should have a role in agreeing aspects of the process that are beyond the scope of existing convention. Most of the evidence we have taken to date focuses on the role of devolved governments and the power dynamic between them and the UK Government. There is a need for more work on the role of the Assembly in the process.

**308.** We heard evidence from several academics that suggested that a case could be made for the consent of devolved legislatures being sought in relation to the ratification of international trade treaties where they relate to or impinge upon devolved competencies.<sup>192</sup>

**309.** In support of remarks made by Professor Keating at our meeting on 7 November 2016, Mr Paun offered the following view:

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“My interpretation of the legal position is that there’s obviously an argument that the UK Government has made, and may well continue to make, that under the terms of all the devolution legislation, relations with the EU are in the category of reserved powers, but I think, like Michael Keating, on Brexit, that argument is going to be quite difficult to sustain, because withdrawing from the European Union is clearly going to affect quite significantly the operation of the devolution settlements, the powers and budgets of the devolved governments, and therefore it seems to me highly likely that legislative consent will be debated and voted upon at the devolved level.”<sup>193</sup>

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**310.** At the same meeting, the First Minister said that a final agreement should be brought to a vote in the four different Parliaments of the UK.<sup>194</sup>

**311.** At our meeting on 16 November 2016, the Counsel General was asked for his view on the need for Assembly approval. He responded by saying that “*I think it’s inevitable that the matter will come before the Assembly and will come in the form of an LCM.*”<sup>195</sup>

**312.** The Prime Minister stated in her speech on 17 January that:

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“... the Government will put the final deal that is agreed between the UK and the EU to a vote in both Houses of Parliament, before it comes into force.”<sup>196</sup>

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<sup>192</sup> RoP EAAL Committee 19 September 2016 c.18-19

<sup>193</sup> RoP EAAL Committee 7 November 2016 c.324

<sup>194</sup> *Ibid* c.22

<sup>195</sup> RoP EAAL Committee 16 November 2016 c.108

<sup>196</sup> The Prime Minister's Office, 10 Downing Street, *The UK government's negotiating objectives for exiting the EU: PM Speech, 17 January 2017*

**313.** No mention was made in her speech of offering the devolved legislatures a vote.

#### **Our view**

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**314.** We believe that this convention should be extended to require the consent of devolved legislatures in circumstances where devolved competence is affected by non-legislative means, for example in relation to international trade treaties. This would, of course, include those relating to the European Union.

# Annex A – Remit of the External Affairs and Additional Legislation Committee

The Committee was established on 28 June 2016. On 15 September 2016 its remit was agreed as:

- (a) to examine the implications for Wales of the United Kingdom's withdrawal from the European Union and to ensure Welsh interests are safeguarded during the withdrawal process, in any new relationship with the European Union and in the intra-UK post-withdrawal arrangements for relevant policy, finance and legislation;
- (b) to coordinate activity across Assembly committees in relation to point (a) above.
- (c) to carry out the functions of the responsible committee under Standing Orders 21.8 to 21.11.
- (d) to consider any other matter, including legislation, referred to it by the Business Committee.

## Annex B – Schedule of evidence

The following witnesses gave evidence to the Committee. Transcripts of the meetings can be viewed at <http://senedd.assembly.wales/mgIssueHistoryHome.aspx?Ild=15161>

12 September 2016	
Rt. Hon Carwyn Jones	First Minister of Wales
Des Clifford	Director of the Office of the First Minister
Piers Bisson	Deputy Director, European Transition
19 September	
Dr. Jo Hunt	Cardiff University
Dr. Ricardo Pereira	Cardiff University
Professor Steve Peers,	University of Essex
Professor Alan Matthews,	Trinity College Dublin
Professor Alan Swinbank,	University of Reading
Professor Patrick Minford	Cardiff University
Professor Stephen Woolcock	London School of Economics
3 October 2016	
Professor Iwan Davies	Swansea University
Professor Colin Riordan,	Cardiff University
Neville Davies	
10 October 2016	
Dr Nerys Llewelyn Jones	AgriAdvisor Solicitors
Professor Janet Dwyer	University of Gloucester
Professor Wyn Grant	Warwick University
Professor Peter Midmore,	Aberystwyth University
Professor Richard Barnes	University of Hull
Griffin Carpenter	New Economics Foundation

17 October 2016	
Michael Trickey	Cardiff Business School
Victoria Winckler	Bevan Foundation
Professor Marcus Longley	University of South Wales
31 October 2106	
Professor Bob Lee	University of Birmingham
Dr Victoria Jenkins	Swansea University
Kerry Lewis	Aberystwyth University
Dr Charlotte Jennie Burns	University of York
Dr Richard Cowell	Cardiff University
Professor Dickon Howell	Newcastle University
Dr Stephen Hull	Associated British Ports Marine Environmental Research
Professor Volker Roeben	Swansea University
Dr Margherita Pieraccini	University of Bristol
7 November 2016	
Rt Hon Carwyn Jones AM	First Minister of Wales
Piers Bisson	Welsh Government
Andrew Slade	Welsh Government
Dr Joanne Hunt	Cardiff University
Dr Rachel Minto	Cardiff University
Professor Roger Scully	Cardiff University
Dr Lee McGowan	Queen's University Belfast
Professor Michael Keating	University of Aberdeen
Dr Akash Paun	Institute for Government
14 November 2016	
Mick Antoniw AM,	Counsel General for Wales
Jeff Godfrey	Director of Legal Services Department, Welsh Government

21 November 2016	
Gerald Holtham	University of South Wales
Sir Emyr Jones Parry	Learned Society of Wales
Professor Peter Halligan	Learned Society of Wales



## CYNGOR SIR POWYS COUNTY COUNCIL

County Council  
7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor John Powell, Portfolio Holder with responsibility for HR

**SUBJECT:** Question from County Councillor Gary Price

**Can you provide me with the number of Senior Managers, Heads of Service, Directors, Strategic Directors and Chief Executive employed per Grade/SCP by Powys County Council for each year of this Council term?**

Answer from the Portfolio Holder with responsibility for HR

The table below illustrates the number of occupied Senior Manager & Chief Officer positions, per grade and scale point, during each year of the current Council term.

You will note that the numbers decrease year on year, apart from year ending 31 March 2016, where there is an increase, before once again decreasing during the current financial year.

The 2015/16 growth is attributed to an increase of 6 Senior Manager posts through Service Area restructures, which were evaluated through the Job Evaluation process maintaining compliance with Single Status, plus an additional 3 Heads of Service being appointed (Head of ICT, Head of Operations Adults Services and Head of Transformation Adult Services).

During the current financial year, the number of roles has decreased by 6 with reductions of 3 Senior Managers, 1 Heads of Service, 1 Director and a Strategic Director.

In summary, during the current Council term, the number of Senior Manager and Chief Officers has decreased by 12.5% from 48 to 42.

Type	Grade (Pre April 2013)	Grade (Post April 2013)	SCP	No of FTE's per Grade/SCP per occupied position					
				31/05/2012	31/03/2013	31/03/2014	31/03/2015	31/03/2016	31/01/2017
Senior Manager	Senior Manager 3	n/a	1	1	1				
			2			1			
		Senior Manager 2	3	1	1	2	3	6	
			4	3	3	3	2	3	6
	Senior Manager 2	n/a	5	1		1	1	2	2
			6	1	1	1		2	4
		7	1	1	1				
		8	3	3	3	2			
	Senior Manager 1	Senior Manager 1	9		2	5	4	4	1
			10	1	1	2	3.5	3	4
			11			1	2.5	3.5	2
			12	20	19	10	7	7.5	9
Heads of Service	n/a	Head of Service 3	13						1
			14						
			15						
			16						
	Head of Service 2	Head of Service 2	17			2		1	
			18						
			19	1	1	1	2		1
			20	3	3		1	2	2
	Head of Service 1	Head of Service 1	21			5	1	3	1
			22		1		4	1	3
			23					4	1
			24	8	4		1	1	2
Director / Strategic Director	Director	Director 2	25						
			26		1				
			27						
			28						
	Strategic Director (Base Range with Lease Car)	Director 1	29			1			
			30				1		
Strategic Director (All incl. without Lease Car)	Strategic Director	31					1		
		32	1						
		33		1	2				
		34			1	2			
Chief Executive	Chief Executive	Chief Executive	35				1	2	
			36	2	2			1	2
			37						
Chief Executive	Chief Executive	Chief Executive	38						
			39						
			40	1	1	1	1	1	1
Total Occupied Senior Manager & Chief Officers Positions				48	46	43	39	48	42
Date data based on				31/05/2012	31/03/2013	31/03/2014	31/03/2015	31/03/2016	31/01/2017

# CC41- 2017d

## CYNGOR SIR POWYS COUNTY COUNCIL

County Council

7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Barry Thomas, Leader

**SUBJECT:** Question from County Councillor Gary Price

**You have endeavoured to be a champion of openness and transparency whilst being Leader of Powys County Council. Can you therefore explain why the use of a code name (project Alpha) has been used recently?**

The phrase "Project Alpha" is being used to discuss confidential issues within the property office and in correspondence regarding the potential purchase of a piece of land. It is acknowledged by the Council that some issues need to be kept confidential during commercially sensitive purchase negotiations. This is to ensure that the Council's negotiating position is not divulged and so we can be assured that we gain the very best value for money for local residents. When the matter is concluded I will be very happy to inform the Council of the outcome.

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# CC41- 2017e

## CYNGOR SIR POWYS COUNTY COUNCIL

County Council

7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Rosemarie Harris, Portfolio Holder for Property, Buildings and Housing

**SUBJECT:** Question from County Councillor Matthew Dorrance

**The Cultural Hub Development is great news for Brecon and very welcome investment but my community are rightly concerned about the Council's plans for the current Library building.**

**Will the Cabinet Member inform Council what the administration is planning to do with the site when the Library moves to the new location?**

Answer from the Portfolio Holder for Property, Buildings and Housing

Work on Brecon's Cultural Hub is underway and is scheduled to open in the summer of 2018. Once work on the new cultural facility has been completed, Brecon Library will be moving to the new site.

Interest has been shown in the current library building but Powys County Council is exploring a number of options regarding its future. Regeneration will be at the forefront of the council's mind when exploring these options.

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# CC41- 2017f

## CYNGOR SIR POWYS COUNTY COUNCIL

County Council

7<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Rosemarie Harris, Portfolio Holder for Property, Buildings and Housing

**SUBJECT:** Question from County Councillor Matthew Dorrance

### **Will the Cabinet Member provide a statement on Homelessness in Powys?**

#### Answer from the Portfolio Holder for Property, Buildings and Housing

The introduction of the Housing (Wales) Act 2014 in April 2015 extended the duties of local authorities to prevent homelessness and the increased the timescale to intervene from 28 days to 56 days before people who approach the council for assistance may become homeless. The council now has a duty to prevent or relieve homelessness to all who approach us but still retains its Section 75 duty to accommodate applicants who are entitled to assistance, homeless, in priority need, not homeless intentionally and have a local connection.

The new system is very complex to administer and recording of homelessness has become more complicated since the introduction of the 2014 Act. The fact that the council is required to work with applicants to prevent and alleviate homelessness rather than simply accept a duty to accommodate, means that cases take a greater amount of officer time to administer.

In addition, legislative change and the introduction of new recording systems means that not all the data is comparable with data collected prior to April 2015.

Data that is comparable is the number of homeless presentations. There was a 32% increase in presentations between financial years 2014-15 and 2015-16 across Powys. This was not unexpected as the Housing (Wales) Act 2014 extended entitlement, particularly to single people. However, it should be noted that in the first three quarters of 2016-17, the number of homelessness presentations would appear to have reduced, when compared with 2015-16. It should be noted however that the number of persons in temporary accommodation to whom the Council owes a full duty remains constant see table 3 below.

**Table 1**

	2014/15		2015/16		2016/17	
	Persons presenting as homeless and triggering homelessness application	Of which are single persons	Persons presenting as homeless or threatened with homelessness and triggering a s62 assessment	Of which are single persons	Persons presenting as homeless or threatened with homelessness and triggering a s62 assessment	Of which are single persons
Qtr 1	82	44	108	72	109	55
Qtr 2	61	30	158	94	108	66
Qtr 3	95	59	136	83	103	65
Qtr 4	179	116	162	89		

The impact across the county varied considerably, between 2014/15 to 2015/16 homeless presentations increased by 107% in Brecon, 39% in Welshpool, 30% increase in Newtown and 13% increase in Llandrindod Wells. During the same period there was a 3% reduction in homelessness presentations in Ystradgynlais.

The north of the county tends to experience the greatest number of homelessness presentations. Table 2 below shows the proportion of homelessness presentations in Welshpool, Newtown, Llandrindod Wells, Brecon and Ystradgynlais

**Table 2. Proportion of homelessness presentations by housing area**

Housing area office	2014-15	2015-16	1 <sup>st</sup> 3 quarters 2016-17
Welshpool	31	33	43
Newtown	30	30	28
Llandrindod Wells	19	17	14
Brecon	10	15	12
Ystradgynlais	7	5	3

The numbers of households in temporary accommodation would appear at the present time to fairly constant, shown in table 3 below, although the number of families with dependent children has increased.

**Table 3. Households in temporary accommodation**

	2015/16		2016/17	
	Persons accommodated in temp acc at the end of the qtr (snapshot)	Of which are families with children	Persons accommodated in temp acc at the end of the qtr (snapshot)	Of which are families with children
Qtr 1	50	11	36	10
Qtr 2	46	5	43	15
Qtr 3	30	2	40	11
Qtr 4	35	6		



The main change in the legislation is that the council is now required to prevent homelessness from occurring or relieve homelessness by securing alternative accommodation, rather than accommodate applicants who pass the homelessness tests of eligibility, homeless, not intentionally homeless and in priority need. Table 4 below shows data in respect of the authority's performance in respect of its S.66 duty to prevent homelessness. In 2015/16, the s66 duty came to an end in 214 cases and out of those we successfully prevented homelessness in 152 (71%) of cases. In the first three quarters of 2016-17, the s66 duty came to an end in 124 cases and out of those we successfully prevented homelessness in 79 (64%) of cases.

**Table 4. Successful prevention of homelessness**

	2015/16		2016/17	
	<b>Outcomes: Successful prevention of homelessness (S66 duty)</b>		<b>Outcomes: Successful prevention of homelessness (S66 duty)</b>	
<b>Qtr 1</b>	6 cases out of 8	75%	38 cases out of 57	67%
<b>Qtr 2</b>	38 cases out of 53	72%	24 cases out of 39	62%
<b>Qtr 3</b>	50 cases out of 66	76%	17 cases out of 28	61%
<b>Qtr 4</b>	58 cases out of 87	67%		

Table 5 shows the authorities performance in respect of the relief of homelessness in the two years since the legislation was introduced. In 2015-16 the S73 duty came to an end in 175 cases and we successfully relieved homelessness in 85 (49%) of cases. In the first three quarters of 2016-17 the S73 duty came to an end in 195 cases and we successfully relieved homelessness in 88 (45%) of cases.

**Table 5 Successful relief of homelessness**

	2015/16		2016/17	
	<b>Outcomes: Successful relief of homelessness (s73 duty)</b>		<b>Outcomes: Successful relief of homelessness (s73 duty)</b>	
<b>Qtr 1</b>	5 cases out of 9	56%	24 cases out of 62	39%
<b>Qtr 2</b>	25 cases out of 41	61%	27 cases out of 60	45%
<b>Qtr 3</b>	16 cases out of 42	38%	37 cases out of 73	51%
<b>Qtr 4</b>	39 cases out of 83	47%		

One of the major differences between the old homelessness legislative regime and the regime introduced by the 2014 Act is the number of households that the authority housed as homeless. In the last year prior to the 2014 Act taking effect the council accommodated 93 applicants under its S.193 duty. In 2015-16 the council accommodated 33 applicants under its S.75 duty (persons would also have been accommodated as part of S66 and S73 discharge also).

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol

# CC42- 2017

CYNGOR SIR POWYS COUNTY COUNCIL.

CABINET EXECUTIVE

14<sup>th</sup> March 2017

**REPORT AUTHOR:** County Councillor Arwel Jones  
Portfolio Holder for Education

**SUBJECT:** Welsh-medium stream at Brecon High School

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**REPORT FOR:** Decision

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## Summary

1. Further to the decision made by Cabinet on the 27<sup>th</sup> September 2016, the authority has carried out formal consultation on the following proposal:

**“To close the Welsh-medium stream at Brecon High School from the 31<sup>st</sup> August 2017, with Brecon High School becoming an English-medium school from the 1<sup>st</sup> September 2017.”**

2. The purpose of this report is to inform Cabinet members of the responses received to the consultation and to determine whether or not to proceed with the statutory process to close the Welsh-medium stream at Brecon High School, through the publication of a Statutory Notice.
3. The report is supported by the following appendices:
  - **Appendix A** – Consultation Document
  - **Appendix B** – Consultation Report
  - **Appendix C** – Minutes of meetings with School Council, staff, governors and parents / community
  - **Appendix D** – Impact Assessments

## Background

### The Consultation Period

4. On the 27<sup>th</sup> September 2016, Cabinet considered consultation reports in respect of proposals to reorganise secondary provision in mid and south Powys, involving Builth Wells High School, Llandrindod High School, Brecon High School and Gwernyfed High School. At this meeting, Cabinet determined the following:
  - To publish a statutory notice for the closure of Builth Wells and Llandrindod High Schools on the 31<sup>st</sup> August 2018 and the establishment of a new dual-sited dual-stream 11-18 school that will

operate on the current campuses of Builth Wells and Llandrindod High Schools with effect from 1<sup>st</sup> September 2018

- To abandon the elements of the proposal with regard to Brecon High School and Gwernyfed High School relating to closure of the two schools and the establishment of a new 11-16 school, and to re-consult on the closure of the Welsh-medium stream at Brecon High School from September 2017.
5. Consultation on the proposal to close the Welsh-medium stream at Brecon High School commenced on the 21<sup>st</sup> November 2016 and ended on the 9<sup>th</sup> January 2017.
  6. The consultation document was available on the council's website throughout the consultation period. The document was also distributed to stakeholders as required by the School Organisation Code (2013). The consultation document that was issued is attached as Appendix A.
  7. Consultees were invited to respond to the consultation by either completing the online consultation form, filling in a paper copy of the form and returning it to the School Transformation Team, or by writing to the School Transformation Team.
  8. During the consultation period, meetings were also held with the following:
    - Staff of Brecon High School
    - Governors of Brecon High School
    - Parents of pupils at Brecon High School and Ysgol y Bannau
    - Welsh-medium pupils at Brecon High School
    - English-medium pupils at Brecon High School
    - Ysgol y Bannau School Council
    - Sennybridge CP School Council
  9. The minutes of these meetings are attached as Appendix C, and the issues raised in the meetings are included in the Consultation Report (Appendix B).

### Consultation Responses

10. A total of 237 written responses were received to the consultation, including responses submitted using the online response form and other written responses. However, 71 responses were received from one individual respondent, and another 26 were received from another individual respondent. In addition, during the consultation period, individuals were encouraged to e-mail the council with the statement 'All I want for Christmas is for the Welsh stream to stay open in Brecon High School'. 39 responses were received which only included this statement.

11. The written responses received included a response by Estyn, which is provided on page 13 of the Consultation Report (Appendix B), and a report by RhAG (Rhieni dros Addysg Gymraeg / Parents for Welsh-medium Education), which was produced following a survey carried out to identify potential demand for a designated Welsh-medium secondary school to serve mid and south Powys.
12. In addition to the written responses, a copy of an online petition was received, which was signed by 236 people and included 67 written comments.
13. The issues raised during the consultation period, including those raised in written responses and those raised in the consultation meetings, are listed in the Consultation Report (Appendix B), along with the authority's response to these issues.

### **Proposal**

14. The proposal to Cabinet is as follows:
  - i) To receive the Consultation Report in respect of the proposal outlined in 1 above.
  - ii) To approve the publication of a Statutory Notice in respect of this proposal.
15. A financial analysis of the draft recommendation was carried out, and details were included in the Consultation Document (Appendix A). Based on this analysis, it is estimated that implementation of the proposal would lead to an annual saving of £58,475.

### **One Powys Plan**

16. 'Transforming Learning and Skills' is one of the priorities within the One Powys Plan. Within this priority, the Plan states that *'We need to re-organise schools (primary, secondary and post 16) to ensure affordability, sustainability and appropriate leadership capacity.'*

### **Options Considered/Available**

17. As stated in the consultation document in respect of this proposal (Appendix A), consideration of the future of the Welsh-medium stream at Brecon High School has taken place over a number of years. The council previously carried out consultation on closure of the stream during the summer of 2015, and a range of possible options were listed in the consultation document issued at this time.
18. This proposal was not published within the period of 26 weeks following the end of the consultation period required by the School

Organisation Code, therefore the initial proposal to close the Welsh-medium stream at Brecon High School lapsed.

19. Subsequently, a number of options for providing Welsh-medium education in mid and south Powys were evaluated as part of the wider reviews of secondary provision in mid and south Powys. This review concluded that the most appropriate option at the current time is to centralise Welsh-medium secondary provision in mid and south Powys.
20. The authority has recently concluded the statutory process to close Builth Wells High School and Llandrindod Wells High School and establish a new secondary school across two sites. This process resulted in a decision by Cabinet on the 28<sup>th</sup> February 2017 to establish a new dual sited, dual stream school, with the current dual stream provision being retained on the Builth Wells site.
21. With this in mind, the only option available to the authority in relation to the Welsh-medium provision at Brecon High School is whether or not to retain this provision. The strengths and weaknesses of these two options are considered on pages 19-21 of the consultation document in respect of this proposal (Appendix A).
22. A number of alternative options were also suggested during the consultation period. These are listed on pages 148-158 in the Consultation Report (Appendix B), along with the authority's response.

### **Preferred Choice and Reasons**

23. Having considered the responses received to the consultation on this proposal, the preferred choice is to proceed with the proposal as outlined in the consultation document.
24. The reason for the proposal are as follows:
  - Low pupil numbers in the Welsh-medium stream at Brecon High School
  - Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education

### **Sustainability and Environmental Issues/Equalities/Crime and Disorder,/Welsh Language/Other Policies etc**

A range of impact assessments were produced as part of the consultation on closure of the Welsh-medium stream at Brecon High School. These include a Single Integrated Impact Assessment, an Equalities Impact Assessment, a Community Impact Assessment and a Welsh Language Impact Assessment.

These impact assessments have been updated to reflect issues raised during the consultation period, and are attached in Appendix D.

The authority's Single Integrated Impact Assessment considers the impact of any proposal against a number of criteria, which includes the wellbeing goals of The Wellbeing of Future Generations (Wales) Act 2016.

### **Children and Young People's Impact Statement - Safeguarding and Wellbeing**

The authority's Schools Transformation Programme is intended to improve educational outcomes for children and young people. This aligns with the aspiration to improve safeguarding and well-being for children and young people.

### **Local Member(s)**

### **Other Front Line Services**

N/A

### **Support Services (Legal, Finance, Corporate Property, HR, ICT, Business Services)**

### **Local Service Board/Partnerships/Stakeholders etc**

N/A

### **Corporate Communications**

### **Statutory Officers**

The **Solicitor to the Council (Monitoring Officer)** has commented as follows:

The **Strategic Director Resources (Section 151 Officer)** has commented as follows:

### **Members' Interests**

The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If Members have an interest they should declare it at the start of the meeting and complete the relevant notification form.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
i) To receive the Consultation Report in respect of the proposal to close the Welsh-medium stream at Brecon High School from the 31 <sup>st</sup> August 2017	To understand the issues raised during the consultation period.
ii) To approve the publication of a statutory notice in respect of this proposal.	To provide a more sustainable, educationally and linguistically viable model of Welsh-medium secondary education.

<b>Relevant Policy (ies):</b>	School Transformation Policy, Welsh in Education Strategic Plan		
<b>Within Policy:</b>	Y	<b>Within Budget:</b>	Y

<b>Relevant Local Member(s):</b>	
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<b>Person(s) To Implement Decision:</b>	Marianne Evans
<b>Date By When Decision To Be Implemented:</b>	End of March 2017

<b>Contact Officer Name:</b>	<b>Tel:</b>	<b>Fax:</b>	<b>Email:</b>
Sarah Astley	01597 826265	N/A	sarah.astley@powys.gov.uk

**Background Papers used to prepare Report:**





**POWYS COUNTY COUNCIL**

**CONSULTATION DOCUMENT**

**Brecon High School  
Welsh-medium Stream**

**Consultation dates: 21<sup>st</sup> November 2016 – 9<sup>th</sup> January 2017**

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A Welsh language version of this document is available on the council's website – <http://www.powys.gov.uk/en/corporate/find-out-about-consultations-in-powys/brecon-high-school-welsh-medium-stream/>.

If you require a hard copy of the document, or the document in a different format, please contact the Schools Transformation Team on 01597 826954 or [school.consultation@powys.gov.uk](mailto:school.consultation@powys.gov.uk)

# 1. Introduction

## 1.1 The Proposal

The purpose of this consultation exercise is to seek views on the following proposal:

***To close the Welsh-medium stream at Brecon High School from the 31<sup>st</sup> August 2017, with Brecon High School becoming an English-medium school from the 1<sup>st</sup> September 2017.***

From the 1<sup>st</sup> September 2017, there would be no Welsh-medium provision in Brecon High School for pupils in years 7, 8, 9 and 10. However, Welsh-medium provision would continue to be provided at Brecon High School for those pupils who would be entering year 11 in September 2017. This provision would continue until July 2018.

From the 1<sup>st</sup> September 2017, pupils in years 7, 8, 9 and 10 wishing to access Welsh-medium secondary provision who live in the catchment area currently served by the Welsh-medium stream of Brecon High School would be able to attend Builth Wells High School or their closest secondary Welsh-medium provision.

From the 1<sup>st</sup> September 2018 (without prejudice to the decision of Powys Cabinet in relation to a separate proposal related to Builth Wells and Llandrindod High Schools), all pupils wishing to access Welsh-medium secondary provision who live in the catchment area currently served by the Welsh-medium stream of Brecon High School would be able to access provision at the Builth Wells site of the proposed new dual-sited secondary school in Mid Powys (“the New Mid Powys Secondary School”)<sup>1</sup> or their closest secondary Welsh-medium provision.

From the 1<sup>st</sup> September 2018, there would be no Welsh-medium provision at Brecon High School.

Pupils living in the Sennybridge area would continue to be able to access Welsh-medium provision at Ysgol Gyfun Ystalyfera.

Pupils living in other parts of the catchment area currently served by the Welsh-medium stream at Brecon High School that live closer to alternative Welsh-medium secondary provision outside Powys would have the opportunity to transfer to these schools.

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<sup>1</sup> On the 18<sup>th</sup> October 2016, Powys County Council published a Statutory Notice proposing the establishment of a new dual-sited dual-stream school that will operate from the current sites of Builth Wells and Llandrindod High Schools from the 1<sup>st</sup> September 2018. The Objection Period closes on the 8<sup>th</sup> December 2016, and the Objection Report will be considered by Cabinet in due course. **All references to the New Mid Powys Secondary School in this consultation document are made without prejudice to Cabinet’s decision following the Objection Period.**

## 1.2 Who will we consult with?

Consultation will follow the guidelines set out by the Welsh Government in the School Organisation Code 2013 (“the Code”), which can be found on the council’s website<sup>2</sup>.

The council will consult with stakeholders in line with the requirements of the School Organisation Code, which will include the following:

- Pupils (including School Councils), Parents (and where possible prospective parents), carers and guardians, staff members of any schools likely to be affected by the proposals
- Parents of pupils attending primary schools from which pupils normally transfer to the affected secondary school
- The Governing Body of any school which is the subject of the proposals and of any other schools likely to be affected by the proposals, including those that might receive any displaced pupils
- Any other local authority likely to be affected by the proposal
- The Church in Wales and Roman Catholic Diocesan Authority for the area in which any school likely to be affected is located
- The Welsh Ministers
- Assembly Members (AMs) and Members of Parliament (MPs) representing the area served by any school which is the subject of the proposal
- Estyn
- Teaching and staff trade unions representing teachers and other staff at any school which is the subject of the Proposal
- The relevant Regional Education Consortium
- The relevant Regional Transport Consortium
- The Police and Crime Commissioner for the area
- Any community or town council for the area served by any school which is the subject of the Proposal
- Any further education institutions serving the area of the school

## 1.3 How to respond to the Consultation

Responses to the consultation can be provided in writing, or by attending the consultation meeting in respect of this proposal. Further details are provided below:

### 1.3.1 Written responses

A feedback form is attached to this document in Appendix A, and is also available on the council’s website. You can also respond in writing.

All responses should be sent to the following address:

School Transformation Team  
Powys County Council  
County Hall  
Llandrindod Wells  
Powys  
LD1 5LG

E-mail: [school.consultation@powys.gov.uk](mailto:school.consultation@powys.gov.uk)

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<sup>2</sup> <http://www.powys.gov.uk/en/schools-students/plans-for-powys-schools/>

All correspondence should be received by the **9<sup>th</sup> January 2017**.

### **1.3.2 Consultation meetings**

The following consultation meeting has been arranged for parents and members of the community:

#### **Brecon High School, Thursday 1<sup>st</sup> December, 6.30pm – 8.30pm**

The event will be ticketed to ensure compliance with health and safety regulations.

Tickets are free, and are available online via Powys County Council's website (<http://www.powys.gov.uk/en/corporate/find-out-about-consultations-in-powys/brecon-high-school-welsh-medium-stream/>), or by phoning 01597 826954.

Separate consultation meetings will be held with governors, staff and pupils.

## **1.4 What will happen next?**

This consultation is part of the statutory process for making changes to school provision, as outlined in the Welsh Government's School Organisation Code (2013). The process is summarised below:

### **1.4.1 Consultation**

Consultation will start on the 21<sup>st</sup> November 2016 and will end on the 9<sup>th</sup> January 2017. Feedback from the consultation will be collated, and a Consultation Report will be prepared, which will summarise the issues raised during the consultation and will provide the authority's response to these issues.

Stakeholders will be notified of the publication of the consultation report in line with the requirements of the School Organisation Code. If you would like to be notified of the publication of the Consultation Report, or to receive a copy, please ring 01597 826954 or email [school.consultation@powys.gov.uk](mailto:school.consultation@powys.gov.uk).

The Consultation Report will be presented to the council's Cabinet during the spring term 2017. The Cabinet will consider the report, and will decide whether to proceed with the proposal, to make changes to the proposal or to not proceed with the proposal. If the Cabinet decides not to proceed, that will be the end of this proposal for the foreseeable future.

### **1.4.2 Statutory Notices**

If the Cabinet decides to proceed, a Statutory Notice will be published, which will give a period of 28 days for people to submit written objections.

If there are objections, the council will publish an Objection Report providing a summary of the objections and the authority's response to them. Only written objections submitted during the statutory notice period will be considered in this report. Comments submitted as part of the consultation period will need to be re-submitted in writing during the statutory notice period if they are to be considered as objections.

The Objection Report will be considered by the council's Cabinet, who will determine whether or not to approve the proposal.

### **1.4.3 Implementation**

If the Cabinet approves the proposal, it will be implemented in accordance with the date given in the Statutory Notice or any subsequently modified date.

## 2. Background and Policy Context

### 2.1 Background to the Proposal

In January 2015, Powys County Council commenced a Secondary School Reorganisation programme, which intended to transform the secondary and post-16 sector across the county. The main aims of the Programme were:

- Reconfiguration of secondary and post-16 education to create a sustainable infrastructure of schools and sixth forms across Powys, enabling a broader range of subjects to be provided from each school site, whilst minimising the need for inter-school travel and transport
- Reconfiguration of Welsh-medium education with the aim of establishing at least one Welsh-medium secondary school in the county, and the consolidation of other Welsh-medium streams into larger units. This will enable schools to provide the appropriate curriculum offer and progression routes for Welsh-medium learners.

This reflects the authority's Welsh in Education Strategic Plan (WESP) for 2014-17. One of the Strategic Aims stated in the WESP is 'to provide robust linguistic continuity of Welsh-medium provision across all key phases of education'<sup>3</sup>.

Welsh-medium secondary provision in Powys is currently provided at 6 dual stream schools, where the curriculum is delivered through separate Welsh-medium and English-medium streams.

In South Powys, there are currently 2 Welsh-medium secondary streams:

- The Welsh-medium stream at Brecon High School provides Welsh-medium subjects for pupils in years 7 – 11
- The Welsh-medium stream at Builth Wells High School provides Welsh-medium subjects in years 7 – 13

However, the number of Welsh-medium pupils and the Welsh-medium provision available varies significantly between schools.

In some areas of Powys, pupils transfer out of county to receive Welsh-medium secondary provision within another local authority, most notably from the Ystradgynlais area to Ysgol Gyfun Ystalyfera, located within Neath Port Talbot County Borough. Although historically it is mainly pupils from the Ystradgynlais catchment area that have transferred to Ysgol Gyfun Ystalyfera, in recent years there has been an increase in the number of pupils from the Welsh-medium stream at Sennybridge C.P. School who have transferred to Ysgol Gyfun Ystalyfera rather than the Welsh-medium stream at Brecon High School, due to parental preference.

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<sup>3</sup> <http://www.powys.gov.uk/en/schools-students/apply-for-a-school-place/use-of-the-welsh-language-in-powys-schools/>

In March 2015, the council's Cabinet considered and approved a report which identified four priorities to be taken forward in respect of the Secondary School Reorganisation programme, which were as follows:

- Priority 1 – Beacons Learning Campus
- Priority 2 – To review Secondary Education in Mid Powys
- Priority 3 – To review Post-16 Provision in Ystradgynlais
- Priority 4 – To review Secondary Education in North Powys

The initial recommendation in respect of Priority 1 was to carry out consultation on closure of Brecon and Gwernyfed High Schools, with the opening of a new English-medium school. Formal consultation on the closure of the Welsh-medium stream at Brecon High School was carried out in the summer of 2015, and a Consultation Report was produced and received by Cabinet on the 29<sup>th</sup> September 2015. At this meeting, Cabinet resolved to 'note the content of the consultation report and that a further report will be brought back to Cabinet for decision at a later date'.

The School Organisation Code states that 'Proposals must be published within 26 weeks of the end of the period allowed for consultation responses, otherwise the proposals will lapse and a new consultation document must be issued to revive them'. No further report was taken to Cabinet with proposals, and therefore no proposals were published within the 26 week period.

During the consultation period, concerns were raised that the proposal to close the Welsh-medium stream could not be considered in isolation to the work that was ongoing in respect of secondary provision in Mid Powys and South Powys (Priorities 1 and 2). Therefore it was agreed to re-consider the future of Welsh-medium secondary provision in the area as part of these reviews.

A business case in respect of Mid and South Powys was considered by Cabinet on the 23<sup>rd</sup> February 2016, when Cabinet determined:

- To approve the commencement of formal consultation on the closure of Builth Wells High School and Llandrindod High School and to establish a new dual-stream 11-18 secondary school that will operate across the current sites of the two schools
- To approve the commencement of formal consultation on the closure of Brecon High School and Gwernyfed High School, and to establish a new English-medium school to operate from the current sites of the two schools initially, before transferring to the new campus in Brecon.

Consultation on these proposals took place later in the year. Consultation reports were published in line with the requirements of the School Organisation Code, and were considered by Cabinet on the 27<sup>th</sup> September 2016. At this meeting, Cabinet determined the following:

- To publish a statutory notice for the closure of Builth Wells and Llandrindod High Schools on the 31<sup>st</sup> August 2018 and the establishment of a new dual-sites dual-stream 11-18 school that will operate on the current campuses of Builth Wells and Llandrindod High Schools with effect from 1<sup>st</sup> September 2018



- To abandon the elements of the proposal with regard to Brecon High School and Gwernyfed High School relating to closure of the two schools and the establishment of a new school, and to re-consult on the closure of the Welsh-medium stream at Brecon High School from September 2017.

## 2.2 Policy Context

### 2.2.1 Powys County Council's aspiration for education

Powys County Council is committed to ensuring that all children and young people have an equal opportunity to receive the best possible education. The council aspires to have an educational infrastructure that:

- Provides all learners with opportunities to achieve high standards of achievement and attainment;
- Provides for first class teaching and learning provision reflecting national, regional and local priorities;
- Has high quality resilient leadership and management;
- Provides robust linguistic continuity and progression;
- Improves cost-effectiveness and efficiency;
- Has the right number of schools in the right place for the current and future pupil population of Powys;
- Has school buildings and blocks that are assessed as condition A or B;
- Minimises dependency on temporary accommodation; and
- Reduces overall surplus places in schools.

The council has a duty to ensure that school buildings, teaching resources and pupils' learning experiences are shaped to develop competencies which allow children and young people to engage confidently with the challenges of their future lives. The challenge faced by the council is to ensure that schools provide an appropriate, fit-for-purpose learning environment that will facilitate the delivery of a curriculum, as defined in "Successful Futures"<sup>4</sup> to ensure children and young people develop as;

- ambitious, capable learners ready to learn throughout their lives;
- enterprising, creative contributors, ready to play a full part in life and work;
- ethical and informed citizens of Wales and the world; and
- healthy, confident individuals, ready to lead fulfilling lives as valued members of society.

In order to establish an infrastructure of schools that meet the council's aspirations for education, the council will need to consider new models of delivering educational provision in the county. In a rural county as diverse as Powys there is no one size fits all approach to school organisation. Consideration will be given to the specific circumstances of each school and community.

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<sup>4</sup> Independent Review of Curriculum and Assessment Requirements in Wales. Professor Ian Donaldson February 2015

## 2.2.2 Welsh-medium Education

In 2010, the Welsh Government published its Welsh-medium Education Strategy<sup>5</sup>, which sets the national strategic direction for Welsh-medium education. This strategy states that *‘Welsh-medium education from the early years, with robust linguistic progression through every phase of education offers the best conditions for developing future bilingual citizens.’* The strategy also states that *‘Where a pupil from a Welsh-speaking background attends a bilingual school, a balanced curriculum through the medium of Welsh and English can be effective in ensuring fluency in both languages...However, where learners’ linguistic skills in Welsh are not reinforced by family or community, they are unlikely to achieve full fluency and confidence in Welsh when learning in a bilingual setting. Bilingual provision, therefore, does not always ensure that an individual becomes a bilingual speaker.’*

Following the publication of this strategy, local authorities were required to prepare Welsh in Education Strategic Plans (WESPs), setting out how they would contribute to achieving the outcomes outlined in the strategy. This became a statutory requirement in 2013.

One of the Strategic Aims stated in Powys’ current WESP for 2014-17<sup>6</sup> is ‘to provide linguistic continuity of Welsh-medium provision across all key phases of education’, to enable all children and young people across Powys to experience the cultural and cognitive benefits of bilingualism. The WESP states the authority’s policy in respect of Welsh-medium secondary education at the time, which was to aim that all dual stream secondary schools became category 2B secondary schools by September 2020, to ensure that pupils would be able to access sufficient Welsh-medium provision to enable them to continue to develop their Welsh-medium skills during their time at secondary school. However, progress towards achieving this aim has been limited, particularly in respect of Key stage 4 provision, and this is compounded by the challenging financial situation faced by the authority, which will make it increasingly difficult to achieve this target by 2020.

The authority is currently working on the production of a new WESP for 2017-20 which will build on the work that has taken place during the period of the current WESP.

The Welsh Government has recently launched an ambitious new strategy to create a million Welsh speakers by the year 2050. The council acknowledges the key role Welsh-medium education will play in the achievement of this aim, and the new WESP will seek to build on the work that has taken place during the period of the current WESP, with the aim of providing equality for Welsh-medium pupils in Powys.

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<sup>5</sup> <http://gov.wales/topics/educationandskills/publications/guidance/welshmededstrat/?lang=en>

<sup>6</sup> <http://www.powys.gov.uk/en/schools-students/apply-for-a-school-place/use-of-the-welsh-language-in-powys-schools/>

### 3. Reasons for the Proposal

The reasons why the authority is proposing to close the Welsh-medium stream at Brecon High School are as follows:

- Low pupil numbers in the Welsh-medium stream at Brecon High School
- Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education

These issues are examined in more detail below.

#### 3.1 Low pupil numbers in the Welsh-medium stream at Brecon High School

Pupil numbers in the Welsh-medium stream at Brecon High School have decreased significantly in recent years, and the number of Welsh-medium pupils at the school is now very small.

The current number of Welsh-medium pupils at Brecon High School is as follows<sup>7</sup>:

Year	Number of pupils
7	2
8	3
9	5
10	3
11	6
<b>Total</b>	<b>19</b>

The following table shows the total number of year 7 – 11 pupils attending the Welsh-medium stream at Brecon High School since 2010<sup>8</sup>:

	Year 7	Year 8	Year 9	Year 10	Year 11	Total
2010/11	12	17	14	12	12	67
2011/12	6	11	19	14	17	67
2012/13	10	7	13	18	15	63
2013/14	19	10	8	13	13	63
2014/15	14	13	9	8	13	57
2015/16	3	7	4	8	8	30
2016/17	2	3	5	3	6	19

This shows that the number of Welsh-medium pupils at the school has decreased over this period. Pupil numbers have now decreased to such a low level that the provision of a Welsh-medium stream is unviable.

The Welsh-medium stream at Brecon High School has two feeder primary schools. These are Ysgol y Bannau, a Welsh-medium primary school located in Brecon, and Sennybridge C.P. School, a dual stream school located in the village of Sennybridge.

<sup>7</sup> Teacher Centre, October 2016

<sup>8</sup> Information from Welsh-medium returns provided annually by the school

The current number of Welsh-medium pupils in reception to year 6 in the two schools is as follows<sup>9</sup>:

<b>Year</b>	<b>Ysgol y Bannau</b>	<b>Sennybridge C.P. School</b>	<b>Total</b>
<b>R</b>	17	8	25
<b>1</b>	28	6	34
<b>2</b>	18	11	29
<b>3</b>	15	5	20
<b>4</b>	24	5	29
<b>5</b>	10	2	12
<b>6</b>	19	5	24
<b>Total</b>	<b>131</b>	<b>42</b>	<b>173</b>

The following table shows the total number of Welsh-medium pupils in reception to year 6 that have attended the two schools since 2010/11<sup>10</sup>.

<b>Year</b>	<b>Ysgol y Bannau</b>	<b>Sennybridge C.P. School</b>	<b>Total</b>
2010/11	141	35	176
2011/12	138	33	171
2012/13	139	32	171
2013/14	141	39	180
2014/15	137	38	175
2015/16	135	42	177

This shows that Welsh-medium pupil numbers in the area have remained fairly stagnant over the last few years. Whilst Welsh-medium pupil numbers at Sennybridge C.P. School have increased slightly, this has not been the case at Ysgol y Bannau. This is in contrast with the two other designated Welsh-medium primary schools in Powys, Ysgol Dafydd Llwyd in Newtown and Ysgol Gymraeg Dyffryn y Glowyr in the Ystradgynlais area, where pupil numbers have increased over the same period.

Changes in the destinations of Welsh-medium pupils when they transfer to secondary school have also impacted on Welsh-medium pupil numbers in Brecon High school. In July 2016, there were 20 Welsh-medium pupils in year 6 at Ysgol y Bannau and 6 Welsh-medium pupils in year 6 at Sennybridge C.P. School. In September 2017, they transferred to the following schools:

<b>Ysgol y Bannau</b>	<b>Sennybridge C.P.</b>
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<sup>9</sup> Teacher Centre, October 2016

<sup>10</sup> PLASC data

		<b>School</b>
<b>Total Year 6 Welsh-medium pupils during 2015/16</b>	20	6
<b>Number of pupils transferring to Welsh-medium secondary provision in September 2016</b>	13	4
	Brecon High School – 2 Builth Wells High School – 9 Ysgol Gyfun Ystalyfera – 2	Ysgol Gyfun Ystalyfera – 4
<b>Number of pupils transferring to English-medium secondary provision in September 2016</b>	7	2
	Brecon High School – 1 Christ College – 2 Crickhowell High School – 2 Gwernyfed High School – 2	Brecon High School – 2

As is shown in this table, increasing numbers of parents of Welsh-medium pupils in the Brecon catchment area are choosing for their children to transfer to alternative provision, instead of the Welsh-medium stream at Brecon High School. This is a pattern that has developed over time, particularly in the case of Welsh-medium pupils attending Sennybridge C.P. School, where parents have chosen for their children to attend Ysgol Gyfun Ystalyfera for their secondary provision, partly due to the greater level of Welsh-medium provision available.

This means that, in reality, Ysgol y Bannau is the only primary school which is now feeding the Welsh-medium stream at Brecon High School. As the numbers in the Welsh-medium stream at Brecon High School have decreased, parents of pupils that attended Ysgol y Bannau have increasingly chosen for their children to attend alternative providers, such as Builth Wells High School. This has resulted in the Welsh-medium provision at Brecon High School becoming unviable.

It is acknowledged that it is likely that the uncertainty caused by the two previous consultation exercises on closure of the Welsh-medium stream at the school has contributed to the decrease in Welsh-medium pupil numbers at Brecon High School.

### **3.2 Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education**

One of the Strategic Aims stated in the authority's Welsh in Education Strategic Plan for 2014-17 is 'to provide robust linguistic continuity of Welsh-medium provision across all key phases of education', to enable all children and young people across Powys to experience the cultural and cognitive benefits of bilingualism. The council aims to ensure that all Powys learners have the opportunity to become confident bilingual citizens.

In its Welsh-medium Education Strategy (2010), the Welsh Government states that 'Bilingual / dual stream settings should aim to provide as much provision through the

medium of Welsh as is necessary for learners to achieve fluency in two languages.’ However, the current small number of pupils attending the Welsh-medium stream at Brecon High School is making it increasingly difficult for the school to offer an appropriate Welsh-medium curriculum for pupils.

During 2016/17, the following Welsh-medium subjects are provided at Brecon High School<sup>11</sup>:

<b>Year</b>	<b>Welsh-medium subjects</b>
<b>7</b>	6 – Science, History, Geography, RE, French, IT
<b>8</b>	6 – Science, History, Geography, RE, French, IT
<b>9</b>	6 – Science, History, Geography, RE, French, IT
<b>10</b>	1 – Science
<b>11</b>	2 – Science, History

No post-16 subjects are provided through the medium of Welsh at Brecon High School.

The current small number of pupils accessing the Welsh-medium stream at Brecon High School will make it increasingly difficult for the school to offer Welsh-medium subjects for pupils, and to provide a level of provision which will enable learners to achieve and maintain fluency in both English and Welsh. This is particularly the case in Key Stage 4.

The alternative schools which pupils currently in the catchment of the Welsh-medium stream at Brecon High School would be expected to attend would offer a greater level of Welsh-medium provision compared to that currently available at Brecon High School – there are more Welsh-medium pupils at Builth Wells High School, therefore the school is able to provide a greater number of Welsh-medium subjects, providing a better opportunity for learners to continue to develop their Welsh language skills through their secondary education, whilst Ysgol Gyfun Ystalyfera is a Welsh-medium school, where all subjects are provided through the medium of Welsh.

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<sup>11</sup> Information provided by Brecon High School, November 2016

## **4. Benefits and Risks**

### **4.1 Benefits of the Proposal**

The authority's view is that centralising Welsh-medium secondary provision in the Mid and South Powys area will enable the provision available to be further developed, thus meeting the aspiration stated in the council's Welsh in Education Strategic Plan for 2014-17 to provide 'more robust Welsh-medium provision for Welsh-medium learners'. The authority's view is that the improved subject choice available to learners will enable them to become more confident Welsh speakers. These Welsh-medium pupils would continue to live in Brecon and the surrounding area, therefore although they would not be attending secondary school in Brecon, they will still be able to contribute to the development of the Welsh language in this area.

As well as the benefits that are associated with the proposal, the authority acknowledges that there would also be some disadvantages. The advantages and disadvantages of the proposal are listed below:

#### **Advantages**

- Creation of a critical mass of Welsh-medium secondary learners in Mid / South Powys
- Additional Welsh-medium opportunities to be provided to Welsh-medium pupils from Brecon through access to a wider range of Welsh-medium subjects
- Would enable the development of increased Welsh-medium provision at post-16
- Social and emotional benefits to Welsh-medium pupils from being part of a larger group of Welsh-medium pupils
- More opportunity for pupils to take part in extra-curricular activities through the medium of Welsh
- More financially efficient model of delivery for secondary Welsh-medium provision in Mid and South Powys
- Would enable Brecon High School to run more efficiently as a single stream school
- Welsh-medium pupil numbers could grow to a point where a Welsh-medium secondary school could be considered viable

#### **Disadvantages**

- Loss of Welsh-medium secondary provision in Brecon
- May have a negative impact on pupil numbers at Ysgol y Bannau
- Possible reduction in transfer rates from Welsh-medium primary provision to Welsh-medium secondary provision for pupils from the Brecon catchment in the short term
- Increased travel times for Welsh-medium learners from the Brecon catchment
- Lack of Welsh-medium provision in new building in Brecon
- Welsh-medium pupils will be unable to access the new building in Brecon

- Powys based provision would still be in a dual stream school, rather than a designated Welsh-medium school

## 4.2 Risks associated with the Proposal

As with every proposal, the authority acknowledges that there a number of risks associated with the proposal to close the Welsh-medium stream at Brecon High School.

The risks identified by the authority are listed below, along with measures the authority will take to mitigate the risks.

Risk Ref.	Risk	Likelihood	Impact	Risk Management Measures
1	Pupils choose to attend English-medium secondary provision instead of continuing to access Welsh-medium provision on transfer to secondary school	Medium	Medium	<p>In the short term, the authority would expect there to be some reduction in the proportion of pupils from the Brecon area continuing to access Welsh-medium provision in the secondary sector.</p> <p>However, the current Welsh-medium provision in Brecon High School is very limited, and there is no provision at all at Post-16.</p> <p>Retaining pupils within the Welsh-medium sector is one of the Welsh Government's priorities, and the authority will work with the primary schools concerned to establish transition links with the alternative providers with the aim of reversing any reduction in transfer rates into KS3 in the longer term.</p>



2	Pupil numbers at Ysgol y Bannau decrease due to the lack of Welsh-medium secondary provision at Brecon	Medium	High	<p>The authority acknowledges that there may be a reduction in pupil numbers at Ysgol y Bannau in the short term.</p> <p>However, the authority is committed to increasing the number of pupils accessing Welsh-medium, and would work with work with Ysgol y Bannau, Menter Brycheiniog and other organisations to promote the benefits of Welsh-medium primary education in the Brecon area. The authority would hope that the greater clarity in relation to secondary arrangements for pupils from the Brecon area and the increased level of provision available would lead to an increase in pupil numbers in the future.</p>
3	The alternative schools are unable to accommodate the additional pupils	Low	High	<p>There is sufficient capacity at the current site of Builth Wells High School and Ysgol Gyfun Ystalyfera to accommodate the additional pupils from the Brecon area.</p>
4	Additional travel has an adverse impact on pupil well-being and attainment	Low	High	<p>The council's view is that the current and proposed transport arrangements for these pupils are suitable because the journey would not take an unreasonable amount of time.</p> <p>The Learner Travel (Wales) Measure 2008 does not specify a time limit for journeys. However, local authorities are required to assess the individual needs of learners when considering if a journey time is reasonable.</p> <p>However, the old Learner Travel Operational Guidance April 2009 stated that Welsh Ministers considered that normal journey times should</p>

be no more than 60 minutes for secondary school aged pupils. This is reflected in the council's proposed new School Transport Policy.

It is acknowledged that the additional travel may impact on pupils' ability to access extra-curricular activities, particularly those that take place after school. However, the alternative schools pupils would be likely to attend to access Welsh-medium secondary provision already serve large catchment areas and are experienced in meeting the needs of pupils who are reliant on home to school transport.

Should the proposal be implemented, the council would work with the relevant schools to ensure that pupils who travel to school on home to school transport are not disadvantaged, and that they are able to access an appropriate range of extra-curricular activities. This could include providing access to activities during lunchtime.

## 5. Alternative Options

Consideration of the future of the Welsh-medium stream at Brecon High School has taken place over a number of years. The council previously carried out consultation on closure of the stream during the summer of 2015, and a range of possible options were listed in the consultation document issued at this time.

Following the conclusion of that consultation period, a Consultation Report was produced and was received by the council's Cabinet on the 29<sup>th</sup> September 2015. At the meeting, Cabinet were advised that the statutory procedure in relation to the Welsh-medium stream could not proceed in isolation from the wider review of secondary provision in Mid and South Powys, therefore a further report would be brought back to Cabinet at a later date. However, the Welsh Government's School Organisation Code requires local authorities to publish any proposals within 26 weeks of the end of the period allowed for consultation responses. As no proposal was published within this timeframe, the original consultation exercise in relation to closure of the Welsh-medium stream at Brecon High School lapsed.

In order to find a potential solution to the issues in relation to secondary provision across Mid and South Powys, including the issues relating to Welsh-medium provision, a number of possible options were evaluated. This included a number of options relating to Welsh-medium provision, including the establishment of a designated Welsh-medium secondary school to serve Mid and South Powys.

The business case concluded that the most appropriate option at the current time is to centralise Welsh-medium secondary provision across the Mid and South Powys region. The authority's view is that this would ensure a larger critical mass of learners, which would improve the level of provision that can be offered to the Welsh-medium pupils currently attending Builth Wells High School and Brecon High School, and would provide a solid base which could be further developed in the future.

The authority is currently going through the statutory process to close Builth Wells High School and Llandrindod Wells High School and establish a new secondary school across two sites. The proposal is that the new school will be a dual stream school, with the current dual stream provision being retained on the Builth Wells site. Therefore, the only options now available to the authority in relation to the Welsh-medium provision at Brecon High School is whether or not to retain this provision.

The strengths and weaknesses of these two options are outlined in the following table:

Option	Strengths	Weaknesses
<b>Option 1: Status Quo – retention of Welsh- medium stream in Brecon High School</b>	<ul style="list-style-type: none"> <li>- Provides access to Welsh-medium secondary provision in Brecon</li> <li>- Limits travel time for Welsh-medium pupils</li> <li>- Reduces transport costs to the authority</li> <li>- Positive impact on the Welsh language skills of English-medium pupils at Brecon High School</li> </ul>	<ul style="list-style-type: none"> <li>- Does not create a larger mass of Welsh-medium secondary pupils in Mid and South Powys</li> <li>- Does not provide more robust linguistic progression for Welsh-medium pupils</li> <li>- Does not provide opportunities to offer enhanced Welsh-medium opportunities at post-16 level</li> <li>- Does not ensure more cost effective delivery of Welsh-medium secondary provision</li> <li>- Does not achieve viable sized option groups due to small number of pupils</li> </ul>
<b>Option 2: Closure of Welsh- medium stream at Brecon High School</b>	<ul style="list-style-type: none"> <li>- Creation of a larger critical mass of Welsh-medium learners in Mid / South Powys</li> <li>- Additional Welsh-medium opportunities to be provided to Welsh-medium pupils from Brecon through access to a wider range of Welsh-medium subjects</li> <li>- Would enable the development of increased Welsh-medium provision at post-16</li> <li>- A larger group of Welsh-medium pupils will enable the provision in Builth Wells to be further developed</li> <li>- Social and emotional benefits to Welsh-medium pupils from being part of a larger group of Welsh-medium pupils</li> <li>- More opportunity for pupils to take part in extra-curricular activities through the medium of Welsh</li> <li>- More financially efficient model of delivery for secondary Welsh-medium provision in Mid and South</li> </ul>	<ul style="list-style-type: none"> <li>- Loss of Welsh-medium secondary provision in Brecon</li> <li>- May have a negative impact on pupil numbers at Ysgol y Bannau</li> <li>- Possible reduction in transfer rates from Welsh-medium primary provision to Welsh-medium secondary provision for pupils from the Brecon catchment in the short term</li> <li>- Increased travel times for Welsh-medium learners from the Brecon catchment</li> <li>- Lack of Welsh-medium provision in new building in Brecon</li> <li>- Welsh-medium pupils will be unable to access the new building in Brecon</li> <li>- Powys based provision would still be in a dual stream school, rather than a designated Welsh-medium school</li> <li>- Welsh-medium pupils will continue to be in the minority, especially if the proposal to establish the</li> </ul>

	<p>Powys</p> <ul style="list-style-type: none"> <li>- Would enable Brecon High School to run more efficiently as a single stream school</li> <li>- Welsh-medium pupil numbers could grow to a point where a Welsh-medium secondary school could be considered viable</li> </ul>	<p>New Mid Powys Secondary School is implemented</p>
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Having considered the strengths and weaknesses associated with each option, the authority's view is that closure of the Welsh-medium stream at Brecon High School is the most suitable way forward in order to ensure that more robust linguistic continuity can be provided to Welsh-medium learners. This would provide a solid base which could be further developed in the future, through the possible establishment of designated Welsh-medium secondary provision to serve the area.

## **6. Impact on Pupils**

The authority acknowledges that the proposal to close the Welsh-medium stream at Brecon High School will have an impact on pupils, including Welsh-medium pupils currently attending Brecon High School, pupils currently being educated through the medium of Welsh in feeder primary schools in the Brecon catchment, pupils attending schools pupils may choose to transfer to should the proposal be implemented and English-medium pupils at Brecon High School.

The impact on pupils has been a key consideration for the authority in formulating this proposal. The authority's view on the proposal's likely impact on these groups of pupils is outlined below.

### **6.1 Impact on pupils currently attending Brecon High School**

Implementation of the proposal would have the greatest impact on the Welsh-medium pupils currently attending Brecon High School. The authority acknowledges that the proposal would have an impact on Welsh-medium pupils currently in years 7, 8 and 9 at Brecon High School. Should they transfer to alternative Welsh-medium secondary provision, this would result in additional travel time, although free home to school transport would be provided to enable them to continue to access Welsh-medium provision. It is acknowledged that the reliance on home to school transport could make it more difficult for pupils to access extra-curricular activities, particularly when these take place after school. However, the schools pupils are likely to transfer to in order to continue to access Welsh-medium secondary provision already serve large catchment areas, and are very experienced in meeting the needs of pupils who travel to school on home to school transport. Should the proposal be implemented, the authority would work with the schools the pupils would transfer to in order to ensure that an appropriate range of extra-curricular activities are available to all pupils.

The authority also acknowledges that some disruption would be caused to pupils in the short term if they were to move schools, as this could mean that they would be separated from their friends in the English-medium stream. This could have a negative impact on the well-being of these pupils.

Should the proposal be implemented, it is possible that some pupils would transfer to English-medium provision at Brecon High School rather than transferring to an alternative school to continue to access Welsh-medium provision. Whilst this would mitigate the impact of additional travel and separation from friends, this could have a negative impact on pupils' Welsh language skills.

Despite this, the authority's view is that the small number of Welsh-medium pupils and limited Welsh-medium curriculum provision at Brecon High School is not acceptable. The number of pupils and subject choice at the alternative schools pupils would attend in order to access Welsh-medium secondary provision is larger than what is provided at Brecon High School, and would provide greater equality for Welsh-medium pupils.

It is also acknowledged that the proposal could have a negative impact on the Welsh language skills of English-medium pupils attending Brecon High School. However, the school would continue to teach Welsh as a Second Language, and would be expected to continue to provide opportunities for these pupils to use their Welsh outside the classroom.

## **6.2 Impact on pupils currently attending Welsh-medium primary provision in the current catchment area of the Welsh-medium stream at Brecon High School**

The authority acknowledges that implementation of the proposal would lead to an increase in travel time for pupils living in the current catchment of Brecon High School to enable them to access Welsh-medium secondary provision, however free home to school transport would be provided to enable them to continue to access Welsh-medium provision. It is acknowledged that the reliance on home to school transport could make it more difficult for pupils to access extra-curricular activities, particularly when these take place after school. However, the schools pupils are likely to transfer to in order to continue to access Welsh-medium secondary provision already serve very large catchment areas, and are very experienced in meeting the needs of pupils who travel to school on home to school transport. Should the proposal be implemented, the authority would work with the schools the pupils transfer to in order to ensure that an appropriate range of extra-curricular activities are available to all pupils.

The authority also acknowledges that implementation of the proposal would mean that pupils living in Brecon and the surrounding area would be unable to access Welsh-medium provision at the new building, currently planned to open in Brecon in 2020.

Despite this, the authority's view is that the small number of Welsh-medium pupils and limited Welsh-medium curriculum provision at Brecon High School is not acceptable. The number of pupils and subject choice at the alternative schools pupils would attend in order to continue to access Welsh-medium secondary provision is larger than what is provided at Brecon High School, and would provide greater equality for Welsh-medium pupils.

Should the proposal be implemented, Ysgol y Bannau would become a feeder school for Builth Wells High School, or the New Mid Powys Secondary School should that proposal be implemented, and transition arrangements would be put in place to ensure the well-being of all pupils on transfer to secondary school. Transition arrangements would also be put in place for any pupils transferring to any other Welsh-medium providers.

## **6.3 Impact on pupils attending other schools to which pupils may wish to transfer**

The number of pupils currently attending the Welsh-medium stream at Brecon High School is small, therefore should the proposal be implemented, and should these pupils transfer to other Welsh-medium secondary providers, the impact on pupils currently attending these schools would be small.

In the case of Builth Wells High School, or the New Mid Powys Secondary School should that proposal be implemented, implementation of the proposal would lead to a larger group of Welsh-medium pupils at the school, which would enable the school to continue to develop the Welsh-medium provision available. In addition, the school would be able to provide an increased number of extra-curricular activities through the medium of Welsh, which would provide additional opportunities for pupils to use their Welsh outside school.

From September 2018 (dependent on whether Cabinet approve the proposal to establish the New Mid Powys Secondary School), implementation of the proposal would lead to a larger group of Welsh-medium pupils at the Builth Wells site of the new school, which would enable the school to continue to develop the Welsh-medium provision available. In addition, the school would be able to provide an increased number of extra-curricular activities through the medium of Welsh, which would provide additional opportunities for pupils to use their Welsh outside school.

#### **6.4 Impact on vulnerable pupils, including children with Special Educational Needs or Additional Learning Needs (ALN)**

All schools in Powys are responsible for meeting a child's special educational needs, in accordance with the council's ALN Strategy and Operational Guidance, referencing the 1996 Education Act. Funding from the council is delegated to individual schools to support pupils within significant needs. The council will work in partnership with pupils with additional learning needs, parents and the schools to support an effective transition to the new learning environments.

Any change of school and any disruption not of the learner or their family's choosing is going to have some impact on feelings of wellbeing. Mitigation of the negative effects of this, especially for those with additional needs with need to be well planned and allow for individual plans of support to be in place.

Those with difficulties in managing change, many of whom may be on the autistic spectrum, will be of particular concern. However, with careful planning and professional support, the process of change to what will be a new and better environment may be seen as a potential for learning that will enable those young people to cope better with adult life.

The school would be encouraged to conduct person-centred reviews, and planning which will be very helpful in providing the circles of support and hearing the voice of the young people during this period.



## 7. Impact on Affected Schools

The Welsh Government's School Organisation Code 2013 states that the following information should be included within a consultation document:

*'The likely impact of the Proposals on the quality of the following:*

- a) *outcomes (standards and wellbeing)*
- b) *provision (learning experiences, teaching, care support and guidance, and learning environment)*
- c) *leadership and management (leadership, improving quality, partnership working and resource management)'*

In addition, the Code requires local authorities to consider *'the ability of the school or schools which are the subject of the proposals to deliver the full curriculum at...each key stage of education'*.

The authority's view on the likely impact of the proposal on these aspects at Brecon High School and other schools that may be affected by the proposal is outlined below.

### 7.1 Impact on Brecon High School

#### 7.1.1 Impact on Outcomes

It is not anticipated that the proposal would have a negative impact on outcomes at Brecon High School. There has been a good improvement trajectory of performance in recent years at the school which is expected to be at least maintained. The number of Welsh-medium pupils at the school is very small, therefore it is not anticipated that removal of the Welsh-medium school would impact on this.

In previous consultations, it has been noted that the attainment of pupils in the Welsh-medium stream has been better than pupils in the English-medium stream, and that loss of these pupils would have a negative impact on outcomes at the school. However, the number of Welsh-medium pupils at the school has reduced significantly. The small number of pupils currently attending the Welsh-medium stream means that this impact will now be significantly reduced, therefore losing these pupils from the school would not have a significant impact on overall outcomes.

Implementation of the proposal would enable the school to focus solely on delivering through the medium of English, which could have a positive impact in terms of outcomes for English-medium pupils.

#### 7.1.2 Impact on Provision

The proposal would mean that Brecon High School would no longer offer Welsh-medium subjects, which would mean that this provision would no longer be available at the school. Should the proposal be implemented, the school would become an English-medium school, and would be able to focus solely on its English-medium provision. This would lead to increased capacity in terms of English-medium

curriculum time, and greater flexibility in terms of timetabling, which would improve the school's ability to deliver a full English-medium curriculum in all key stages.

Changing the school's language category could reduce the use of the Welsh language in the school. However, the school would continue to teach Welsh as a Second Language, and all schools are expected to provide opportunities for pupils to use Welsh outside the classroom, therefore the school would be expected to maintain a bilingual ethos. The proposals of the 'Successful Futures' curriculum will enhance this.

In earlier consultations, it has been noted that pupils attending the Welsh-medium stream make a significant contribution to extra-curricular activities within the school, and that it would be difficult for these activities to continue without the Welsh-medium pupils. However, the number of Welsh-medium pupils at the school has reduced significantly, and the small number of pupils currently attending the Welsh-medium stream means that this impact will now be reduced.

It is not anticipated that closure of the stream would have a negative impact on the teaching, care, support and guidance available at the school, as the school would continue to provide these to the pupils who remained at the school.

In the short term, the proposal would lead to an improvement in the learning environment for Welsh-medium pupils as the current buildings at Brecon High School are in a poor condition. However, plans are underway for a replacement building for the school, which is expected to open in 2020. It is acknowledged that implementation of the proposal would mean that pupils would be unable to access Welsh-medium provision at the new facility.

### **7.1.3 Impact on Leadership and Management**

The proposal is likely to have an impact on current leadership roles within some departments at Brecon High School, however there will be no impact on the general leadership and management of the whole school. The proposal would enable the school leadership to focus on the delivery of a single stream school, which may have a positive impact on the school's leadership and management.

The current small number of pupils in the Welsh-medium stream at Brecon High School means that the school's current dual stream delivery model is expensive and financially inefficient. In terms of the school's resource management, the proposal would enable the school to run more efficiently as a single stream school.

The school would no longer have a partnership with Ysgol y Bannau as this school would become a feeder school of Builth Wells High School, or the New Mid Powys School should Cabinet approve that proposal.

### **7.1.4 Impact on the school's ability to deliver the full curriculum in each key stage of education**

The proposal would enable Brecon High School to focus on its English-medium curriculum. As a result of increased capacity in terms of English-medium curriculum time and greater flexibility in terms of timetabling, the proposal would improve the

school's ability to deliver the full curriculum through the medium of English in each key stage.

## **7.2 Impact on secondary schools that may receive displaced pupils**

The main secondary school that may be affected by this proposal is Builth Wells High School. The authority is currently proposing that Builth Wells High School is merged with Llandrindod High School to create the New Mid Powys Secondary School operating as a dual-sited school for 11 – 18 year olds from September 2018. If the proposal is approved by Cabinet, the New Mid Powys Secondary School's Welsh-medium provision would continue to be provided from the Builth Wells site. Whilst the numbers that would be expected to transfer to the school following implementation of the proposal would be small, the proposal would have an impact on the school in the longer term due to the increased number of Welsh-medium pupils that would be expected to attend.

Welsh-medium pupils living in the Sennybridge area that would previously have attended the Welsh-medium stream at Brecon High School would transfer to Ysgol Gyfun Ystalyfera, therefore this school would also be affected by the proposal to some extent. However, there has been an increase in the number of pupils from the Sennybridge area attending Ysgol Gyfun Ystalyfera in recent years, due to parental preference, therefore should the proposal be implemented, there would be no change to the current arrangements.

Should there be no Welsh-medium stream at Brecon High School, it is possible that some pupils living in the catchment area of Ysgol y Bannau would be closer to other Welsh-medium providers out of county, such as Ysgol Gyfun Gwynllyw and Ysgol Gyfun Rhydywaun. However the number of additional pupils that would attend these two schools would be very small, therefore the authority's view is that this would not impact on the schools.

The proposal's impact on the schools that will be affected by the proposal is outlined below:

### **7.2.1 Builth Wells High School / the New Mid Powys Secondary School**

(without prejudice to Cabinet's decision following consideration of the Objection Report for the current proposal relating to Builth Wells and Llandrindod High Schools)

#### **i) Impact on Outcomes**

Having a larger group of Welsh-medium pupils would enable the school to set pupils for some subjects, which could have a positive impact on outcomes. There is no evidence to suggest that implementation of the proposal would have a detrimental impact on outcomes at Builth Wells High School / the New Mid Powys Secondary School.

The proposal could have some negative impact on pupil well-being at Builth Wells High School / the New Mid Powys Secondary School due to the additional pupils that would be reliant on home to school transport.

**ii) Impact on Provision**

It is expected that implementation of the proposal would lead to an increase in the number of pupils in the Welsh-medium stream at Builth Wells High School / the New Mid Powys Secondary School. This would enable the school to offer greater choice, flexibility and access to Welsh-medium courses to pupils at all key stages, enhancing the learning experiences of these pupils.

However, pupils living in the Brecon area may find it more difficult to access extra-curricular activities, particularly those that take place after school, due to their reliance on home to school transport. Should the proposal be implemented, the council would work with the school to explore solutions to this problem, e.g. scheduling extra-curricular activities during the school day. Builth Wells High School already serves a large catchment area, and is experienced in meeting the needs of pupils who are reliant on home to school transport.

**iii) Impact on Leadership and Management**

It is possible that implementation of the proposal may place some additional pressure in terms of leadership and management in the short term, as the school may need to make arrangements to accommodate additional pupils. However, the proposal is not expected to have a negative impact in the longer term.

**iv) Impact on the school's ability to deliver the full curriculum in each key stage of education**

It is expected that implementation of the proposal would lead to an increase in the number of pupils in the Welsh-medium stream at Builth Wells High School / the New Mid Powys Secondary School. This should improve the school's ability to deliver the full curriculum through the medium of Welsh in each key stage of education, and should enable the school to offer a more comprehensive curriculum to Welsh-medium pupils, particularly in key stage 4 and post-16. It is not expected that the proposal would impact on the school's ability to deliver the full curriculum to English-medium pupils in each key stage of education.

**7.2.2 Ysgol Gyfun Ystalyfera**

**i) Impact on Outcomes**

The majority of Welsh-medium pupils from Sennybridge C.P. School already transfer to Ysgol Gyfun Ystalyfera, therefore implementation of the proposal would not have an impact on outcomes at the school.

**ii) Impact on Provision**

The majority of Welsh-medium pupils from Sennybridge C.P. School already transfer to Ysgol Gyfun Ystalyfera, therefore implementation of the proposal would not have an impact on provision at the school.

**iii) Impact on Leadership and Management**

The majority of Welsh-medium pupils from Sennybridge C.P. School already transfer to Ysgol Gyfun Ystalyfera, therefore implementation of the proposal would not have an impact on leadership and management at the school.

**iv) Impact on the school's ability to deliver the full curriculum in each key stage of education**

The majority of Welsh-medium pupils from Sennybridge C.P. School already transfer to Ysgol Gyfun Ystalyfera, therefore implementation of the proposal would not have an impact on the school's ability to deliver the full curriculum in each key stage of education.

**7.3 Impact on Welsh-medium primary providers in the Brecon catchment**

The main Welsh-medium primary provider in the Brecon catchment is Ysgol y Bannau, a Welsh-medium primary school located in Brecon. This school serves a large catchment area, and in previous consultations, concern has been expressed that closure of the Welsh-medium stream at Brecon High School would have a negative impact on pupils numbers at the school.

However, as illustrated on page 12 pupil numbers at Ysgol y Bannau have remained fairly stagnant in recent years, despite there being access to secondary provision locally at Brecon High School. This is in contrast to other areas of Powys, where pupil numbers in designated Welsh-medium schools have grown. Whilst the authority acknowledges that implementation of the proposal could have an impact on pupil numbers at the school in the short term, the authority would expect pupil numbers to recover and even increase in the longer term, due to the greater clarity in relation to secondary provision and the increased level of Welsh-medium provision available for pupils.

The only other school providing access to Welsh-medium primary provision in the Brecon catchment is Sennybridge C.P. School, a dual stream school located in the village of Sennybridge. The majority of Welsh-medium pupils from this school already transfer to Ysgol Gyfun Ystalyfera, therefore it is not anticipated that the proposal would impact on Welsh-medium pupil numbers at the school.

**7.3.1 Ysgol y Bannau and Sennybridge C.P. School**

**i) Impact on Outcomes**

It is not anticipated that the proposal would have any significant impact on outcomes at Ysgol y Bannau or Sennybridge C.P. School. The proposal does not involve any changes to the way education is delivered at either school.

**ii) Impact on Provision**

It is not anticipated that the proposal would have any significant impact on provision at Ysgol y Bannau or Sennybridge C.P. School. The proposal does not involve any changes to the way education is delivered at either school.

However, it is possible that implementation of the proposal could lead to a change in pupil numbers, therefore the schools would need to be flexible to ensure that it continues to offer appropriate provision to pupils.

**iii) Impact on Leadership and Management**

The proposal does not involve any changes to the way education is delivered at Ysgol y Bannau or Sennybridge C.P. School, therefore it is not anticipated that the proposal will have any significant impact on leadership and management at either of these schools.

**iv) Impact on the school's ability to deliver the full curriculum in each key stage of education**

It is not anticipated that the proposal would have any significant impact on the ability of Ysgol y Bannau or Sennybridge C.P. School to deliver the full curriculum in each key stage of education. The proposal does not involve any changes to the way education is delivered at either school. However, it is possible that implementation of the proposal could lead to a change in pupil numbers, therefore the schools would need to be flexible to ensure that it continues to offer appropriate provision to pupils.

## **8. Other Considerations**

### **8.1 Financial Implications**

In accordance with the authority's Funding Formula, dual stream schools receive funding based on the proportion of the curriculum delivered through both the medium of Welsh and English in separate streams.

For the 2016/17 financial year, Brecon High School received £58,475 through the formula to support the additional cost of operating as a dual stream school. Should the Welsh-medium stream close, this funding would not transfer with pupils to their alternative schools or streams, therefore this would be a saving to the authority.

Following previous successful transport appeals, transport is already provided by the authority to Ysgol Gyfun Ystalyfera for Welsh-medium pupils from the Sennybridge area and to Builth Wells High School for Welsh-medium pupils from the Brecon area. As this transport is already provided, implementation of the proposal would not incur any additional transport costs.

The total saving to the authority should the proposal be implemented is estimated to be £58,475.

### **8.2 Implications for Staff**

If a decision is made to proceed with closure of the Welsh-medium stream at Brecon High School, any implications for changes to staff employment will be taken forward by the school in accordance with the authority's Management of Change procedures.

### **8.3 School Transport**

The authority acknowledges that closure of the Welsh-medium stream at Brecon High School would lead to an increase in school transport costs and an increase in travel for pupils who live in the current catchment area of the Welsh-medium stream at Brecon High School and who wish to access Welsh-medium secondary provision.

Should the proposal be implemented, home to school transport would be provided in accordance with the council's School Transport Policy and the Learner Travel (Wales) Measure 2008<sup>12</sup>. The council's current School Transport Policy can be found at <http://www.powys.gov.uk/en/schools-students/apply-for-school-transport/>.

Pupils are eligible for free home to school transport if they live more than 3 miles from their nearest school offering provision in the language of their choice. For some pupils, the nearest Welsh-medium provision could be located outside Powys.

### **8.4 Walking routes to school**

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<sup>12</sup> <http://gov.wales/topics/educationandskills/allsectorpolicies/learner-travel/?lang=en>

Should the proposal be implemented, there would be no available walking routes to alternative providers of Welsh-medium secondary education for pupils affected by this proposal.

## **8.5 Admissions**

Admissions for Brecon High School and Builth Wells High School are administered by the authority. Should the proposal to establish the New Mid Powys Secondary School be implemented, admissions to this school would also be administered by the authority.

In the event of closure of the Welsh-medium stream at Brecon High School, parents of pupils currently attending the Welsh-medium stream would be allocated places at Builth Wells High School. Alternatively, they would need to apply for a place in another chosen school in accordance with the authority's admissions process, which is as follows:

- i) Parents to complete an application form, which will be provided by the authority
- ii) Admissions forms to be returned to the authority
- iii) authority to inform parents whether admission to the chosen school has been granted

For pupils wishing to transfer to schools located in other authorities, parents would need to follow the same procedure, and would need to apply via their home authority. Whilst it is expected that there would be sufficient capacity for pupils, priority would be given to pupils living in the official catchment area of these schools.

## **8.6 Impact assessments**

The authority has carried out a number of impact assessments in relation to this proposal, in line with the requirements of the School Organisation Code (2013) and the authority's own requirements. These include:

- i) Equality Impact Assessment
- ii) Community Impact Assessment
- iii) Welsh Language Impact Assessment
- iv) Integrated Impact Assessment (which includes consideration of how the proposal impacts on the seven well-being goals outlines in the Well-being of Future Generations (Wales) Act, along with the council's own objectives.

These assessments are available on the council's website:

<http://www.powys.gov.uk/en/corporate/find-out-about-consultations-in-powys/brecon-high-school-welsh-medium-stream/>

These initial impact assessments have been carried out based on the data and information currently available to the authority and provided by the affected schools. Following the consultation period, they will be updated and finalised, to incorporate



relevant information presented during the consultation period, and the updated versions will be considered by Cabinet when determining how to proceed in relation to this proposal.

## 9. Key Data

The following section provides data on Brecon High School and other schools which may be affected by the proposal as they may receive displaced pupils.

The data provided is in-line with the requirements of the School Organisation Code.

### 9.1 General School Information

School	School Type	Language Category	Admission Number	Capacity	Pupil numbers PLASC Jan 2016	Age Range
Brecon High School	Community	Dual Stream (Cat. 3)	148	872	556	11-18
Builth Wells High School	Community	Dual Stream (Cat. 2C)	110	659	554	11-18
Ysgol Gyfun Ystalyfera	Community	Welsh-medium (Cat. 1)	206	1285	1046	11-18

### 9.2 Current and Historical Pupil Numbers (including Sixth Form)

School	October 2016 <sup>13</sup>	January 2016	January 2015	January 2014	January 2013	January 2012
Brecon High School	505	556	647	714	761	767
Builth Wells High School	554	554	546	564	578	585
Ysgol Gyfun Ystalyfera	1092	1046	1022	1026	993	996

<sup>13</sup> Teacher Centre, October 2016

### 9.3 Projected Pupil Numbers (including Sixth Form)

School	January 2017	January 2018	January 2019	January 2020	January 2021	January 2022
Brecon High School	538	537	523	528	556	565
Builth Wells High School	550	544	548	564	544	555
Ysgol Gyfun Ystalyfera <sup>14</sup>	1101	1334	1423	1488	1521	1560

### 9.4 School Building Condition

The Welsh Government's 21<sup>st</sup> Century Schools Survey identified that the quality of accommodation at the affected schools is as follows:

School	Condition	Suitability	Sustainability
Brecon High School	D	B/C	D
Builth Wells High School	B	B	B
Ysgol Gyfun Ystalyfera <sup>15</sup>	D	C	C

### 9.5 Quality of Education

The information provided in respect of the quality of education at the affected schools is in-line with the requirements of the School Organisation Code.

Brecon High School and Builth Wells High School are both dual stream schools. Official Welsh Government data sets relating to the school's performance relates to all pupils at the school, rather than pupils in the Welsh-medium stream alone. The number of Welsh-medium pupils at each school, particularly Brecon High School, is small, therefore it would not be

<sup>14</sup> Ysgol Gyfun Ystalyfera will close on the 31<sup>st</sup> August 2017, as will Ysgol Gynradd Gymraeg Y Wern. A new 3-19 school will open in their place. The projected pupil numbers for January 2018 onwards include the projected pupil numbers for Ysgol Gynradd Gymraeg Y Wern and Ysgol Gyfun Ystalyfera. Initially, the school will continue to occupy the current sites of Ysgol Gyfun Ystalyfera and Ysgol Gynradd Gymraeg Y Wern. In September 2018, primary aged pupils will move onto the Ystalyfera site, and pupils in Years 7 and 8 residing in the south of the county will attend a new campus in Port Talbot.

<sup>15</sup> Capital work is currently being undertaken to improve the quality of accommodation at Ysgol Gyfun Ystalyfera. The condition will be reassessed after the first phase of 21<sup>st</sup> Century Schools investment, when the condition grading will improve.

valid to compare the performance of Welsh-medium pupils in these schools. In addition, 2016 information for Key Stage 4 has not been finalised.

### 9.5.1 Estyn

	<b>Brecon High School</b>	<b>Builth Wells High School</b>	<b>Ysgol Gyfun Ystalyfera</b>
<b>Date of Inspection</b>	May 2012	October 2015	March 2013
<b>School's Current Performance</b>	Adequate	Unsatisfactory	Good
<b>Prospects for Improvement</b>	Adequate	Unsatisfactory	Good
<b>Follow up activity</b>	<p>Following the inspection, the school was placed in the category of 'In need of significant improvement'.</p> <p>A monitoring visit took place in February 2014, which found that the school had made insufficient progress in relation to the action plan, and it was determined that the school was now in need of 'Special Measures'</p>	Special Measures	N/A

### 9.5.2 National School Categorisation System

The National School Categorisation system gives a clear and fair picture of how well a school is performing compared with other schools across Wales and helps to identify the schools that need the most help, support and guidance to improve.

The system has been developed collectively between regional education consortia and Welsh Government. Its primary function is to identify, across Wales, the schools that need the most support. The colour category of support allocated to a school will trigger a bespoke, tailored support programme.

The system is based on three steps. It is not purely data-driven and takes into account the quality of leadership, teaching and learning in schools.

- **Step one – Standards group:** A range of information is used to make a judgement about the school's standards, resulting in a standards group
- **Step two – Improvement capacity:** An evaluation of the school's capacity to improve further, taking account of the evidence about the standards and the quality of leadership, teaching and learning, resulting in an improvement capacity
- **Step three – Support category:** Bringing the judgement on the standards group and improvement capacity together to decide on the school's support category, colour coded either green, yellow, amber or red, with the schools in the green category needing the least support and those in the red category needing the most intensive support.

The affected schools were categorised as follows during 2015/16:

School	Standards Group	Improvement Capacity	Support Category
Brecon High School	3	C	Amber
Builth Wells High School	3	D	Red
Ysgol Gyfun Ystalyfera	2	B	Yellow



2. Please indicate who you are (e.g. parent, member of staff, governor)

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3. Name

---

4. Address

---

---

5. E-mail address

---

6. Would you like to be informed of the publication of the consultation report?

Yes  No

Completed questionnaires should be sent to the following address, to arrive **no later than the 9<sup>th</sup> January 2017**:

*Schools Transformation Team, Powys County Council, County Hall, Llandrindod Wells, LD1 5LG*

*E-mail: [school.consultation@powys.gov.uk](mailto:school.consultation@powys.gov.uk)*

Mae'r dudalen hon wedi'i gadael yn wag yn fwriadol





# **Welsh-medium stream at Brecon High School**

## **Consultation Report**

**March 2017**

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## **Consultation on the proposal to close the Welsh-medium stream at Brecon High School**

### **1. Overview of the consultation**

Powys County Council consulted on a proposal to close the Welsh-medium stream at Brecon High School from the 31<sup>st</sup> August 2017 during the period 21<sup>st</sup> November 2016 to the 9<sup>th</sup> January 2017.

#### **1.1 Consultation methods**

The consultation documentation was available on the council's website throughout the consultation period, and was distributed to stakeholders, as required by the School Organisation Code (2013). A separate version for young people and a version for primary aged pupils was also available and distributed to pupils, and was also available on the council's website throughout the consultation period.

Consultees were invited to respond to the consultation by either completing an online consultation form, filling in a paper copy of the form and returning it to the School Transformation Team at County Hall, or by writing to the School Transformation Team.

Meetings were also held with the following:

- Brecon High School Staff – 29<sup>th</sup> November 2016
- Brecon High School Governors – 29<sup>th</sup> November 2016
- Parents and the community – 1<sup>st</sup> December 2016
- Welsh-medium pupils at Brecon High School – 6<sup>th</sup> December 2016
- English-medium pupils at Brecon High School – 6<sup>th</sup> December 2016
- School Council at Ysgol y Bannau – 6<sup>th</sup> December 2016
- School Council at Sennybridge CP School – 12<sup>th</sup> December 2016

#### **1.2 Responses received**

A total of 237 written responses were received to the consultation, including responses submitted using the online response form and other written responses. However, 71 responses were received from one individual respondent, and another 26 were received from another individual respondent. In addition, during the consultation period, individuals were encouraged to e-mail the council with the statement 'All I want for Christmas is for the Welsh stream to stay open in Brecon High School'. 39 responses were received which only included this statement.

The written responses received included 39 responses from pupils.

In addition to the written responses, a copy of an online petition was received, which was signed by 236 people and included 67 written comments.

In addition to responses from parents, staff, governors, pupils and other members of the community affected by the proposal, responses were received from the following:

Kirsty Williams AM  
Brecon Beacons National Park  
Brecon Community Council  
Talybont-on-Usk Community Council  
Maescar Community Council  
Brecon & District Swimming Club  
Cylch Meithrin Aberhonddu  
County Councillor Gillian Thomas  
County Councillor David Meredith

The written responses received included a response by Estyn, which is provided on page 13, in-line with the requirements of the School Organisation Code.

In addition, a report was received from RhAG (Rhieni dros Addysg Gymraeg / Parents for Welsh-medium Education), entitled 'Report on the findings of the RhAG survey of South Powys'. This report outlines the findings of a survey carried out by RhAG during the consultation period to identify potential demand for a designated Welsh-medium secondary school to serve mid and south Powys.

### **1.3 Summary of issues raised**

A wide range of issues were raised during the consultation period. All of the issues raised in the written responses received and in the consultation meetings held during the consultation period are listed in detail in section 5 of this report, along with the authority's response to the issue.

The following is a summary of the main themes of the issues raised:

#### **1. Concern about the impact on pupils**

- Impact on pupil well-being
- Access to extra-curricular activities
- Impact of additional travel
- Impact on friendship groups
- Impact on Welsh language skills
- Impact of transferring to English-medium provision
- Impact on quality of education provided to pupils
- Impact on pupils with additional needs
- Impact on pupil attendance
- Impact on English-medium pupils
- Links with the community

#### **2. Concern about the impact on parents and families**

- Financial impact
- Ability to attend school activities
- Inconvenience to parents / families
- Parents feel let down
- Families are moving from the area

#### **3. Issues relating to travel / transport**

- Issues relating to the provision of transport to other Welsh-medium providers
- Transport appeal process
- Travel distance / time to alternative provision
- Cost of additional transport
- Concern about pupil safety
- Environmental impact of additional travel
- The council's Transport Policy
- Issues relating to travel to a designated Welsh-medium secondary school

#### **4. Welsh-medium pupil numbers at Brecon High School**

- Impact of provision of transport to alternative schools
- Impact of previous consultations
- Reference to category 2B categorisation
- Criticism of the council's treatment of Welsh-medium provision at Brecon High School
- Prospective pupil numbers

#### **5. Welsh-medium provision at Brecon High School**

- Category 2B categorisation
- Funding for Welsh-medium provision at Brecon High School
- Quality of Welsh-medium provision at Brecon High School
- Brecon High School's Welsh ethos and commitment to Welsh-medium education
- Contribution of Welsh-medium pupils to Brecon High School
- Provision that could be offered at Brecon High School should the Welsh-medium stream close
- Criticism of the current Welsh-medium provision at Brecon High School

#### **6. General issues relating to Brecon High School**

- Quality of education at Brecon High School
- Issues relating to the planned new building
- Staff at Brecon High School

#### **7. Issues relating to Builth Wells High School**

- Quality of education at Builth Wells High School
- Comparisons between Builth Wells High School and Brecon High School
- Welsh-medium pupil numbers at Builth Wells High School
- Welsh-medium provision at Builth Wells High School

#### **8. Issues relating to Ysgol Gyfun Ystalyfera**

#### **9. Impact on Ysgol y Bannau**

- Pupil numbers at Ysgol y Bannau
- Threat of closure of Ysgol y Bannau
- Issues relating to parental preference
- Impact on staff

## **10. Issues relating to equality / discrimination**

- Discrimination against poorer families
- Discrimination against Welsh-medium pupils
- Discrimination against the Welsh language
- Issues relating to racism

## **11. Welsh-medium pupil numbers and access to Welsh-medium provision**

- Current Welsh-medium pupils will transfer to English-medium provision
- Parents won't choose Welsh-medium primary education in the first place
- Suggestions to increase Welsh-medium pupil numbers
- Access to Welsh-medium education
- Issues relating to parental choice

## **12. General issues relating to Welsh-medium education**

- Issues relating to the establishment of a Welsh-medium secondary school in South Powys
- Reference to the benefits of bilingualism and Welsh-medium education
- Reference to other local authorities
- Criticism of RhAG

## **13. Issues relating to the Welsh language**

- Detrimental impact on the Welsh language
- Impact on Welsh language organisations / activities
- General criticism of the council's treatment of the Welsh language
- Impact on the ability of employers in the local area to employ Welsh speakers

## **14. Policies / strategies relating to the Welsh language**

- Powys County Council's Welsh in Education Strategic Plan (WESP)
- A Million Welsh Speakers by 2050
- Welsh-medium Education Strategy
- The Welsh Language (Wales) Measure 2011
- The Welsh Language Standards
- General comments relating to Welsh Government Language Strategy

## **15. Issues relating to the community / the rural nature of the area**

## **16. Financial issues**

- Queries about the estimated savings
- Funding provided for transport
- Fair Funding Formula
- General issues relating to the council's budget

## **17. Alternative Options**

- Improve the Welsh-medium provision in Brecon
- Establish a category 2A Welsh-medium school
- Shared teachers
- Increase primary pupil numbers
- Use of modern technology
- Bring current schools together
- Keep two Welsh-medium streams

#### **18. Issues relating to the consultation process**

- Pre-determination
- Issues relating to the timing of the consultation
- Issues relating to the council meetings
- Issues relating to the minutes of the consultation meetings
- Issues relating to who the council has consulted with
- Comparisons with previous consultations
- Queries relating to the process going forward
- This consultation is not being taken seriously

#### **19. Issues relating to the consultation documentation**

- Information not included in the consultation document
- Inaccurate information
- Language used in the consultation document
- Other issues with the consultation documentation

#### **20. General criticism of the council**

- Criticism of the council's treatment of Brecon High School
- Issues relating to indecision by the council
- Issues relating to the council's financial situation

#### **21. Reference to other proposals**

- Proposals for Builth Wells High School and Llandrindod High School
- Reference to previous proposals

## **2 Consultation with pupils**

A pupil version of the consultation document was available throughout the consultation period and was distributed to pupils. In addition, officers from the local authority met with pupil representatives at the schools affected by the proposal.

The issues raised by pupils are listed below.

### **2.1 Written responses from pupils**

39 written responses were received from pupils. 31 of these responses only included the statement 'All I want for Christmas is for the Welsh stream to stay open in Brecon High School'.

The issues raised in the other written responses from pupils are listed below:

- Closing the Welsh stream will make pupils sad
- Pupils will lose their Welsh if the Welsh stream closes
- Pupils will be forced out of Welsh-medium education because they don't want to give up activities they are involved with outside school
- The teachers in Brecon High School are very good
- Not a good idea to move pupils from a really good school to a school in special measures
- Most of Brecon High School's Welsh stream are in the top set for most subjects
- Pupils' work levels will drop if they move to a school in special measures
- Pupils don't want to travel out of their community to another school
- Pupils don't want to travel to school by bus every day
- Pupils are concerned that they won't see their friends again as they all go to different schools
- Pupils won't be able to take part in after school activities
- Ysgol y Bannau might close as parents won't want to send their children there
- The Welsh teachers will move to a different school or they might lose their jobs
- Pupils will be tired from the additional travel
- Pupils won't have any spare time
- Pupils whose parents don't speak Welsh will forget their Welsh

### **2.2 Meetings with pupils**

Officers from the local authority met with the pupil representatives at the schools affected by the proposal on the 6<sup>th</sup> December and the 12<sup>th</sup> December 2016. The issues raised in the meetings are summarised below:

#### **i) Welsh-medium pupils at Brecon High School – 6<sup>th</sup> December 2016**

- Lots of our friends have already moved to Builth Wells High School
- Work is a lot harder when we have to do subjects in English
- If the Welsh stream closes next year, will pupils already in the school be able to do subjects in Welsh until they finish school?
- Some pupils have gone to Ystalyfera because Builth Wells High School is in Special Measures



- Speaking Welsh is harder because of the lack of lessons through the medium of Welsh
- If the Welsh stream closed, a lot of the Welsh-medium pupils would stay in the school anyway
- Closing the Welsh stream will affect the number of pupils going to Ysgol y Bannau
- The Welsh stream in Brecon High School is like a family
- People are like sheep – if one goes, everyone goes, that’s why the numbers decreased
- Lots of year 6 pupils at Ysgol y Bannau will be coming here if the Welsh stream stays
- If the stream closes we will have to choose between staying with our friends or keeping the Welsh language
- It would be more difficult to attend appointments and we would have to miss more school when we have them
- If we move to the English stream we will have to do Welsh second language
- We would miss out on education because of the travelling
- It would be easier to close the Welsh stream at Builth Wells High School because there isn’t a Welsh-medium school there like there is in Brecon
- This area is very Anglicised, there is no future for Welsh here if the stream closes
- If the stream moves to Builth would we have to go to Llandrindod?
- Builth is in special measures but Brecon is improving
- The booklet says that the Welsh stream won’t be in the new building, this suggests that you’ve made the decision already
- You are splitting up friendships
- The ethos of the school will change if there is no Welsh stream
- If there isn’t a Welsh stream in Brecon, parents won’t choose Welsh-medium education for their children
- What will happen to the teachers who only teach subjects in Welsh?
- How much money are you spending on transport to Builth?
- If you hadn’t made it so obvious that you were going to close the Welsh stream here, parents wouldn’t have moved their children from the Welsh stream
- It would be hard to go to after school revision classes if we moved to Builth Wells School
- We would have to stop going to after school clubs and activities
- Apart from the size of the Welsh stream, what is the problem with the Welsh stream here?
- When we were in year 7 we had lots of lessons in Welsh, now we only have 2
- Teachers have moved because of the consultation
- Have you been to Ysgol y Bannau to speak with pupils there?
- If there was a Welsh stream in the new school, do you think the numbers would increase?

**ii) English-medium pupils at Brecon High School – 6<sup>th</sup> December 2016**

- It’s important for the town of Brecon to keep the Welsh language local
- It would have a massive impact on the school if the Welsh stream was closed
- If pupils missed the bus to Builth, parents would have to pay to transport them there
- When Powys started the consultations, the numbers in the Welsh stream started to decrease
- There would be a big impact on the school if there were no Welsh stream here
- If there were no Welsh stream, there would be less Welsh events in the school – it would have an impact on the cultural side of the school

- Lots of Welsh stream pupils have left already which has impacted on sports teams and other activities
- If the stream stayed in the school, more people would come here
- If more Welsh students came here there would be more choice for them
- Closing the Welsh stream would restrict choice for Welsh-medium pupils
- It would be harder for Welsh-medium pupils if they had to move schools – they would have to travel and that would affect their learning
- Due to the additional travel, pupils would have to leave early and would be tired
- Some pupils suffer from travel sickness
- Pupils won't have time to do after school activities
- Parents will have to pay for pupils to travel to after school clubs
- Having more subjects in Welsh won't be as good for pupils if the travelling affects their learning and study
- If the Welsh stream goes from the school, the Welshness will go as well
- A Welsh stream would enhance the new build
- If the Welsh stream has to move to Builth, it would be like saying "You can't come here"
- All schools in Wales should have a Welsh stream or the opportunity to have a Welsh stream
- If the Welsh stream closed no one would send their children to Ysgol y Bannau
- If there was a Welsh stream in the new build, the Welsh stream would appeal to more parents
- If parents wanted their children to go to Builth Wells High School they would have sent their children to primary school in Builth Wells to start with
- Some of the current pupils in the Welsh stream would go to a different school, some would move to the English stream
- Pupils would have to choose between losing friends and losing their Welsh
- Pupils should be able to choose between going to Brecon High School and Builth Wells High School
- If Builth Wells can have a Welsh stream and more subjects, why can't Brecon?

**iii) School Council of Ysgol y Bannau – 6<sup>th</sup> December 2016**

- It's unfair that you are spending millions on a new school but you are not letting Welsh-medium pupils come into it
- If pupils play musical instruments, there won't be time for them to have lessons before going to school if we have to go to another school
- What will happen to Ysgol y Bannau? If the Welsh stream goes from the high school, parents will think there's no point sending their children to Welsh-medium education and the numbers will go down
- It's good that there is a Welsh stream next door in Brecon High School, but if it moves we won't have Welsh next door
- People in Brecon still want to speak Welsh
- The teachers in Brecon High School like the children in Ysgol y Bannau
- Less people in the community will speak Welsh if there is no Welsh stream in Brecon High School
- More pupils from Ysgol y Bannau will be going to the Welsh stream in Brecon High School this year
- If the Welsh stream was to close, you wouldn't hear Welsh in the corridor in the high school

- If there was no Welsh stream at Brecon High School, most pupils from Ysgol y Bannau would still go there but would transfer to the English stream
- Concern that pupils would be split up from their friends
- Concern that pupils would have to go to a school in a new place with new people
- If pupils go to a high school that is further away and are ill, it would be really far for parents to come and get them
- Parents might not want their children to have to travel to school
- Pupils attend clubs and activities after school, they might not be able to attend these if they had to travel to Builth
- If the Welsh stream closed, Welsh-medium pupils would have to get used to having lessons in English
- Prefer the model of a Welsh-medium school to a dual stream school – in a dual stream school not everyone understands Welsh so you have to speak English
- In a dual stream school Welsh-medium pupils can help other pupils speak Welsh
- Concern about the extra fumes if more pupils were travelling by bus to school
- Concern about the number of pupils that will come to Ysgol y Bannau in the future
- The consultations are making parents send their children elsewhere
- Welsh-medium pupil numbers in the area are decreasing and teachers are losing their jobs
- Worried that Ysgol y Bannau will have to move

**iv) School Council of Sennybridge CP School – 12<sup>th</sup> December 2016**

- The Welsh stream in Brecon High School is good because pupils in the Welsh stream can teach Welsh to English-medium pupils
- It's good that pupils can learn in two languages in Brecon High School
- It's good that Welsh-medium education is available locally by having a stream in Brecon
- It's good that you can go to the same high school as friends in the English stream
- Concern that pupils would have to travel further to Ystalyfera
- If there is no Welsh stream in Brecon, pupils will probably go to the English stream in Brecon
- There will be less people speaking Welsh in Brecon if the Welsh stream closes
- Concern that the number of pupils in the Welsh stream in Brecon is small
- The additional travel would be inconvenient for parents
- There would be less Welsh in Brecon
- The number of Welsh-medium pupils would go down
- Closing the Welsh-medium stream would affect the Welsh language
- Pupils would have to travel more
- Pupils might not be back in time for after school activities
- Pupils would have to make new friends if they went to a different school to their friends
- Friends would live a long way away
- There are more Welsh-medium pupils in Builth so Welsh-medium pupils would hear more Welsh
- Pupils would have more Welsh speaking friends in a Welsh school like Ystalyfera
- Some pupils, such as pupils with additional needs, might be happier in smaller classes like in the Welsh stream at Brecon High School
- Concern about parents who can't travel to Builth or Ystalyfera
- Closing the Welsh stream will have an effect on the Welsh language in Brecknockshire

- If the Welsh stream closes, English stream pupils won't have the opportunity to learn and practice their Welsh.
- Welsh-medium pupils have already decided that they will be going to Ysgol Gyfun Ystalyfera, and have already visited the school.

## **4 ESTYN**

Estyn's response to the consultation is provided below:

### **Estyn response to the proposal to close the Welsh-medium stream at Brecon High School from the 31<sup>st</sup> August 2017**

This report has been prepared by Her Majesty's Inspectors of Education and Training in Wales.

Under the terms of the School Standards and Organisation (Wales) Act 2013 and its associated Code, proposers are required to send consultation documents to Estyn. However, Estyn is not a body which is required to act in accordance with the Code and the Act places no statutory requirements on Estyn in respect of school organisation matters. Therefore as a body being consulted, Estyn will provide their opinion only on the overall merits of school organisation proposals.

Estyn has considered the educational aspects of the proposal and has produced the following response to the information provided by the proposer and other additional information such as data from Welsh Government and the views of the Regional Consortia which deliver school improvement services to the schools within the proposal.

#### **Introduction**

The proposal is from Powys County Council.

The proposal is to close the Welsh-medium stream at Brecon High School from the 31<sup>st</sup> August 2017, with Brecon High School becoming an English-medium school from the 1<sup>st</sup> September 2017.

#### **Summary/ Conclusion**

It is Estyn's view that the proposer appears to have suitably demonstrated that, given the small numbers of pupils in the Welsh medium stream, that overall the proposal is likely to at least maintain the current standards of education in the area.

#### **Description and benefits**

The rationale for the proposal is clear. It is to address the issue of declining numbers in the Welsh-medium stream at Brecon High School and for pupils to continue their Welsh-medium education elsewhere. Numbers of pupils in the Welsh-medium stream have decreased from 67 in 2010-2011 to just 19 in 2016-2017. The proposer reasonably asserts that these low numbers make the provision of a Welsh-medium stream unviable. In addition, the proposer recognises that the decline in numbers could be related to the uncertainty caused by the two previous consultation exercises on the closure of the Welsh-medium stream at the school.

The proposer appears to relate the main benefit of the proposal suitably to its Welsh in Education Strategic Plan for 2014-2017. This is mainly to provide 'more robust Welsh-medium provision for Welsh-medium learners through improved subject choice'. In addition, the proposer has listed advantages and disadvantages related

to the proposal. The advantages include the creation of a critical mass of Welsh-medium secondary learners in Mid / South Powys, enabling the development of increased Welsh-medium provision at post-16 and more financially efficient model of delivery for secondary Welsh-medium provision. The disadvantages include the loss of Welsh-medium secondary provision in Brecon, the potential negative impact on pupil numbers in Welsh-medium primary provision and increased travel times for pupils to attend Welsh-medium secondary provision. The analysis appears to be valid and reasonable. The proposer also reasonably concludes that alternative schools which pupils currently in the catchment of the Welsh-medium stream at Brecon High School would be expected to attend would offer a greater level of Welsh-medium provision compared to that currently available at Brecon High School. For example, there are more Welsh-medium pupils at Builth Wells High School, therefore the school is able to provide a greater number of Welsh-medium subjects whilst Ysgol Gyfun Ystalyfera is a Welsh-medium school, where all subjects are provided through the medium of Welsh. In addition, there appears to be sufficient capacity within the alternative schools to accommodate any extra pupils from the Brecon area.

The risks identified by the proposer appear to be relevant together with how the proposer broadly intends to manage these risks. These include the risk that more pupils will choose English-medium provision in Brecon rather than travel to alternative Welsh-medium secondary provision and also potential reduction in numbers in primary provision in the Brecon area.

The proposer has suitably considered alternative options and refers to previous consultations and a business case that concluded that the most appropriate option is to centralise Welsh-medium secondary provision across the Mid and South Powys region. In respect of this, the authority is currently going through the statutory process to close Builth Wells High School and Llandrindod Wells High School and establish a new secondary school across two sites. The proposal is that the new school will be a dual stream school. Therefore, the proposer reasonably considers that the only options now available in relation to the Welsh-medium provision at Brecon High School is whether or not to retain this provision.

The proposer asserts that should the proposal be implemented, home to school transport would be provided in accordance with the council's School Transport Policy and the Learner Travel (Wales) Measure 2008. This is to enable pupils to continue to access Welsh-medium provision. However, the proposer acknowledges that additional travel may impact on pupils' ability to access extra-curricular activities, particularly those that take place after school. In order to address this, the proposer intends to work with the relevant schools to ensure that pupils who travel to school on home to school transport are not disadvantaged, and that they are able to access an appropriate range of extra-curricular activities. This could include providing access to activities during lunchtime. This appears to be valid and reasonable.

### **Educational aspects of the proposal**

The proposer has suitably considered the impact of the proposals on the quality of outcomes, provision and leadership and management at the affected schools. It has reasonably identified the overall positive impact that the proposal could have on English-medium education in Brecon High School.

The proposer has not provided any performance data on standards in the Welsh medium stream in any of the affected schools, but reasonably makes the statement that as numbers are small in Brecon High School, it would not be valid to compare the performance of Welsh-medium pupils in these schools. The proposer reasonably considers that the proposal would enable Brecon High School to improve its ability to deliver the full curriculum through the medium of English in each key stage.

The proposer appears to have suitably considered the impact of the proposals on vulnerable groups including children with Special Educational Needs. In addition, it has undertaken a range of comprehensive impact assessments which include an integrated impact assessment and an equality impact assessment.

#### 4 ISSUES RAISED DURING THE CONSULTATION PERIOD

The following tables list the issues raised during the consultation period, including the issues raised by consultees and the issues raised in the consultation meetings held in relation to this proposal.

REF	ISSUE	LOCAL AUTHORITY RESPONSE
<b>1. IMPACT ON PUPILS</b>		
<b>1.1 Impact on pupil well-being</b>		
1.1.1	<p>Concern about the impact on pupils from having to endure the worry and uncertainty over the 3 consultations undertaken in the last 2 years</p> <p>Uncertainty about the future of Welsh-medium secondary education since March 2015 until today has been a cause for concern for Ysgol y Bannau pupils</p> <p>Pupils have been off sick due to the stress of the consultation</p> <p>The proposal is, and will continue to have an in impact on the welfare of pupils at Ysgol y Bannau</p> <p>This is causing distress to children at a time of transferring to secondary schools</p> <p>Don't think the council has thought about the feelings of pupils</p>	<p>The authority acknowledges that any school reorganisation proposal causes uncertainty for those affected, and that the ongoing uncertainty in relation to the future of the Welsh-medium stream at Brecon High School has had an impact on current Welsh-medium pupils in Brecon High School and the primary schools that feed the Welsh-medium stream. The authority is keen to conclude this process as quickly as possible in order to bring this period of uncertainty to an end.</p>
1.1.2	<p>The proposal would cause huge disruption and upset to the children involved</p>	<p>The authority accepts that implementation of the proposal would cause disruption to the pupils currently in the Welsh-medium stream in Brecon High School, and this is acknowledged on page 22 of the consultation document.</p>

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	Closing the Welsh stream will make pupils sad	However, the number of Welsh-medium pupils in Brecon High School is currently very small, which makes this provision unviable.
1.1.3	<p>This is not the best option in terms of pupil well-being</p> <p>The commute to Builth would have a negative impact on pupils social, mental and emotional well-being</p> <p>Concern about the proposal's impact on emotional well-being</p>	<p>The possibility that additional travel should the proposal be implemented could have an adverse impact on pupil well-being and attainment was identified as a risk on page 17 of the consultation document in respect of the proposal.</p> <p>Whilst the authority acknowledges that the additional travel involved could have an adverse impact on pupil well-being, the number of Welsh-medium pupils in Brecon High School is currently very small, which makes the provision unviable.</p>
1.1.4	Concern that pupils would have to go to a school in a new place with new people	The authority acknowledges that implementation of the proposal would mean that pupils currently attending the Welsh-medium stream at Brecon High School would have to move to a new school to continue to access Welsh-medium education, which would mean that they would have to get to know a new school and new people. However, the receiving school would provide full transition support to the pupils involved to ensure that they become settled in their new school. In addition, a number of Welsh-medium pupils have already transferred from Brecon High School to Builth Wells High School, therefore it is likely that any pupils transferring should the current proposal be implemented would already know some pupils in the Welsh-medium stream at Builth Wells High School / the New Mid Powys Secondary School.
1.1.5	If pupils are ill, it would be really far for their parents to come and get them	Builth Wells High School and Ysgol Gyfun Ystalyfera already serve large catchment areas, and are well equipped to meet the needs of learners who travel to school and to deal with any problems that may arise during the course of the school day.
1.1.6	The well-being of the pupils should be foremost in your decision making	The well-being of pupils is a primary consideration in all school reorganisation proposals taken forward. The authority's view is that the current provision at Brecon High School is not providing an appropriate educational experience for pupils, and the aim of the proposal is to provide greater equality for Welsh-medium pupils compared with English-medium pupils. It is acknowledged that

		there are some disadvantages and risks associated with the proposal and these are outlined in the consultation document. It is acknowledged that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils' future education, and that in some cases, this could result in pupils leaving Welsh-medium education and transferring to English-medium provision locally.
<b>1.2 Access to extra-curricular activities</b>		
1.2.1	<p>Children will miss out on being able to attend after school activities</p> <p>It will be hard for pupils to go to after school revision classes if they moved to Builth Wells School</p> <p>Pupils will have to stop going to after school clubs and activities</p> <p>Pupils will have to choose between continuing in Welsh-medium education or taking part in extra-curricular activities</p> <p>Additional travel would preclude pupils from participating in after school events, clubs, sports etc</p>	The authority acknowledges that implementation of the proposal would impact on the ability of pupils to attend activities that take place after school, and this is identified on page 22 of the consultation document.
1.2.2	<p>The suggestion that extra-curricular activities could be offered at lunchtime is not an adequate answer</p> <p>Lunchtimes are too short for extra-curricular activities</p>	<p>The authority notes these comments. The possibility that activities could take place during lunchtime was one suggestion offered in the consultation document to mitigate the proposal's impact on the ability of pupils to attend after school activities.</p> <p>The authority acknowledges that implementation of the proposal would impact on the ability of pupils to attend activities that take place after school, and this is identified on page 22 of the consultation document.</p>

1.2.3	<p>The council will need to provide more transport to enable pupils to take part in extra-curricular activities</p> <p>Will the council be supplying later buses for pupils who have been taking part in activities after school?</p> <p>There is no solution to the issue of accessing extra-curricular activities that could be achieved without the council spending money</p>	<p>The council currently has no plans to provide additional home to school transport for pupils who have been taking part in activities after school.</p>
1.2.4	<p>This will have a greater impact on pupils from less well-off families as their parents won't be able to afford additional journeys to collect them from after-school activities</p> <p>What will the council and Builth High School do to make sure that pupils from low income families will not miss out on being able to take part in extra-curricular activities?</p> <p>Pupils whose parents can't provide transport for their children to attend extra-curricular activities will be disadvantaged</p>	<p>In the Equalities Impact Assessment carried out in relation to this proposal, the authority acknowledged that 'some people on low incomes will be affected. Whilst free home to school transport would be provided to alternative provision, it is likely that the greater distance to travel to the school for other activities would have a greater impact on people on low incomes.'</p> <p>The impact assessments will be updated to reflect the issues raised during the consultation period, and the updated impact assessments will be considered by Cabinet when determining how to proceed.</p> <p>The alternative schools pupils would transfer to in order to access Welsh-medium secondary provision should the proposal be implemented serve large catchment areas, and are experienced in meeting the needs of pupils who are reliant on home to school transport, this includes in relation to access to extra-curricular activities.</p>
1.2.5	<p>Pupils will be forced out of Welsh-medium education because they don't want to give up activities out of school</p> <p>The council hasn't given a real solution to ensure that Welsh-medium children do not miss out in</p>	<p>The authority notes this comment and accepts that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils' future education.</p>

	terms of extra-curricular activities	
1.2.6	<p>Brecon pupils travelling to Builth will miss out on being able to attend clubs in Brecon</p> <p>Pupils would miss out on the opportunity to take part in after school activities in their community</p> <p>Pupils won't have time to attend after school activities due to the additional time they will spend travelling to and from school</p>	<p>The authority acknowledges that should the proposal be implemented, pupils currently attending the Welsh-medium stream at Brecon High School may need to change their routine in order to adapt to the new arrangements. However, the school day at Builth Wells High School runs from 8.50 until 3.15, therefore it is expected that learners living in the Brecon area would arrive in Brecon at or around 4pm, therefore they would still be able to attend clubs and other activities in the community.</p>
1.2.7	<p>Builth High School are holding their presentation evening on the same evening that there is a service at the cathedral which Ysgol y Bannau take part in, so pupils with siblings at Builth are unable to take part</p>	<p>The authority notes this comment, however arrangements for community activities held in Brecon are beyond the council's control. Should the proposal be implemented, Ysgol y Bannau would become a feeder school for the Welsh-medium stream at Builth Wells High School / the New Mid Powys Secondary School, and the authority would expect that discussion would take place between the two schools to try to avoid clashes such as these.</p>
1.2.8	<p>If pupils play musical instruments, there won't be time for them to have lessons or to practice before going to school</p>	<p>The authority notes this concern and accepts that should the proposal be implemented, pupils would need to change their routine in order to adapt to the new arrangements.</p>
1.2.9	<p>How can the council guarantee that Welsh-medium students will not be at a disadvantage in taking part in extra-curricular activities because of the travel implications?</p>	<p>The authority acknowledges that implementation of the proposal would impact on the ability of pupils to take part in extra-curricular activities. However, the number of pupils currently attending the Welsh-medium stream at Brecon High School is small, which makes the provision unviable.</p>
1.2.10	<p>After the consultation I do not believe that the council will work with and support pupils to ensure they are not disadvantaged</p>	<p>The authority notes this comment.</p>
<b>1.3 Impact of additional travel</b>		

1.3.1	<p>Concern about wasted childhood hours as children from Sennybridge make a daily 60 mile round trip and pupils from Brecon make a 40 mile round trip to attend school</p> <p>Concern about pupils being forced to waste time travelling around the country when they should be doing their homework at home</p> <p>Pupils will be unable to do their homework due to the additional travel</p> <p>Additional travel to school would impact on pupils' social lives</p> <p>An extra two hours of travelling a day would mean two hours less for homework, relaxation, extra-curricular activities</p> <p>Concern that pupils will be unable to continue their Welsh-medium education without being forced to spend one and a half to two hours on a bus every day</p>	<p>The authority acknowledges that should the proposal be implemented, there would be additional travel for pupils in the catchment area currently served by the Welsh-medium stream at Brecon High School. This is identified on several occasions in the consultation document in respect of this proposal.</p> <p>However, as stated in the consultation document 'The council's view is that the current and proposed transport arrangements...are suitable'. Further to this, the consultation document states that 'The Learner Travel (Wales) Measure 2008 does not specify a time limit for journeys. However, local authorities are required to assess the individual needs of learners when considering if a journey time is reasonable. The old Learner Travel Operational Guidance April 2009 stated that Welsh Ministers considered that normal journey times should be no more than 60 minutes for secondary school aged pupils. This is reflected in the council's proposed new School Transport Policy.'</p> <p>The authority's proposal acknowledges that some pupils living in the catchment area currently served by the Welsh-medium stream at Brecon High School live closer to alternative Welsh-medium secondary provision outside Powys – in the case of pupils living in the Sennybridge area, their nearest provider would be Ysgol Gyfun Ystalyfera not Builth Wells High School / the New Mid Powys Secondary School, and pupils living in other parts of the catchment area currently served by the Welsh-medium stream at Brecon High School may live closer to Ysgol Gyfun Gwynllyw or Ysgol Gyfun Rhydywaun. In these cases, pupils would have the opportunity to access these schools in order to access Welsh-medium secondary provision, which would reduce their journey times.</p>
1.3.2	<p>Travelling will put pupils at a disadvantage compared to other students</p> <p>The additional travel would affect their learning</p>	<p>Should the proposal be implemented, the schools pupils would be expected to transfer to in order to continue to access Welsh-medium secondary provision already serve very large catchment areas, and are experienced in meeting the needs of these pupils. The authority's view is that the additional travel would not put pupils at a disadvantage compared to other students attending those schools.</p>

1.3.3	Pupils will not be able to cope with the additional travel so will not be able to proceed with their education in Welsh	Should the proposal be implemented, the authority would continue to provide access to Welsh-medium secondary provision through the provision of home to school transport to the nearest alternative provider, however it is acknowledged that additional travel would be required. Should the proposal be implemented, the authority accepts that pupils and their parents would need to make difficult decisions with regard to pupils' future education, and that in some cases, this could result in pupils leaving Welsh-medium education and transferring to English-medium provision locally.
1.3.4	<p>Pupils will be tired due to the additional travel</p> <p>Additional travel would have a terrible impact on the health and well-being of pupils</p> <p>Additional travel would make children unhappy</p> <p>Having more Welsh-medium subjects available won't be as good for pupils if the travelling affects their learning and study</p>	<p>The authority notes this concern in relation to the impact of additional travel on pupils, and acknowledges that should the proposal be implemented, additional travel would be required for pupils in the Brecon area.</p> <p>The possibility that 'additional travel has an adverse impact on pupil well-being and attainment' has been identified as a risk on page 17 of the consultation document.</p>
1.3.5	Pupils who have already transferred to Builth are missing out due to the additional travel	The authority notes this concern and acknowledges that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils' future education, taking the additional travel into consideration.
1.3.6	Concern that some pupils suffer from travel sickness	The authority currently transports in excess of 5000 pupils on a daily basis, some of whom would suffer from travel sickness to varying degrees.
<b>1.4 Impact on friendship groups</b>		
1.4.1	<p>Concern that pupils will be split from their friendship groups</p> <p>Friendship groups have been split and children have been sent all around Powys in an attempt to</p>	The authority acknowledges that the proposal has had and will continue to have an impact on friendship groups as pupils have transferred to different schools. However the authority would expect the receiving school to provide full support to any pupils moving schools to ensure they are integrated quickly and successfully into their new environment.

	<p>try and continue their Welsh-medium education</p> <p>Pupils will have to choose between staying with their friends or keeping the Welsh language</p> <p>Pupils have already been split up as many have already moved to Builth Wells High School</p>	<p>Should the proposal be implemented, Ysgol y Bannau would become a feeder school for Builth Wells High School / the New Mid Powys Secondary School and the Welsh-medium stream at Sennybridge CP School would become a feeder school for Ysgol Gyfun Ystalyfera. A transition programme would be put in place to support pupils on transfer to secondary school.</p>
1.4.2	<p>Pupils won't be able to see their friends much outside school hours as they would live far away from them</p> <p>Pupils will not be able to socialise fully with friendship groups if they attend Builth or Ystalyfera</p> <p>Would be difficult to maintain friendships due to the additional travel</p>	<p>Many of the authority's high schools serve wide catchment areas, therefore this is an issue in the majority of secondary schools in Powys to some extent. However, it is noted that the inclusion of pupils from the Brecon area within Builth Wells High School / the New Mid Powys Secondary School and pupils from the Sennybridge area within Ysgol Gyfun Ystalyfera will potentially increase the distances between the home locations of pupils.</p>
1.4.3	<p>The proposal would isolate Welsh-medium pupils</p>	<p>The authority's view is that the current small number of pupils in the Welsh-medium stream at Brecon High School is isolating Welsh-medium pupils. Should the proposal be implemented, pupils could either transfer to alternative Welsh-medium provision, where they would be part of a larger cohort of Welsh-medium pupils, or they could transfer to English-medium provision at Brecon High School, where they would again be part of a larger cohort of pupils.</p>
<b>1.5 Impact on Welsh language skills</b>		
1.5.1	<p>Want children to leave high school with confidence in Welsh so that they can apply for jobs where Welsh language skills are necessary</p> <p>Concern that fluent Welsh speaking children will have lost their Welsh by the time they leave high</p>	<p>The authority notes these concerns, and identified on page 22 of the consultation document that implementation of the proposal could have a negative impact on pupils' Welsh language skills should they transfer to English-medium provision at Brecon High School instead of transferring to alternative Welsh-medium provision.</p>

	<p>school, when they need it most for job opportunities</p> <p>Concern that pupils will leave high school unable to hold a conversation in Welsh</p> <p>Pupils will lose their Welsh if the Welsh stream closes</p> <p>Non Welsh speaking families will be unable to maintain their children's confidence in Welsh</p>	<p>The authority is committed to providing Welsh-medium education to all pupils who request it, and through this proposal, is proposing to achieve this by providing free transport to the nearest provider, either Builth Wells High School / the New Mid Powys Secondary School or an out-of-county provider. The authority's view is that the increased level of Welsh-medium provision available at these providers would have positive benefits in terms of the development of pupils' Welsh language skills. However, parents are entitled to choose for their children to transfer to English-medium provision locally if they prefer.</p> <p>As stated in the Welsh Government's Welsh-medium Education Strategy, 'It is generally accepted that at least around 70% of curricular time should be through the medium of Welsh if learners are to acquire a sufficiently sound command of the language to enable them to use it across a broad range of contexts with confidence and fluency.' The current provision in Brecon High School does not offer Welsh-medium provision for at least 70% of curricular time to pupils in any year group.</p>
1.5.2	<p>Concern that pupils will have to do Welsh second language if they move to the English-medium stream</p>	<p>Should the Welsh-medium stream at Brecon High School close, the school would be categorised as a 'Predominantly English Medium secondary school' stream</p> <p>The Welsh Government document 'Defining Schools according to Welsh medium provision' (2007) provides the following definition for the curriculum provision of this type of school: 'Pupils are mainly taught through the medium of English. Welsh is taught as a second language up to KS4. One or two subjects (which would include Welsh first language) may be taught as an option through the medium of Welsh or using both languages.'</p> <p>Whether or not to provide the opportunity for pupils who study Welsh First Language would be a decision for the school. There are examples of 'Predominantly English Medium secondary schools' in Powys that do provide the opportunity for pupils to study Welsh First Language, however no funding is provided by the authority to support this provision.</p>
<p><b>1.6 Impact of transferring to English-medium provision</b></p>		



1.6.1	<p>Pupils who have to transfer to English-medium will be disadvantaged</p> <p>The council should provide support to help with transition to English-medium for children that will have to leave Welsh-medium education – this should not be left to the high school to sort out</p> <p>Pupils would have to get used to having lessons in English</p>	<p>Should the proposal be implemented, the council would continue to provide access to Welsh-medium provision through the provision of home to school transport to alternative providers of Welsh-medium education. It is acknowledged that implementation of the proposal would have an impact in terms of the additional travel that would be required, and that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils' future education, taking the additional travel into consideration, and that some may decide to transfer to English-medium provision instead of transferring to Welsh-medium provision.</p> <p>However, the number of subjects provided through the medium of Welsh at Brecon High School is currently small, and reduces as pupils move through the school. In particular, no Welsh-medium subjects are offered in the sixth form, therefore it is not uncommon at the school for pupils to move from studying a subject through the medium of Welsh to studying it through the medium of English.</p>
1.6.2	<p>Prospect of not being taught through the medium of Welsh where this is all pupils have ever known is leaving pupils disheartened, feeling unsure and lacking the confidence they have always had</p>	<p>The authority acknowledges that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils' future education, taking the additional travel into consideration, and that some may decide to transfer to English-medium provision instead of transferring to Welsh-medium provision.</p>
1.6.3	<p>It's harder for pupils to do subjects in English when they have always done them in Welsh</p>	<p>Should the proposal be implemented, the authority recognises that there would be a period of transition for any pupil choosing to transfer to English-medium provision in Brecon High School instead of alternative Welsh-medium provision, however the authority does not agree that studying through the medium of English would not be harder for pupils.</p> <p>The number of subjects provided through the medium of Welsh at Brecon High School is currently small, and reduces as pupils move through the school. In particular, no Welsh-medium subjects are offered in the sixth form, therefore it is not uncommon at the school for pupils to move from studying a subject through the medium of Welsh to studying it through the medium of</p>

		English.
<b>1.7 Impact on quality of education provided to pupils</b>		
1.7.1	<p>Unfair to move Welsh-medium pupils from Brecon just as the school is coming out of special measures and to force them to go to a school that is just going into special measures</p> <p>PCC should not transfer Welsh-medium education from a school recently taken out of special measures to one recently placed in special measures – our children do not deserve a substandard level of education for an extended period</p> <p>Welsh-medium pupils have worked hard to help improve Brecon High School, which has now been removed from special measures – it is unfair to tell these pupils that they are no longer welcome in the school and must move to a failing school with inadequate prospects for improvement</p>	<p>It is true that Brecon High School was removed from Special Measures in November 2016. Cabinet members will be made aware of this when they are determining how to proceed in relation to this proposal.</p> <p>It is also true that Builth Wells High School is currently in Special Measures, following an inspection which took place in October 2015. This is stated on page 36 of the consultation document in respect of this proposal. However, the authority is confident that the school is making good progress.</p> <p>Both Builth Wells High School and Brecon High School were placed in Standards Group 2 by Welsh Government in the National Categorisation in 2017.</p> <p>Should the proposal be implemented, pupils currently attending the Welsh-medium stream at Brecon High School would not be ‘forced’ to transfer to another school. Pupils and their parents would need to make difficult decision with regard to pupils’ future education, which would include whether to transfer to alternative Welsh-medium or to access English-medium provision at Brecon High School.</p> <p>As stated in the proposal outlined on page 3 of the consultation document, should the proposal be implemented ‘Pupils living in other parts of the catchment area currently served by the Welsh-medium stream at Brecon High School that live closer to alternative Welsh-medium secondary provision outside Powys would have the opportunity to transfer to these schools.’ A proportion of pupils living in the current catchment area of the Welsh-medium stream would live closer to Ysgol Gyfun Ystalyfera, which is not in special measures.</p>
1.7.2	If you move pupils to a school in special measures their work level will drop	It is true that Builth Wells High School is currently in Special Measures, following an inspection which took place in October 2015. However, the

		<p>authority is confident that the school is making good progress.</p> <p>Both Builth Wells High School and Brecon High School were placed in Standards Group 2 by the Welsh Government in the National Categorisation in 2017, therefore the authority does not accept that pupils work level would drop should they access the provision in Builth Wells.</p>
1.7.3	<p>Surely it is illegal to close a stream not in special measures to make children to somewhere that is in special measures</p>	<p>The School Organisation Code requires that all school reorganisation proposals consider the likely impact on the quality of:</p> <ul style="list-style-type: none"> <li>- Outcomes (standards and wellbeing);</li> <li>- Provision (learning experiences, teaching, care support and guidance, and learning environment); and</li> <li>- Leadership and management.</li> </ul> <p>The proposal's impact on these aspects is considered in the consultation document in respect of this proposal. In addition, the Code requires authorities to consult with Estyn on any school reorganisation proposals, and to include Estyn's response in the consultation report. Estyn's response is provided on page 13 of this report.</p> <p>In their response, Estyn conclude that:</p> <p>'the proposer appears to have suitably demonstrated that, given the small numbers of pupils in the Welsh medium stream, that overall the proposal is likely to at least maintain the current standards of education in the area.'</p>
1.7.4	<p>Estyn has recently stated that sacrificing local provision for critical mass and breadth of choice is not necessarily conducive to raising standards – surely this applies as much to Welsh-medium provision as it does to English-medium pre and post-16 provision</p>	<p>The authority notes this comment. However, the number of pupils currently accessing the Welsh-medium stream at Brecon High School is very small, which makes the provision unviable.</p>
<b>1.8 Impact on pupils with additional needs</b>		

1.8.1	The proposal will affect children with learning difficulties and medical problems	It is true that, should the proposal be implemented, pupils from the current catchment area of the Welsh-medium stream at Brecon High School would need to transfer to alternative provision to continue to access Welsh-medium education. This would affect all pupils, including any pupils with learning difficulties and medical problems. Pupils in Powys with very complex additional and medical needs are transported to the authority's special schools. In many cases, this requires pupils to travel further than the proposed travel distance for Welsh-medium secondary pupils from the Brecon area, therefore the authority does not believe that this would compromise their well-being or safety.
1.8.2	How will the council support children with additional needs?	Should the proposal be implemented, pupils with additional needs who are affected by the proposal would be supported at the alternative provision they may transfer to through the existing processes.
1.8.3	Concern about pupils with additional needs who don't travel well	Children who have difficulty with travel are assessed on an individual basis. Powys, by its nature, has many children that travel relatively long distances. Measures are taken to support any children who may have difficulties.
1.8.4	Concern about the impact of additional travel on pupils with learning difficulties	Children with learning difficulties are no less able to travel to school than other children. Pupils in Powys with very complex additional and medical needs are transported to the authority's special schools. In many cases, this requires pupils to travel further than the proposed travel distance for Welsh-medium secondary pupils from the Brecon area.
1.8.5	Pupils with special needs will be unable to carry on in Welsh-medium education	Should the proposal be implemented, there is no reason to believe that pupils with learning difficulties would not be able to travel to the alternative provision. However, the authority acknowledges that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils' future education, taking the additional travel into consideration, and that some may decide to transfer to English-medium provision instead of transferring to Welsh-medium provision.
1.8.6	Concern about impact on dyslexic pupils who attend extra classes after school – they couldn't	Support for pupils with dyslexia or any other additional learning need is provided by the school during the school day. Many children in all schools are reliant on

	do that if they were reliant on school transport	transport to get home, so it would not be appropriate to limit access to only those who can make their own way home.
1.8.7	There is inadequate provision for pupils with additional learning needs – a school day is already tiring for pupils on the Autistic Spectrum, added travel either side on a noisy crowded bus will mean that the school day will become overwhelming and they will be unable to meet their potential in school or at home	The needs of individuals who may have sensory issues such as a low noise threshold would be assessed on an individual basis. There is an obligation for pupils to arrive at school in a state where they are ready to learn, and this would be monitored through partnership work between the transport providers, parents/carers and the schools.
1.8.8	Some pupils with additional needs might be happier in a smaller class, like in the Welsh stream at Brecon High School	The authority acknowledges that some pupils might prefer to have their lessons in smaller classes. However the current class sizes in the Welsh-medium stream at Brecon High School are very small, which makes the provision unviable. The authority believes that there are positive benefits to pupils from being part of a larger cohort of pupils.
1.8.9	Concern about wheelchair access on school transport for wheelchair users	Provision for learners with specific physical and additional needs such as wheelchair users would be provided by the authority to meet the learner's specific needs, which may include dedicated transport.
<b>1.9 Impact on pupil attendance</b>		
1.9.1	If forced to travel to Builth, more children would miss school due to absence	The authority does not agree with this comment. Should the proposal be implemented, transport would be provided for pupils transferring to Builth Wells High School / the New Mid Powys Secondary School. This transport would be arranged to ensure that pupils arrived at school on time. It is acknowledged that the additional travel required may require changes to pupils' daily routines, for example this may require pupils to get up earlier in order to be at the allocated pick up points in time.
1.9.2	Having to go to Builth school would have a negative impact on attendance as pupils would be unable to get to school after attending appointments	It is acknowledged that the additional travel may have a limited impact on pupil attendance as a result of attending appointments during the school day. It is always to good practice to have appointments at the end of the school day or during the school holidays when possible, in order to minimise the impact

	It would be more difficult for pupils to attend appointments and they would have to miss more school when they have them	on pupil attendance, however it is acknowledged that this is not always possible.
1.9.2	Pupil attendance has been a huge issue in all schools that have been put into special measures, making children travel long distances will not help with this	Whilst improving attendance was one of the Estyn recommendations in relation to Brecon High School, none of the recommendations at Builth Wells High School related to attendance.
<b>1.10 Impact on English-medium pupils</b>		
1.10.1	<p>Having a Welsh-medium stream in the school has had a beneficial effect on pupils learning Welsh as a second language</p> <p>The Welsh stream in Brecon High School is good because pupils in the Welsh stream can teach Welsh to English-medium pupils</p> <p>Pupils from the Nepalese community hear incidental Welsh and have an opportunity to integrate with children who speak Welsh as a first language – that opportunity will be taken from them</p> <p>If the Welsh stream closes, English stream pupils won't have the opportunity to learn and practice their Welsh</p>	All secondary schools in Wales are encouraged to develop a Welsh language ethos, whether or not they provide Welsh-medium education. If there were no Welsh-medium stream at Brecon High School, the school would continue to teach Welsh 2 <sup>nd</sup> language to pupils, and would be expected to maintain a Welsh ethos and provide opportunities for pupils to use incidental Welsh.
<b>1.11 Links with the community</b>		
1.11.1	Pupils will be less integrated into the Brecon community by not attending school here	Builth Wells High School already serves a large catchment area, and has links with towns and villages across the catchment area. Should the proposal be implemented, Builth Wells High School / the New Mid Powys Secondary

	Being educated in their local school is important in the development of children	School would endeavour to establish links within the Brecon community, initially by strengthening links with Ysgol y Bannau.
<b>1.12 Other</b>		
1.12.1	The improvement will be for the benefit of a minority of Welsh-medium pupils, not the majority  Closing the Welsh-medium stream at Brecon High School in order to provide 'more robust linguistic progression' would prevent any linguistic progression at all for many pupils	The number of Welsh-medium pupils at Brecon High School is currently small, which means that the provision is unviable. In addition, the authority's view is that the stream is not currently providing an appropriate educational experience for pupils due to the small class sizes.
1.12.2	The council is paying no attention to work-life balance for pupils	The authority is paying attention to work-life balance for pupils, and has identified on page 17 of the consultation document the potential risk that 'additional travel has an adverse impact on pupil well-being and attainment'. However, the number of Welsh-medium pupils at Brecon High School is currently small, which means that the provision is unviable. In addition, the authority's view is that the stream is not currently providing an appropriate educational experience for pupils due to the small class sizes.
1.12.3	It's unfair that Welsh-medium pupils are being treated in this way	The authority's view is that the current provision available to Welsh-medium pupils at Brecon High School does not provide equal opportunity and is therefore unfair to Welsh-medium pupils. Whilst the council accepts that Welsh-medium pupil numbers at Brecon High School have decreased as a result of the recent consultations on closure of the Welsh-medium stream, the level of Welsh-medium provision available before the commencement of the consultations did not provide equality of opportunity for Welsh-medium pupils. This has been exacerbated since the number of Welsh-medium pupils at the school has decreased.
1.12.4	All proposals should place the interests of learners above all other	All school reorganisation proposals that are taken forward are done so in the best interests of learners. The proposal's impact on pupils is considered on pages 22-24 of the consultation document in respect of this provision. Despite the impact outlined, as stated in the consultation document 'the authority's

		view is that the small number of Welsh-medium pupils and limited Welsh-medium curriculum provision at Brecon High School is not acceptable.'
1.12.5	Do not feel children's education will be best served by creating a "critical mass", if indeed this critical mass would actually be achieved	The authority's view is that the very small number of pupils currently attending the Welsh-medium stream at Brecon High School is not providing an appropriate educational experience for pupils.
1.12.6	There are Welsh-medium pupils in classes of 2 and 3 at Brecon High School, but it is more important for them to have their education locally than to have to travel to Builth	The current number of pupils attending the Welsh-medium stream at Brecon High School are very small, which means that the current provision is unviable. In addition, the authority's view is that the very small class sizes in the Welsh-medium stream are not providing an appropriate educational experience for pupils.
<b>2. IMPACT ON PARENTS / FAMILIES</b>		
<b>2.1 Financial impact</b>		
2.1.1	<p>Transferring to Builth would have a financial impact on parents due to the extra fuel that would be needed to travel to the school for meetings, concerts etc</p> <p>Concern about additional cost to families of children travelling to Builth</p> <p>Families cannot afford for children to go to Builth and to carry on accessing the full provision of extra-curricular activities as they are now</p> <p>If pupils missed the bus to Builth, parents would have to pay to transport them there</p>	<p>The authority acknowledges that transferring to Builth Wells High School / the New Mid Powys Secondary School would have a financial impact on parents due to the additional travel that would be required to attend activities at the school and to collect pupils from after-school activities.</p> <p>However a significant proportion of pupils that previously attended the Welsh-medium stream at Brecon High School have already decided to transfer their children to Builth Wells High School. As a result, the number of pupils currently attending the Welsh-medium stream in Brecon High School is very small, and the authority's view is that this is not providing an appropriate educational experience for learners.</p>
2.1.2	<p>Less well-off families will suffer</p> <p>The proposal will affect families who don't run two</p>	Should the proposal be implemented, the authority would provide free home to school transport to all qualifying pupils, therefore there would be no impact in terms of pupils' ability to access alternative Welsh-medium provision.



	cars	<p>However it is recognised that there would be an impact on parents in terms of attending school activities and events, and that this would be more difficult for less well-off families and families who do not have two cars. In the Equalities Impact Assessment carried out in relation to this proposal, the authority acknowledged that ‘some people on low incomes will be affected. Whilst free home to school transport would be provided to alternative provision, it is likely that the greater distance to travel to the school for other activities would have a greater impact on people on low incomes.’</p> <p>The impact assessments will be updated to reflect the issues raised during the consultation period, and the updated impact assessments will be considered by Cabinet when determining how to proceed.</p>
<b>2.2 Ability to attend school activities</b>		
2.2.1	<p>The additional distance would mean that it would be impossible for parents to attend parents evening</p> <p>There is nothing in the consultation document to address the issue of parents being able to attend parents evenings etc – the authority doesn’t seem concerned about the adverse impact this would have on the families involved</p> <p>Additional travel to Builth has caused difficulty for parents to access school events</p> <p>Parents who have children in Builth High School were unable to attend Ysgol y Bannau’s Christmas concert as there was a parents evening at Builth High School the same evening</p>	<p>The authority acknowledges that closure of the Welsh-medium stream at Brecon High School would mean that parents would have to travel further to attend parents evenings and other school activities.</p> <p>However the number of pupils currently attending the Welsh-medium stream in Brecon High School is very small, and the authority’s view is that this is not providing an appropriate educational experience for learners.</p> <p>The authority notes that there was a clash of dates between Builth Wells High School and Ysgol y Bannau, however should the proposal be implemented, Ysgol y Bannau would become a feeder school for Builth Wells High School / the New Mid Powys Secondary School, and the authority would expect the two schools to work together in order to avoid similar clashes in the future.</p>
<b>2.3 Inconvenience to parents / families</b>		


2.3.1	<p>Concern about the impact on family life</p> <p>Additional travel would put pressure on family life</p> <p>Concern about managing the negative impact having to move our children to a school in another town would have on family life and happiness</p> <p>Concern about the impact on the logistics of family life</p> <p>Concern about families with younger children having to juggle collection from after school clubs</p> <p>Concern about the impact on parents of having children in schools 20 miles apart</p> <p>Parents don't have time to travel so far every day to collect children as they work</p>	<p>The authority notes the concerns in relation to the impact implementation of the proposal would have on family life due to the additional travel for Welsh-medium pupils. Should the proposal be implemented, the authority acknowledges that pupils and their parents would need to make difficult decisions with regard to pupils' future education.</p> <p>However the number of pupils currently attending the Welsh-medium stream in Brecon High School is very small, which makes the provision unviable, and the authority's view is that this is not providing an appropriate educational experience for learners.</p>
2.3.2	<p>If a child was ill, it would require an hour trip for a parent to collect them from Builth</p>	<p>The provision in Builth Wells already serves both the Builth Wells and Llandrindod Wells catchment areas. Builth Wells High School is well equipped to meet the needs of learners who travel to school and to deal with any problems that may arise during the course of the school day. There is no reason to believe that would not continue to be the case following the proposed establishment of the New Mid Powys Secondary School.</p> <p>Obviously it would take longer for parents to get to the pupils if they were attending a school located further away. However, the authority would expect the number of incidents when parents would need to be contacted to be extremely low. Where there is a medical emergency that the school was unable to deal with, it would have procedures in place to call for medical assistance.</p>

2.3.3	Reference to pupils taking part in Builth's recent school production – parents had to drive to Builth to collect them every night	The authority notes this comment.
<b>2.4 Parents feel let down</b>		
2.4.1	<p>Unfair that parents have put their faith in the Welsh-medium education system and could now have it pulled away from their children in the middle of their education</p> <p>Parents who made an early commitment to Welsh-medium education through Ysgol Feithrin, Bobl Bach y Bannau and Ysgol y Bannau feel betrayed by the council</p> <p>Parents would not have put their children in Ysgol y Bannau if they had known that there would be no secondary provision in Brecon</p>	<p>The authority is committed to providing access to Welsh-medium primary and secondary education to all pupils that request it. The authority's view is that the small number of pupils currently accessing Welsh-medium provision at Brecon High School and the limited number of subjects currently provided means that this is not appropriate provision for Welsh-medium pupils.</p> <p>Should the proposal be implemented, the authority would continue to provide access to Welsh-medium secondary provision through the provision of home to school transport to the nearest alternative provider, however it is acknowledged that there would be implications to this. Should the proposal be implemented, the authority accepts that pupils and their parents would need to make difficult decisions with regard to pupils' future education, and that in some cases, this could result in pupils leaving Welsh-medium education and transferring to English-medium provision locally.</p>
2.4.2	<p>Parents have been in tears because their children are at a critical stage in their education and they don't know what to do</p> <p>The proposal is causing huge upset to parents and the families affected</p> <p>The Welsh stream in Brecon has been under threat for a long time which has caused great distress to parents</p>	<p>The authority acknowledges that any school reorganisation proposal causes uncertainty for those affected, and that the ongoing uncertainty in relation to the future of the Welsh-medium stream at Brecon High School has had an impact on current pupils and their parents.</p> <p>The authority also acknowledges that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils' future education.</p> <p>The authority is keen to conclude this process as quickly as possible in order to bring this period of uncertainty to an end.</p>
2.4.3	Parents have felt that they had to move their children to different schools due to the disruption	The authority acknowledges that many parents have already chosen to move their children to other schools due to the ongoing uncertainty in relation to the

		Welsh-medium stream at Brecon High School.
2.4.4	Parents want to see provision continuing in their community through to 18 years old	The authority recognises that in an ideal world there would be equality of provision in every dual stream school. However, the authority needs to ensure that Welsh-medium learners in Brecon have equality of provision, even if this means they have to travel to access it. Parents are free to choose whether they would prefer their child to attend local provision or Welsh-medium provision, however it is the authority's duty to ensure that the provision available is the best it can be.
<b>2.5 Families are moving from the area</b>		
2.5.1	<p>Many families chose Brecon as their base because there is a Welsh-medium primary school and they could then transfer to the Welsh stream in the local high school – these families are already moving out of the area</p> <p>Families will have to move out of the area and county to access Welsh-medium education</p> <p>Welsh-medium education would not be an option for any new families living in the community</p>	The authority has an obligation to provide Welsh-medium primary and secondary education to all pupils who request it. For pupils who live in some parts of Powys, this is achieved through the provision of free home to school transport to their nearest provider. The authority would transport pupils to their nearest Welsh-medium provider wherever they live, however parents can of course decide to move house so that they live closer to Welsh-medium secondary provision if they desire.
2.5.2	Concern about parents who can't travel to Builth Wells or Ystalyfera	Should the proposal be implemented, free home to school transport would be provided to pupils to their nearest alternative provider of Welsh-medium secondary provision, therefore there would be no need for parents to transport their children to school on a daily basis. However, it is acknowledged that additional travel would be required of parents in order to attend parents evening and other school based activities.
<b>3. ISSUES RELATING TO TRAVEL / TRANSPORT</b>		
<b>3.1 Issues relating to provision of transport to other Welsh-medium providers</b>		

3.1.1	<p>PCC has deliberately misled families by providing transport to Builth Wells</p> <p>There is already a bus going to Builth, that is as a result of the last consultation</p> <p>Pupil numbers in the Welsh stream at Brecon have decreased since the provision of free transport to Builth</p>	<p>The authority has not deliberately misled families.</p> <p>The provision of transport to Builth Wells was provided to families following a successful transport appeal on the grounds that the breadth of the provision offered in Brecon was significantly below the breadth of the provision offered at Builth.</p> <p>The applications for transport were initially refused at Stage 1 and 2, however the applications were taken to appeal and the appeal panel took the decision to award transport, due to the enhanced level of Welsh-medium provision provided at Builth Wells High School.</p> <p>The council recognises that the provision of funded transport to Builth has had a negative impact on the pupil numbers in the Welsh Stream at Brecon.</p>
3.1.2	<p>Has the council ever published anything official to say that buses have been put on for pupils to go to Builth?</p>	<p>Yes, following the successful admissions appeal the authority has changed the information provided through the 'Information for Parents' booklet in respect to the admissions arrangements for the 2016-17 and 2017-18 school years to include Brecon in the areas from which transport would be provided to Builth High School for Welsh-medium provision.</p>
3.1.3	<p>Does everyone who wants to go to Builth High School have to apply for transport?</p>	<p>Yes, all pupils who wish to travel on local authority transport have to apply for transport through the agreed admissions and transport processes.</p>
3.1.4	<p>The council started paying to transport children to schools out of county which has impacted on Welsh-medium pupil numbers at Brecon High School</p> <p>PCC have encouraged parents to move their children out of county by providing transport</p> <p>By providing transport to out of county schools the council has undercut the Welsh-medium provision at Brecon High School</p>	<p>The provision of transport to Ysgol Gyfun Ystalyfera was provided to families following a successful transport appeal on the grounds that the breadth of the provision offered in Brecon was significantly below the breadth of the provision offered in Ystalyfera.</p> <p>The applications for transport were initially refused at Stage 1 and 2, however the applications were taken to appeal and the appeal panel took the decision to award transport, due to the enhanced level of Welsh-medium provision provided at Ystalyfera.</p> <p>The council recognises that the provision of funded transport to Ystalyfera has</p>

	Powys County Council should stop paying for transport to out of county schools	had a negative impact on the pupil numbers in the Welsh Stream at Brecon.
3.1.5	Is the council still funding transport for new pupils to Ysgol Ystalyfera?	Yes, the council is still funding transport for new pupils to Ysgol Gyfun Ystalyfera.
3.1.6	The council has encouraged parents to move their children to other schools by providing transport, which has impacted on pupil numbers at Brecon High School  Had the council not transport pupils to other distant schools the number of pupils in Brecon Welsh stream would not be as they are	The authority has not encouraged parents to move their children to other schools. However, the authority recognises that the provision of transport following the successful transport appeals has had an impact on the number of pupils accessing the Welsh-medium stream at Brecon High School.
3.1.7	If Brecon High School became a 2B school from September 2017 you would no longer need to provide transport elsewhere	If Brecon High School became a category 2B school from September 2017, the authority would not provide transport for new pupils, however it would continue to meet the transport costs for pupils currently being transported to alternative provision.
<b>3.2 Transport appeal process</b>		
3.2.1	Query re transport appeal process – the Cabinet member took it upon themselves to grant free transport to Builth	The authority followed the agreed transport application process. The applications were turned down by officers at stages 1 and 2 of the process. The appeal was then heard by the Portfolio Holder for Schools, who was provided advice and support by the legal service.
3.2.2	Can you supply minutes where the decision to allow transport was made? Can these be included in the consultation report so that we can fully understand the decision process that has taken place?	No formal minutes are taken of transport appeals, however those appealing are informed in writing of the decision.  A redacted copy of the decision letter issued in respect of the decision to uphold the appeal in relation to transport to Builth Wells is provided below:

		 Transport Appeal Letter redacted.pdf
3.2.3	Why was the decision made to pay for transport to Builth High School?	<p>Transport to Builth Wells was provided to families following a successful transport appeal on the grounds that the breadth of the Welsh-medium provision offered in Brecon was significantly below the breadth of the provision offered at Builth Wells.</p> <p>The applications for transport were initially refused at stages 1 and 2 of the process, however the applications were taken to appeal and the appeal panel took the decision to award transport, due to the enhanced level of Welsh-medium provision provided at Builth Wells High School compared with the provision at Brecon High School.</p>
3.2.4	The council has admitted that the decision to give transport to Builth High School was made by an employee of the council so was therefore not independent	<p>Transport to Builth Wells was provided to families following a successful transport appeal on the grounds that the breadth of the Welsh-medium provision offered in Brecon was significantly below the breadth of the provision offered at Builth Wells.</p> <p>The applications for transport were initially refused at stages 1 and 2 of the process, however the applications were taken to appeal and the appeal panel took the decision to award transport, due to the enhanced level of Welsh-medium provision provided at Builth Wells High School compared with the provision at Brecon High School.</p> <p>The decision was not made by an employee but by the portfolio holder, who was supported and advised by a senior officer from the legal service.</p>
<b>3.3 Travel distance / time to alternative provision</b>		
3.3.1	The distance to the alternative provision is too large to ever be acceptable as a solution	The authority's transport policy states that travel time should not normally be more than one hour to / from school. It is the authority's view that travel time to the nearest alternative Welsh-medium provision would be within this travel

	<p>The commute from Llangors to Builth is unacceptable</p> <p>Concern about 51 mile round trip to Builth Wells</p> <p>The current 12 miles from Trecastle to Brecon is more than enough to travel each day</p> <p>Children would have to travel over 2 hours a day to their nearest provision</p> <p>The fact that children will be travelling 50 minutes to 1 hour each way means that most children would have to find alternative schools</p> <p>The proposed travel time from Talybont is totally unrealistic</p> <p>Unfair to expect any children to travel more than an hour on the bus every day</p>	<p>time for the vast majority of pupils.</p> <p>The authority notes the comments in respect of the likely distance / travel time from locations such as Llangors, Trecastle and Talybont to Builth Wells. As stated in the proposal on page 3 of the consultation document, 'pupils wishing to access Welsh-medium secondary provision who live in the catchment area currently served by the Welsh-medium stream of Brecon High School would be able to attend Builth Wells High School or their closest secondary Welsh-medium provision'. The proposal also states that 'pupils living in other parts of the catchment area currently served by the Welsh-medium stream at Brecon High School that live closer to alternative Welsh-medium secondary provision outside Powys would have the opportunity to transfer to these schools.' It is likely that pupils living in some of the areas referred to would live closer to alternative Welsh-medium secondary provision outside Powys.</p>
3.3.2	<p>Whilst travel distances and time will be a key consideration in areas such as Powys, pupils in Powys already travel long distances to access Welsh-medium education. In the north, pupils from Newtown travel 16+ a day each way to receive secondary education in Llanfair Caereinion, and pupils travel from Sennybridge/Llangors to Ysgol Gyfun Ystalyfera, which is also a significant journey.</p>	<p>The authority notes this comment.</p>
<b>3.4 Cost of additional transport</b>		
3.4.1	<p>Tax payers money should be spent on education rather than transport</p>	<p>The provision of home to school transport is an essential element of the budget requirement to ensure access to the appropriate curriculum for</p>



	<p>The council is throwing money away on transport</p> <p>A significant proportion of the council's budget is spent on school transport costs, this would be better spent on supporting education provision</p>	<p>learners wishing to study through the language of their choice, particularly so in a rural area such as Powys.</p> <p>Over the last 2-3 years the authority has retendered all of its home to school transport provision, and has realised significant efficiencies through this work.</p>
3.4.2	<p>A commitment to one Welsh stream in Mid / South Powys will mean a long term commitment to transport costs. These are currently at least £100,000 per year.</p>	<p>The comment is noted, it is the authority's expectation that the transport costs would increase from the current figure as the numbers accessing the Welsh-medium provision in Builth Wells increase. However, the authority is committed to providing greater equality in terms of the provision available to Welsh-medium pupils compared with the provision available to English-medium pupils. The authority's view is that the current number of Welsh-medium pupils in mid and south Powys is not large enough to maintain secondary provision in two locations and to provide appropriate curriculum choice for pupils.</p>
3.4.3	<p>Transport costs will only increase in the future</p>	<p>The authority notes this comment.</p>
3.4.4	<p>Unhappy that the council is wasting so much money on transporting Welsh-medium children away from their area when they could be spending much less money by providing the right provision in Brecon High School</p>	<p>Transport to alternative providers of Welsh-medium secondary provision was provided to families following a successful transport appeals on the grounds that the breadth of the provision at the alternative providers was significantly greater than that offered at Brecon High School.</p> <p>If Brecon High School provided a wider curriculum through both Welsh and English, the authority would fund this in accordance with the fair funding formula, and if that level increased sufficiently, the requirement to transport pupils to other schools would be removed.</p>
3.4.5	<p>You are currently spending £110976 to transport children out of the Brecon catchment whilst the cost of improving Brecon to 2B status is £47000, which would negate the need to transport children</p> <p>It costs the authority £110k to transport Welsh-</p>	<p>During the recent consultation period on the proposal to close the Welsh-medium stream at Brecon High School, a county councillor requested details of the additional funding that would be required for the Welsh-medium provision at Brecon High School to meet the definition of a Category 2B school. The figure provided was £47000, which is the additional funding that would be provided to the school through the authority's funding formula to</p>

	<p>medium pupils to Ystalyfera and to Builth High School, this is more than it would cost to bring Brecon High School up to 2B status</p>	<p>support the provision of Welsh-medium subjects for 80% of curriculum time in years 7 to 11.</p> <p>However, whilst the funding provided to dual stream schools through the authority's funding formula is based on the % of curriculum time where Welsh-medium options are available to pupils, the Welsh Government's definition of a category 2B school is as follows: 'At least 80% of <b>subjects</b> (excluding Welsh and English) are taught through the medium of Welsh but are also taught through the medium of English.'</p> <p>In relation to the funding provided through the formula to support dual stream provision in key stage 4, the authority considers that Welsh-medium curriculum time is available when a minimum of 1 Welsh-medium options subject is available in each options block. For example, a dual stream school offering 1 Welsh-medium subject and 5 English-medium subjects in each options block, as well as all core subjects through the medium of Welsh, would receive the maximum funding available from the authority to support its dual stream provision, and would be providing 80% of curriculum time through the medium of Welsh. However, this school would not necessarily meet the Welsh government definition for a category 2B school, as the school would not be providing 80% of <b>subjects</b> through the medium of Welsh and English.</p> <p>Therefore, whilst the figure of £47000 provided during the consultation is the maximum additional funding that would be provided to support dual stream provision at Brecon High School based on the authority's funding formula, this would not be sufficient to enable the school to provide Welsh-medium provision which would meet the definition for a category 2B school.</p>
3.4.6	<p>How much is the council spending on transporting Welsh-medium children from the Brecon area to Ystalyfera and Builth?</p>	<p>The current transport costs are £111,000, however this includes transport for some primary aged pupils to the Welsh-medium stream at Builth Wells CP School who live in the Builth catchment area but on the route used by the transport from Brecon.</p>
3.4.7	<p>Has the council costed transport to Builth from Ysgol y Bannau in their transport budget?</p>	<p>The authority is not proposing to change the transport arrangements in relation to Ysgol y Bannau. The current cost of transport provision for</p>

		secondary aged pupils from the Brecon catchment area to Builth and Ystalyfera is £111,000.
3.4.8	What would be the cost of providing transport for children from the Talybont area to their nearest Welsh-medium provision in Pontypool?	<p>As stated in the proposal outlined on page 3 of the consultation document, 'Pupils living in other parts of the catchment area currently served by the Welsh-medium stream at Brecon High School that live closer to alternative Welsh-medium secondary provision outside Powys would have the opportunity to transfer to these schools.'</p> <p>If dedicated transport was provided, this could cost up to £200 per day (£38,000 per annum). However, should the proposal be implemented, the authority would look to work with Torfaen and Monmouthshire councils in order to ensure that transport was provided as efficiently as possible.</p>
3.4.9	What is the cost of transporting pupils to Ystalyfera? Is it £450 a day?	<p>Pupils from the Brecon catchment area are transported to Ysgol Gyfun Ystalyfera on public service T6. The cost of this service is a cost to the authority whether there are any pupils transported on it or not, however for accounting purposes, the schools service contributes £22,230 per annum in respect of the 38 pupils currently transported on this route.</p> <p>In addition, there is a bus transporting pupils from the Ystradgynlais area to both Ysgol Gyfun Ystalyfera and Ysgol Maesydderwen. The annual cost of this bus is £34,181, with 34% of the children using the bus attending Ysgol Gyfun Ystalyfera (£11,626).</p>
3.4.10	<p>The council should stop paying for out of county transport and should use the money to employ better qualified teachers</p> <p>You should invest money into teachers rather than school transport</p>	Under the Learner Wales Travel Measure, the authority is required to transport children to their closest suitable school delivering through the language of choice. Following the transport appeal, it was agreed that the current level of Welsh-medium provision at Brecon was below that being delivered at the alternative schools.
<b>3.5 Concern about pupil safety</b>		
3.5.1	Concern about additional travel for pupils to Builth	The authority is content that the roads that would be used to transport pupils

	<p>on hazardous roads</p> <p>Concern about the safety of the road to Builth – particularly in bad weather</p> <p>Travelling to Builth in the winter is dangerous, pupils could be forced to miss days of school due to bad weather</p>	<p>between the Brecon and Builth Wells catchments are safe, as long as the road users are using the roads responsibly. Transport is already provided from Brecon to Builth Wells and vice versa, and the authority is not aware of any major incident that has occurred in recent years involving that transport.</p> <p>In times of bad weather, the authority and contractors will have alternative routes available to travel from Builth Wells back to Brecon in times of bad weather.</p>
3.5.2	<p>Concern that Welsh speaking pupils are being transported to Ystalyfera on public service buses with no seat belts and sometimes have to stand as there are no seats available</p> <p>Want assurance that there will be a designated bus for pupils from Sennybridge to Ystalyfera with seat belts provided</p> <p>If you make Sennybridge a feeder school for Ystalyfera you will have to provide a designated bus at cost for the children, as parents are not happy with children going on a public bus that has no seat belts or the guarantee that children will even get a seat</p>	<p>The current regulations state that dedicated home to school transport must be fitted with seatbelts and that all passengers must be seated and wear the seatbelt. However, this regulation, together with the requirement to be seated, does not apply to learners who travel to school on a public service bus.</p> <p>The authority is currently undertaking a review of its Home to School Transport Policy, and will be undertaking consultation on the proposed revisions to the policy. The review will consider if the authority should continue to use public service buses to transport pupils.</p>
3.5.3	<p>Concern about pupils from Sennybridge travelling to Ystalyfera on a public service bus which travels at fast speeds</p> <p>The council hasn't considered the safety of transporting pupils to Ystalyfera</p>	<p>All transport provision is expected to adhere to the relevant speed limits that apply to the roads the transport travels on, whether this is dedicated home to school transport or a public service bus. The authority is confident that all routes are safe if drivers adhere to the speed limits and road conditions.</p>
3.5.4	<p>The road above Crai Reservoir to Ystalyfera is especially hazardous – is Powys willing to expose pupils to these unnecessary risks and face the</p>	<p>The road between Sennybridge and Abercrave (over Crai) is an A road and is therefore very suitable for home to school transport. The authority is confident that all routes are safe if drivers adhere to the speed limits and road conditions</p>

	consequences should an accident occur?	at the time.
3.5.5	Concern that the council is happy to risk children travelling on public transport which could see any paedophile able to sit next to them	<p>The drivers of all public service transport vehicles have had full DBS checks and the provision of school transport through public service buses is common across Wales and the United Kingdom.</p> <p>The authority has a duty under the 1985 Transport Act to ensure efficient use of public monies by integrating learners on to public service buses where possible. The authority is not aware of any incidents where children have been groomed while travelling on public service buses.</p>
3.5.6	It's unfair and unsafe to bus children around Powys for their education	The provision of home to school transport is an essential element in order to ensure access to the appropriate curriculum for learners wishing to study through the language of their choice, particularly so in a rural area such as Powys. The authority acknowledges that the additional travel required should the proposal be implemented would have an impact on pupils and their families, however the authority does not agree that the additional travel would be unsafe. The authority is confident that all routes are safe if drivers adhere to the speed limits and road conditions
3.5.7	Concern about problems that could arise when travelling by bus e.g. possibility of bullying, risk of an accident causing possible death or injury	A significant proportion of secondary pupils in Powys travel to school by bus, and the authority would expect pupils, parents and schools to adhere to its behaviour code. If there were persistent issues on the provided transport, the authority would consider taking appropriate action against the perpetrators and fitting CCTV onto the transport if this was considered appropriate. The authority has a very low number of accidents occurring on home to school transport.
<b>3.6 Environmental impact of additional travel</b>		
3.6.1	<p>Additional travel would lead to pollution and damage to the environment</p> <p>Concern about the carbon footprint we would be forcing on our Welsh-medium pupils – when they</p>	The authority acknowledges that additional travel would have an environmental impact. However, following previous successful transport appeals, transport is already provided by the authority to Ysgol Gyfun Ystalyfera for Welsh-medium pupils from the Sennybridge area and to Builth Wells High School for Welsh-medium pupils from the Brecon area. Should the

	leave school they could each have clocked up over 54,000 miles	proposal be implemented, the additional transport that would be required would be minimal.
<b>3.7 The council's Transport Policy</b>		
3.7.1	The proposal is not in-line with the authority's School Transport Policy which indicates that pupils should not have to travel more than 45 minutes	The authority consulted on a revised Home to School Transport Policy in 2011-12, which included a proposal that the normal travel time to and from school should not normally be more than 60 minutes. The authority is planning to undertake further consultation in the Summer Term 2017 on the same basis in respect of travel time.
3.7.2	What amendments are you making to your transport policy in your next policy?	The authority consulted on a revised Home to School Transport Policy in 2011-12, which included a proposal that the normal travel time to and from school should not normally be more than 60 minutes. The authority is planning to undertake further consultation in the Summer Term 2017 on the same basis in respect of travel time.
3.7.3	What has been the transport policy for children who live in the Sennybridge area to go to Brecon Welsh stream in the last 5 years? Parents from the Welsh stream have said that the council told them they would only be entitled to transport to the Welsh stream in Brecon if there were seats available on the bus. If they became unavailable they would be asked to find their own way to high school or they would be offered transport to Ystalyfera – subsequently children have been going to Ystalyfera to avoid having to find their own way to school or change schools, although they would have preferred to go to the Welsh stream in Brecon	Sennybridge is part of the catchment area of Brecon High School and learners can access transport to Brecon High School for both English-medium and Welsh-medium provision.
3.7.4	Ysgol y Bannau catchment area reaches out to Gwernyfed and Crickhowell High School, children from these areas should have the entitlement for	Should the proposal be implemented, and should parents of pupils currently attending the Welsh-medium stream at Brecon High School who live closer to Gwernyfed High School or Crickhowell High School choose for their children

	free transport to Brecon High School even if the Welsh-medium provision is removed because they are already in Brecon High School	to remain in Brecon High School to access English-medium provision instead of transferring to alternative Welsh-medium providers, the authority would consider the transport arrangements for these pupils on a case by case basis, taking account of the available seats on the transport going to Brecon and the vacant seat arrangements.
3.7.5	Would the council provide transport for children from the Builth area to their nearest category 1 Welsh-medium primary school (Ysgol y Bannau)? The precedent has already been set with providing transport to Ystalyfera and Builth. What would be the cost of this?	The current home to school transport policy does not differentiate between a Welsh-medium primary school and a primary school delivering the full curriculum through the medium of Welsh in a dual stream school such as Builth Wells CP School.
<b>3.8 Issues relating to travel to a designated Welsh-medium secondary school</b>		
3.8.1	Would be fair enough to expect an 11 year old to travel 52 miles a day (Talybont to Builth) on a bus for a Welsh-medium school and a tangible improvement on the subject provision available to them, but unfair to expect them to travel to another stream and no improvement in the subject provision available	The current Welsh-medium subject provision in Builth Wells is greater than the provision available at Brecon High School, therefore whilst it is true that the proposal would see most of the pupils in the current catchment area of the Welsh-medium stream at Brecon High School attending another stream based provision in order to continue to access Welsh-medium provision, the proposal would lead to a 'tangible improvement on the subject provision available' to pupils, and there would be an 'improvement in the subject provision available'.
3.8.2	Some parents have decided that if travel is absolutely necessary, they would be better going to a fully Welsh-medium secondary school out of county funded by the council  If parents did want their children to continue their education in Welsh and if the only way they could do so was for their children to travel away from their local school, it would make more sense for them to send them to the Welsh medium school in Ystalyfera than to a Welsh stream in Builth	The authority notes this comment. Should the proposal be implemented, the authority would provide free home to school transport in accordance with the council's School Transport Policy and the Learner Travel (Wales) Measure 2008. Pupils are eligible for free home to school transport if they live more than 3 miles from their nearest school offering provision in the language of their choice. For some pupils, the nearest Welsh-medium provision could be located outside Powys.

3.8.3	The fact that so many parents have chosen to transport their children out of county for Welsh-medium secondary education proves that they will travel if the provision is secure	The authority notes this comment.
3.8.4	Ysgol y Bannau's wide catchment area proves that parents are willing to send their children on a long journey in order to attend Welsh-medium primary education – confident that south Powys parents would be similarly committed if a Welsh-medium secondary school was available, wherever it was located	The authority notes this comment.
<b>3.9 Other</b>		
3.9.1	The vast majority of parents don't want their children to travel, this has been made abundantly clear during this consultation and previous consultations	The authority notes this concern in relation to the additional travel that would be required for pupils should the proposal be implemented, and has acknowledged that implementation of the proposal would lead to additional travel for Welsh-medium pupils. However, the current number of Welsh-medium pupils at Brecon High School is very small, which means that the provision is unviable. In addition, the authority's view is that the current provision is not providing an appropriate educational experience for pupils. A significant proportion of pupils have already transferred from the Welsh-medium stream at Brecon High School to alternative provision, which has required additional travel. This suggests that these parents are willing for their children to travel in order to access an increased level of Welsh-medium provision.
3.9.2	Concern about increased transport on roads	Following previous successful transport appeals, transport is already provided by the authority to Ysgol Gyfun Ystalyfera for Welsh-medium pupils from the Sennybridge area and to Builth Wells High School for Welsh-medium pupils from the Brecon area. Should the proposal be implemented, the additional transport that would be required would be minimal.
3.9.3	The idea of bussing children out is old fashioned	The provision of home to school transport is an essential element in order to



		ensure access to the appropriate curriculum for learners wishing to study through the language of their choice, particularly so in a rural area such as Powys. The authority acknowledges that the additional travel required should the proposal be implemented would have an impact on pupils and their families, however the authority does not agree that the additional travel would be unsafe. The authority is confident that all routes are safe if drivers adhere to the speed limits and road conditions.
3.9.4	Moving children out of county means that services such as transport will be tendered out and companies will be coming in to transport children from out of county thus reducing employment	Over the last 2-3 years, the authority has tendered all its public service and home to school transport routes, with the contracts being awarded on a price and quality basis. The majority of contracts have been awarded to companies that are based in Powys.
<b>4 WELSH-MEDIUM PUPIL NUMBERS AT BRECON HIGH SCHOOL</b>		
<b>4.1 Impact of provision of transport to alternative schools</b>		
4.1.1	<p>The current number of Welsh-medium pupils at Brecon has been falsified due to the provision of free transport to Builth High School</p> <p>The fact that PCC has provided transport is the reason for the falling numbers in the Welsh stream</p> <p>The council's agreement to pay transport costs to Builth was another nail in the coffin of the Welsh stream and smacks of predetermination</p> <p>Paying to transport children to a Welsh-medium provision other than at Brecon before the outcome of your proposal is agreed is an example of manipulating the situation in your favour. This could be considered 'predetermination'</p>	<p>The information provided in the consultation document is factual information based on the number of pupils that were attending the Welsh-medium stream at Brecon High School at the time of writing.</p> <p>18 months or so ago, a number of parents of pupils that were attending the Welsh-medium stream at Brecon High School decided to move their children to another school to access Welsh-medium education. As an admissions authority, the council cannot refuse places to children if there is a place available at the school to which they apply. When parents applied for places at Builth Wells High School, there were places available, therefore the authority was unable to reject the applications, however transport was initially refused at Stage 1 and 2 of the transport application process.</p> <p>Following this, the applications were taken to appeal, and the appeal panel took the decision to award transport based on the breadth of Welsh-medium provision offered at Builth Wells High School being greater than the provision offered at Brecon High School.</p>

	Families who have not fully understood the consultation process took the implementation of free transport to Builth Wells as Powys having made its decision to close the Welsh stream in Brecon	The council acknowledges that the decision of the appeal panel to award transport has impacted on the number of pupils attending the Welsh-medium stream at Brecon High School, however this is not predetermination – transport was not automatically awarded to these parents, it was referred to the Appeals Panel in accordance with the agreed process.
4.1.2	If you took the pupils who currently travel to Builth and Ystalyfera for Welsh-medium education and increase the provision at Brecon High School, the stream would be viable	<p>The authority first proposed closure of the Welsh-medium stream at Brecon High School during the summer of 2015, which was before pupils had started to transfer to Builth Wells High School to access Welsh-medium secondary provision.</p> <p>The authority's view is that the number of pupils currently accessing Welsh-medium secondary provision in mid and south Powys is not large enough to sustain two Welsh-medium streams and to provide appropriate curriculum choice to Welsh-medium pupils, therefore the authority does not agree that continuing to provide two Welsh-medium streams in mid and south Powys is viable.</p>
4.1.3	The number of Welsh-medium pupils leaving Sennybridge and Ysgol y Bannau have remained constant since 2010/11, if those pupils had been supported and encouraged to continue their education at Brecon High School, the school would not have found itself in a position where pupil numbers have declined	Information about the Welsh-medium provision available at Brecon High School, as well as alternative providers, is included in the authority's Admissions Booklet which is published annually. However, parents are entitled to apply for a place at whichever school they choose, and as an admissions authority, the council cannot refuse places to children if there is a place available at the school to which they apply.
<b>4.2 Impact of previous consultations</b>		
4.2.1	<p>If 19 pupils can survive 3 consultations, how many children would be in the stream if it was not under consultation to close?</p> <p>The numbers in the Welsh stream now do not show the real demand for the Welsh stream in Brecon and are only low because of the 3<sup>rd</sup></p>	<p>18 months or so ago, a number of parents of pupils that were attending the Welsh-medium stream at Brecon High School decided to move their children to another school to access Welsh-medium education. As an admissions authority, the council cannot refuse places to children if there is a place available at the school to which they apply.</p> <p>When parents applied for places at Builth Wells High School, there were</p>

<p>consultation that is happening</p> <p>The current Welsh-medium pupil numbers at Brecon High School are entirely due to the proposals</p> <p>Pupil numbers have remained stagnant wholly due to the council repeatedly proposing to close the Welsh-medium provision at Brecon High School</p> <p>Numbers in the Welsh stream have always been high – there were classes of 25-30 in the past, 20 years ago there were classes of around 24, however pupil numbers dropped very quickly due to the uncertainty about the Welsh stream</p> <p>The Welsh stream was viable until everyone panicked and there was a domino effect once it was suggested the stream was under threat</p> <p>The consultation has had a massive impact on pupil numbers in the Welsh stream</p> <p>The uncertainty has had a negative impact on numbers in the Welsh-medium stream</p> <p>Without the previous consultations, numbers in the Welsh stream would be at least similar to those in earlier years</p> <p>The present low numbers are from this being the 3<sup>rd</sup> consultation to close the stream</p> <p>The numbers that have transferred to the Welsh</p>	<p>places available, therefore the authority was unable to reject the applications, however transport was refused at Stage 1 and 2 of the transport application process. Following this, the applications were taken to appeal, and the appeal panel took the decision to award transport.</p> <p>Whilst the authority acknowledges that the previous consultations have impacted on Welsh-medium pupil numbers at Brecon High School, the authority does not agree that the stream would be viable had pupils not transferred to alternative providers. The authority's view is that the number of pupils accessing Welsh-medium secondary provision in mid and south Powys is not large enough to sustain two Welsh-medium streams and to provide appropriate curriculum choice to Welsh-medium pupils, therefore the authority does not agree that continuing to provide two Welsh-medium streams in mid and south Powys is viable.</p>
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	<p>stream have been very low over the last two years, this is due to the uncertainty caused by these consultations</p> <p>If you hadn't made it so obvious that you were going to close the Welsh stream here, parents wouldn't have moved their children from the Welsh stream</p> <p>When Powys started the consultations, the numbers in the Welsh stream started to decrease</p> <p>Dwindling numbers at Brecon Welsh stream are hardly surprising given the atmosphere of uncertainty you continue to create with years of underinvestment and scaremongering</p>	
4.2.2	<p>Parents chose to send their children to Ystalyfera when they would have preferred to send them to Brecon because of the uncertainty in relation to the provision at Brecon</p>	<p>The authority is aware of parents from the Brecon and Sennybridge area that chose for their children to attend Ysgol Gyfun Ystalyfera long before the authority carried out consultation on closure of the Welsh-medium stream.</p>
4.2.3	<p>Parents have chosen English-medium provision over the Welsh-medium stream at Brecon because of the uncertainty</p> <p>There has been a decrease in the number of Brecon families choosing Welsh at secondary level as parents don't want to risk their children's welfare</p>	<p>The authority has acknowledged in the consultation document that implementation of the proposal could lead to an increase of in the proportion of pupils transferring from Welsh-medium to English-medium provision on transfer to secondary education.</p>
4.2.4	<p>That a significant number of parents moved their children from the Welsh stream at Brecon High School in 2015 is not an indication that they were unhappy with the provision and were suddenly</p>	<p>The authority notes this comment. However, the fact remains that 18 months or so ago, following the initial Cabinet decision to consult on closure of the Welsh-medium stream at Brecon High School, the parents of a number of pupils that were attending the Welsh-medium stream at Brecon High School</p>

	prepared to travel, but that they thought they had no choice	decided to move their children to another school to access Welsh-medium education.
4.2.5	Groups have been working to encourage parents to enter Welsh-medium education in Brecon, but are fighting against the perception that the Welsh stream may not be there in the future	The authority notes the difficulties caused by the ongoing uncertainty in relation to the future of the Welsh-medium stream at Brecon High School.
4.2.6	Brecon High School showed commitment and employed Welsh speaking staff, but as a result of the consultation, pupils in the Welsh stream jumped ship and the school had to shelve the commitment to take on Welsh medium staff	The authority notes this comment.
4.2.7	Brecon High School was 'stabbed in the back' by the consultation process. When pupils left the school it compounded the problem because there were financial implications	It is not true that Brecon High School was 'stabbed in the back' by the consultation process.  18 months or so ago, following the initial Cabinet decision to consult on closure of the Welsh-medium stream at Brecon High School, and before any final decision had been made, the parents of a number of pupils that were attending the Welsh-medium stream at Brecon High School decided to move their children to another school to access Welsh-medium education.
4.2.8	The low pupil numbers in the Welsh stream are because of your previous announcement that the Welsh stream in Brecon was going to close. By stating in advance that the stream will close you scared parents and forced their hand. This reduced the numbers in Brecon and boosted the numbers in Builth which conveniently gave the council the figures they needed to justify their proposal.	It is not true that the authority 'stated in advance' that the Welsh stream in Brecon was going to close.  18 months or so ago, following the initial Cabinet decision to consult on closure of the Welsh-medium stream at Brecon High School, and before any final decision had been made, the parents of a number of pupils that were attending the Welsh-medium stream at Brecon High School decided to move their children to another school to access Welsh-medium education.
4.2.9	The current pupil numbers are not representative of the want and need for a Welsh stream in	The information provided in the consultation document is factual information regarding the number of pupils that were attending the Welsh-medium stream

	Brecon	at Brecon High School at the time of writing. The authority acknowledges that there has been a reduction in Welsh-medium pupil numbers at the school over recent years. This has been due to parental choice, although it is acknowledged that the recent consultations in relation to the Welsh-medium stream have impacted on the number of pupils attending the Welsh-medium stream at Brecon High School.
4.2.10	If parents could see an improvement in the prospects and future of the Welsh stream at Brecon then the tide would turn and they would want to send their children there	The authority's priority is to provide equality of opportunity to Welsh-medium pupils. The small class sizes and limited Welsh-medium provision available at Brecon High School does not provide this. The authority's view is that the number of pupils currently accessing Welsh-medium secondary provision in mid and south Powys is not large enough to sustain two Welsh-medium streams and to provide appropriate curriculum choice to Welsh-medium pupils, therefore the authority does not agree that continuing to provide two Welsh-medium streams in mid and south Powys is viable.
<b>4.3 Reference to category 2B categorisation</b>		
4.3.1	<p>The reduction in numbers is directly related to the constant undermining and lack of support for the development of the Welsh stream at Brecon High School in attaining 2B status as promised by the council</p> <p>Had the council kept to the commitment to make Brecon's Welsh stream up to 2B and the Cabinet's decision to invest money in the Welsh stream in Brecon High, the stream would have the cohort numbers required to run a good, growing Welsh-mediums provision</p> <p>If finance had been provided to bring Brecon up to 2B status, pupils would have stayed here</p>	<p>In the Cabinet minutes of a meeting held on the 22<sup>nd</sup> November 2011, following an informal consultation on secondary school modernisation, it notes that additional investment and support would be provided to dual stream schools to achieve the target of a Category 2B school.</p> <p>Early discussions took place with Brecon High School about providing additional support, however due to the challenging financial situation at both Powys County Council level and at Brecon High School, it was not possible to fulfil this.</p> <p>The Fair Funding Formula arrangements were reviewed for the 2013-14 financial year, and are very similar in respect of dual stream schools to the model used in Ceredigion. Additional support is provided to schools based on the number of subjects delivered through both languages, and the same level of support is provided to all dual stream secondary schools. Some schools have succeeded in strengthening and increasing the Welsh-medium provision</p>

	<p>Raising the status of Brecon to a 2B stream would create a stream with large numbers of pupils that would give parents the confidence to invest in Welsh-medium education in the Brecon area</p> <p>For years parents have been wanting to send their children to Brecon but have been waiting for it to offer 2B provision</p> <p>The council promised to make Brecon Welsh stream 2B which would have meant all of Sennybridge stream would have come to Brecon, making Brecon's stream as good if not better than Builth's</p>	available, however this has not been the case at Brecon High School.
4.3.2	<p>If the council made Brecon High School 2B status, all the children that left before the start of the consultation would come back, plus more as the stream would then attract pupils that have gone to Ystalyfera and those that have gone to English-medium provision</p> <p>If Brecon is made 2B status pupils will come back from Builth</p>	The authority's view is that the current number of Welsh-medium secondary pupils in mid and south Powys is not sufficient to support two Welsh-medium streams and to provide equality of opportunity to Welsh-medium pupils. There is no evidence that pupils that have transferred to alternative providers would return to Brecon High School should the level of Welsh-medium provision at the school increase.
4.3.3	<p>Pupil numbers at Ysgol y Bannau and Sennybridge are of a good size and should be able to give Brecon a 2B school</p>	The authority's view is that the number of pupils currently accessing Welsh-medium secondary provision in mid and south Powys is not large enough to sustain two Welsh-medium streams and to provide appropriate curriculum choice to Welsh-medium pupils, therefore the authority does not agree that continuing to provide two Welsh-medium streams in mid and south Powys is viable.
<b>4.4 Criticism of the council's treatment of Welsh-medium provision at Brecon High School</b>		
4.4.1	The council has turned its back on Brecon High	It is not true that the council has turned its back on Brecon High School's

	<p>School's Welsh-medium provision, hence the low numbers</p> <p>What has the council done to increase the number of Welsh-medium learners coming into Brecon High School?</p> <p>Astonishing that the council has not given any assistance to Brecon High School to maintain the numbers in the Welsh stream</p> <p>It's clear that Powys have not been supportive of the Welsh stream at Brecon High School for some time – this has led to a decline in the number of teachers and subjects that can be offered through the medium of Welsh</p> <p>It's disappointing to note how the Welsh stream in Brecon has been run down over the years</p> <p>Welsh-medium provision at the school has not been fully supported and has been undercut repeatedly</p> <p>Brecon High School has been held back financially and that has been used against the school</p> <p>Historic lack of investment in Welsh medium secondary education in Brecon High School has meant that there has been very limited uptake of Welsh language learning.</p>	<p>Welsh-medium provision. The same level of support, including both financial support and other officer support, has been provided to support dual stream provision at all Powys' dual stream secondary schools over recent years. Some schools, such as Builth Wells High School, have succeeded in strengthening and increasing the Welsh-medium provision available during this time, however this has not been the case at Brecon High School.</p>
4.4.2	The council has been uninterested in why Welsh-medium pupil numbers have been low in Brecon	The authority is committed to increasing the number of pupils accessing Welsh-medium education in Powys, in order to contribute to the



	The figures Brecon High School are being judged on as a reason for lack of viability have been created by the lack of clarity and direction by the council	implementation of the Welsh Government's Welsh-medium education strategy, and is very concerned about why there has not been an increase in Welsh-medium pupil numbers in the Brecon area, which is contrast with other areas of Powys.
4.4.3	The reduction in pupil numbers at Brecon High school Welsh stream is not due to reduced pupil numbers learning through Welsh in South Powys, it is due to bad management of these pupils by the council	The authority does not agree with this comment. The reduction in pupil numbers at Brecon High School is due to the fact that a number of parents of pupils that were attending the Welsh-medium stream at Brecon High School decided to move their children to another school to access Welsh-medium education, however it is acknowledged that the recent consultations in relation to the Welsh-medium stream contributed to the decrease in pupil numbers. The authority does not 'manage' pupils, parents are entitled to apply for a place in any school they choose.
4.4.4	The local authority has not provided an environment for the Welsh language to grow – the authority's indecision has provided a situation where people are losing faith	The authority acknowledges that the ongoing uncertainty in relation to the future of the Welsh-medium stream at Brecon High School has impacted on pupil numbers at the stream since 2015/16. However, details of pupil numbers at the Welsh-medium stream since 2010/11 are provided on page 11 of the consultation document, and this information shows that pupil numbers decreased between 2010/11 and 2014/15, before the council began any consultation in relation to the future of the stream.
4.4.5	In the consultation meeting the authority admitted responsibility for the reduced numbers in the Welsh stream	Whilst the authority acknowledges that the previous consultations have impacted on Welsh-medium pupil numbers at Brecon High School, the authority does not agree that the stream would be viable had pupils not transferred to alternative providers. The authority's view is that the number of pupils currently accessing Welsh-medium secondary provision in mid and south Powys is not large enough to sustain two Welsh-medium streams and to provide appropriate curriculum choice to Welsh-medium pupils, therefore the authority does not agree that continuing to provide two Welsh-medium streams in mid and south Powys is viable.
4.4.6	Parents need to be reassured, they haven't been reassured which has led to them making difficult	The authority accepts that the ongoing uncertainty in relation to the future of the Welsh-medium stream at Brecon High School has impacted on the

	decisions which have affected the number of pupils at Brecon High School	number of Welsh-medium pupils at the school. However, the fact is that the current number of pupils accessing the stream is small, and the Welsh-medium curriculum provided to them is limited. The authority's view is that the current number of Welsh-medium secondary pupils in mid and south Powys is not enough to sustain two separate provisions and provide an enhanced Welsh-medium curriculum.
<b>4.5 Prospective pupil numbers</b>		
4.5.1	Can you look at the potential number of pupils going out of county or wanting to come to Welsh-medium provision at Brecon High School if it was available?	Pupils travelling out of county are attending a designated Welsh-medium secondary school, which offers more Welsh-medium opportunities to pupils than could be offered in a dual stream provision. As stated in Powys' draft WESP for 2017-20: 'The authority fully agrees with the view of Welsh Government that pupils are more likely to become fully bilingual after attending Welsh-medium schools, particularly when they come from non-Welsh speaking homes'.
4.5.2	When will you know what the intake from Ysgol y Bannau to Brecon High School will be in the 2017-18 academic year?	Applications for secondary places were to be submitted by the 18 <sup>th</sup> November 2016, and places will be allocated by the authority by the 1 <sup>st</sup> March. The authority has received 10 applications for places in the Welsh-medium stream at Brecon High School from September 2017.
4.5.3	The projected numbers going into the Welsh-medium stream in 2017/18 should influence any decision about the future of the Welsh language in this school	The authority has received 10 applications for places in the Welsh-medium stream at Brecon High School. This will be taken into consideration by the Cabinet when determining how to proceed in relation to this proposal. Whilst 10 pupils would be an increase on the current number of pupils in year 7 at Brecon High School's Welsh-medium stream, this would still be a small class, and would not enable the school to offer a significantly increased Welsh-medium curriculum to these pupils.
4.5.4	Apart from year 5, the numbers in Ysgol y Bannau are really good, and until these consultations the majority of pupils were going to Brecon	The number of pupils attending Ysgol y Bannau are included on page 12 of the consultation document. Even if all the pupils currently attending Ysgol y Bannau transferred to the Welsh-medium stream at Brecon High School, class sizes would remain relatively small in some year groups, and it is unlikely that the school would be able to offer significantly greater Welsh-medium provision

		to pupils.
4.5.5	A Welsh stream at Brecon High School could be an option for families in Ebbw Vale and Merthyr	Welsh-medium pupils in Ebbw Vale and Merthyr have access to designated Welsh-medium secondary schools, therefore it is unlikely that a significant number of pupils would choose to attend a dual stream provision in Brecon. It is also unlikely that they would be eligible for home to school transport.
4.5.6	Pupil numbers in the nursery class at Sennybridge Welsh stream and the number in the nursery class at Ysgol y Bannau are enough to have two classes in the Welsh stream at Brecon High School	<p>The current number of Welsh-medium pupils in Ysgol y Bannau and Sennybridge C.P. School are provided on page 12 of the consultation document. Apart from one year group (year 1), the total number of pupils per year group is less than 30, therefore even if all pupils transferred to Brecon's Welsh-medium stream, it is unlikely that there would be enough pupils to have more than one class in most years, and that the school would be able to provide a comprehensive range of Welsh-medium options to Key Stage 4 pupils.</p> <p>The majority of Welsh-medium pupils from Sennybridge C.P. School currently transfer to Ysgol Gyfun Ystalyfera, a designated Welsh-medium secondary school, where they have access to a full Welsh-medium curriculum. A stream based provision at Brecon would not be able to provide the same immersion opportunities as a Welsh-medium secondary school, therefore it is very unlikely that all of Sennybridge's Welsh-medium pupils would transfer to Brecon High School. As stated in Powys' draft WESP for 2017-20: 'The authority fully agrees with the view of Welsh Government that pupils are more likely to become fully bilingual after attending Welsh-medium schools, particularly when they come from non-Welsh speaking homes'.</p>
4.5.7	The numbers in the Welsh-medium classes lower down at Sennybridge CP School are buoyant	It is true that the numbers in the Welsh-medium classes lower down at Sennybridge C.P. School are greater than the numbers in the junior classes.
4.5.8	From the current year 6 pupils at Ysgol y Bannau, 10 will be going to Brecon Welsh stream in September and once the decision is made to maintain the provision in Brecon there will be more	The authority notes that a number of current year 6 pupils at Ysgol y Bannau have stated their preference to transfer to the Welsh-medium stream at Brecon High School in September 2017. However, 10 pupils is still a small class, and would not enable the school to provide a comprehensive Welsh-medium curriculum to these pupils, particularly as they move into Key Stage 4.

4.5.9	10 pupils have signed up to join the Welsh stream from the current year 6 at Ysgol y Bannau. Has any other school or stream had 3 proposals for closure in 2 years and still had rising numbers?	The authority notes that a number of current year 6 pupils at Ysgol y Bannau have stated their preference to transfer to the Welsh-medium stream at Brecon High School in September 2017. The authority is not aware of any other school or stream that has had 3 proposals for closure in 2 years. Whilst the number of pupils that have applied for a place in year 7 in the Welsh-medium stream from September 2017 would be an increase compared with the previous year 7, this would not lead to any significant increase in overall pupil numbers in the Welsh-medium stream, and the total number of pupils in years 7-11 would remain lower than they were in 2014/15.
<b>4.6 Other</b>		
4.6.1	<p>If there is more you could have done to support Welsh-medium education why has this not happened before?</p> <p>It has mentioned that support will be given to Ysgol y Bannau to help numbers transfer to Builth Wells High School, why isn't this support in place to help pupils go to Brecon High School?</p>	<p>The authority established a Welsh-medium learning partnership, 'Clwstwr y Ffynnon' a few years ago, which included all Welsh-medium providers in mid and south Powys. Improving transfer rates into Welsh-medium secondary provision was one of the objectives of that partnership. Events were held in a number of schools to promote progression from Welsh-medium primary education into Welsh-medium secondary education.</p> <p>Should the proposal be implemented, the authority has acknowledged in the consultation document that there would be a new risk to transfer rates from Welsh-medium primary provision to Welsh-medium secondary provision in the area, and as mitigation for this risk, the authority has proposed working with the primary schools concerned to establish transition links, in order to contribute to the Welsh Government aim of retaining pupils within the Welsh-medium sector.</p>
4.6.2	The fact that the school buildings at Brecon High School have not been addressed is part of the problem – can understand why parents opt for other schools when they see the state of the buildings here	The authority notes this comment and would agree that the condition of the school buildings at Brecon High School is one of a number of reasons why Welsh-medium parents have opted for alternative provision.
4.6.3	The council needs to ask the right questions to	The authority's view is that there are a number of reasons why the number of

	find out why Welsh medium pupils numbers haven't grown in Brecon despite Brecon having the required population density, transport links and hub status within local and Welsh government to make Welsh-medium education viable and sustainable, and the council needs to act on this	Welsh-medium pupils in the Brecon area hasn't grown, however the authority's view is that the limited Welsh-medium provision available in the secondary sector is one of these reasons. As stated in the consultation document in respect of this proposal, one of the reasons for the proposal is the 'need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education.'																																
4.6.4	What is the viable number of pupils needed for the Welsh stream to continue in Brecon High School? Please give me a breakdown of costings for this	<p>In order for the Welsh-medium provision at Brecon High School to be considered 'viable', the school would need to provide an appropriate range of Welsh-medium provision for Welsh-medium pupils. The authority's view is that dual stream schools should be aiming to provide Welsh-medium provision which meets the Welsh Government definition for a category 2B school.</p> <p>Currently, Ysgol Uwchradd Caereinion is the only dual stream secondary provider in Powys which meets the Welsh Government definition of a category 2B school. The breakdown of year 7 – 11 pupils in this school in September 2016 was as follows:</p> <table border="1" data-bbox="1016 839 2002 1152"> <thead> <tr> <th>Year</th> <th>Welsh-medium</th> <th>English-medium</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>7</td> <td>47</td> <td>36</td> <td>83</td> </tr> <tr> <td>8</td> <td>40</td> <td>36</td> <td>76</td> </tr> <tr> <td>9</td> <td>58</td> <td>37</td> <td>95</td> </tr> <tr> <td>10</td> <td>49</td> <td>38</td> <td>87</td> </tr> <tr> <td>11</td> <td>43</td> <td>43</td> <td>86</td> </tr> <tr> <td><b>Total</b></td> <td>237</td> <td>190</td> <td>427</td> </tr> </tbody> </table> <p>During 2016-17, Caereinion High School is providing the following number of subjects through the medium of Welsh, English and bilingually to pupils in years 7 – 11:</p> <table border="1" data-bbox="1016 1323 2002 1396"> <thead> <tr> <th>Year</th> <th>Welsh-medium</th> <th>English-medium</th> <th>Bilingual</th> </tr> </thead> <tbody> </tbody> </table>	Year	Welsh-medium	English-medium	Total	7	47	36	83	8	40	36	76	9	58	37	95	10	49	38	87	11	43	43	86	<b>Total</b>	237	190	427	Year	Welsh-medium	English-medium	Bilingual
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<b>11</b>	12	18	3																			
		<p>As with all schools, it is ultimately the responsibility of the senior leadership team, in partnership with the governing body, to agree the school's priorities and to structure the school's curriculum and timetable accordingly. When considering the historic development of Welsh-medium education across all Powys schools, it is apparent that some schools have prioritised Welsh-medium education more than others and, where this has been the case, these Welsh streams have developed in terms of pupil numbers and in terms of the breadth of Welsh-medium provision.</p>																				
4.6.5	There are a lot of Welsh speaking children in Brecon High School that have had Welsh at home and went to an English primary school	The authority notes this comment and acknowledges that some Welsh speaking parents choose for their children to be educated through the medium of English.																				
4.6.6	If the right provision was provided in Brecon, the stream would have the viable number required to run a good, robust Welsh-medium provision	The authority notes this comment, however the fact remains that the current Welsh-medium provision in Brecon High School is very limited and does not provide an appropriate level of provision for Welsh-medium learners.																				
4.6.7	<p>Has the council ever asked parents who pulled their children out of Ysgol y Bannau or Brecon Welsh stream to ask why they made that decision?</p> <p>The council should act on why families moved out of Ysgol y Bannau and Brecon Welsh stream rather than what they think the answer is</p>	<p>All parents have had the opportunity to let the council know their views as part of the recent consultation on the proposal to close the Welsh-medium stream at Brecon High School.</p> <p>Individual parents have presented their case to the authority as part of the transport appeals process, and the main reasons provided was the lack of breadth and continuity of curriculum at Brecon High School.</p>																				
<b>5. WELSH MEDIUM PROVISION AT BRECON HIGH SCHOOL</b>																						

5.1 Category 2B categorisation		
5.1.1	<p>The council's failure to work with Brecon High school to put in place a high quality learning environment for the proposed 2B Welsh stream is the cause of the problem</p> <p>PCC was supposed to support Brecon High School to get to category 2B status, but the council did not support the school</p> <p>Have never understood why Brecon High School was never supported by the authority to become a category 2B school</p>	<p>In the Cabinet minutes of a meeting held on the 22<sup>nd</sup> November 2011, following an informal consultation on secondary school modernisation, it notes that additional investment and support would be provided to dual stream schools to achieve the target of a Category 2B school.</p> <p>Early discussions took place with Brecon High School about providing additional support, however due to the challenging financial situation at both Powys County Council level and at Brecon High School, it was not possible to fulfil this.</p> <p>The Fair Funding Formula arrangements were reviewed for the 2013-14 financial year, and are very similar in respect of dual stream schools to the model used in Ceredigion. Additional support is provided to schools based on the number of subjects delivered through both languages, and the same level of support is provided to all dual stream secondary schools. Some schools have succeeded in strengthening and increasing the Welsh-medium provision available, however this has not been the case at Brecon High School.</p>
5.1.2	<p>The council's Cabinet committed to bringing Brecon Welsh stream up to 2b status – at some point the council reneged on this, but I cannot find details of when the council voted to not implement this commitment – could you inform me of the details of this decision?</p>	<p>It is true that in November 2011, the council's Cabinet resolved the following:</p> <ol style="list-style-type: none"> <li>1. 'To deliver 11-16 Welsh-medium education from <u>five</u> dual stream schools as follows: <ul style="list-style-type: none"> <li>• Brecon High School</li> <li>• Builth Wells High School</li> <li>• Caereinion High School</li> <li>• Llanfyllin High School</li> <li>• Ysgol Bro Ddyfi</li> </ul> </li> <li>2. To provide additional investment and support to these schools to enhance and maintain the curriculum at the appropriate level'</li> </ol> <p>Early discussions took place with Brecon High School about providing</p>

		<p>additional support, however due to the challenging financial situation at both Powys County Council level and at Brecon High School, it was not possible to fulfil this.</p> <p>The decision to move to an alternative model in relation to Welsh-medium secondary provision was made by Cabinet on the 27<sup>th</sup> January 2015. At this meeting, Cabinet approved the commencement of a Secondary School Reorganisation programme, which intended to transform the secondary and post-16 sector across the county. One of the aims of this Programme was:</p> <ul style="list-style-type: none"> <li>- 'Reconfiguration of Welsh-medium education with the aim of establishing at least one Welsh-medium secondary school in the county, and the consolidation of other Welsh-medium streams into larger units.'</li> </ul>
5.1.3	Who was responsible for not supporting Brecon to come up to 2B standard? This should be subject to scrutiny	Following the Cabinet decision of the 22 <sup>nd</sup> November 2011 that additional investment and support would be provided to dual stream schools to achieve the target of a Category 2B school, early discussions took place with Brecon High School and other dual stream schools about providing additional support. However due to the challenging financial situation at both Powys County Council level and at Brecon High School, it was not possible to fulfil this.
5.1.4	<p>Had the authority given the school the appropriate finances to bring the stream up to 2B status, the school would not have had to reduce the Welsh-medium curriculum at Key Stage 3</p> <p>In November 2011, PCC mooted the idea of the school becoming 2B status, but there was no financial help – how can you expect the school to come up to 2B status without financial support?</p> <p>Ridiculous that the council expected the school to get up to 2B status without having the money to do so – unless the school has the money to bring</p>	<p>In the Cabinet minutes of a meeting held on the 22<sup>nd</sup> November 2011, following an informal consultation on secondary school modernisation, it notes that additional investment and support would be provided to dual stream schools to achieve the target of a Category 2B school.</p> <p>Early discussions took place with Brecon High School about providing additional support, however due to the challenging financial situation at both Powys County Council level and at Brecon High School, it was not possible to fulfil this.</p> <p>The Fair Funding Formula arrangements were reviewed for the 2013-14 financial year, and are very similar in respect of dual stream schools to the model used in Ceredigion. Additional support is provided to schools based on</p>



	in staff to deliver Welsh-medium education it cannot bring the school up to 2B status	the number of subjects delivered through both languages, and the same level of support is provided to all dual stream secondary schools. Some schools have succeeded in strengthening and increasing the Welsh-medium provision available, however this has not been the case at Brecon High School.
5.1.5	PCC should as a matter of priority provide the financial resource to Brecon High School in order to bring it up to category 2B status	<p>On the 27<sup>th</sup> January 2015, Cabinet approved the commencement of a Secondary School Reorganisation programme, which intended to transform the secondary and post-16 sector across the county. One of the aims of this Programme was:</p> <ul style="list-style-type: none"> <li>- 'Reconfiguration of Welsh-medium education with the aim of establishing at least one Welsh-medium secondary school in the county, and the consolidation of other Welsh-medium streams into larger units.'</li> </ul> <p>This replaced the previous decision made by Cabinet on the 22<sup>nd</sup> November 2011 that additional investment and support would be provided to dual stream schools to achieve the target of a Category 2B school.</p>
<b>5.2 Funding for Welsh-medium provision at Brecon High School</b>		
5.2.1	<p>Brecon High School has been held back financially and that has been used against the school</p> <p>In November 2011, PCC mooted the idea of the school becoming 2B status, but there was no financial help – how can you expect the school to come up to 2B status without financial support?</p> <p>Ridiculous that the council expected the school to get up to 2B status without having the money to do so – unless the school has the money to bring in staff to deliver Welsh-medium education it cannot bring the school up to 2B status</p>	<p>The same level of support is provided to all dual stream secondary schools in relation to Welsh-medium provision. The Fair Funding Formula arrangements were reviewed for the 2013-14 financial year, and are very similar in respect of dual stream schools to the model used in Ceredigion. Additional support is provided to schools based on the number of subjects delivered through both languages.</p> <p>Whilst some schools have succeeded in strengthening and increasing the Welsh-medium provision available within the financial support provided, this has not been the case at Brecon High School.</p>

	Had the authority given the school the appropriate finances to bring the stream up to 2B status, the school would not have had to reduce the Welsh-medium curriculum at Key Stage 3	
5.2.2	A Welsh speaking maths teacher left Brecon High and it was not possible to replace him. Now the school doesn't have the funding to employ any new Welsh speaking staff	The authority notes this comment.
5.2.3	Brecon High School still has the staff to provide a fuller curriculum to Welsh-medium pupils if funding were to be provided, however the Welsh-medium curriculum in Key Stage 3 had to be reduced due to the small numbers entering the stream	The authority notes this comment.
5.2.4	If the current cost of transport which is £100,000 was invested into Brecon High School, there would be more pupils in the Welsh stream in Brecon	Under the current funding arrangements, the school would have to increase its Welsh-medium curriculum in the September prior to receiving any additional funding. In respect of the dual stream uplift, the maximum uplift that the school would receive would be around an additional £55,000 per annum. In addition, it would receive the pupil led funding related to any additional children.
<b>5.3 Quality of Welsh-medium provision at Brecon High School</b>		
5.3.1	<p>The Welsh-medium teachers at Brecon are of a very high standard</p> <p>Brecon High School has first subject Welsh-medium teachers across a large number of subjects</p> <p>The Welsh-medium staff at Brecon High School are some of the best teachers in the school</p>	The authority notes this comment. The quality of the Welsh-medium teachers at Brecon High School are not the reason for this proposal.

	The teachers in Brecon's Welsh stream are really good at what they do and are very good at teaching	
5.3.2	<p>Pupils are receiving Welsh-medium education of a very high standard at Brecon High School</p> <p>Children have had a fantastic education in the Welsh stream at Brecon High School</p>	The authority's view is that the current small number of pupils currently accessing the Welsh-medium stream at Brecon High School and the limited Welsh-medium provision available to pupils at the school is not providing an appropriate educational experience for pupils.
5.3.3	<p>Pupils from Brecon High School can move to schools like Ystalyfera and Builth without any language help – this shows that their standard of Welsh is really good</p> <p>Linguistic abilities at Brecon High School are regarded as superior to those of pupils at Builth Wells</p> <p>You seem to think that pupils in Brecon struggle linguistically, if so can you provide the evidence of this?</p> <p>Welsh speaking learners in Brecon Welsh stream have excellent linguistic abilities</p> <p>Welsh speaking learners in Brecon's Welsh stream are considered to be superior to students in Builth as they have been to the Welsh medium primary school located next door</p>	At Key Stage 4, the school performed in the lower 50% of similar schools based on free school meals eligibility in 2015, and in the bottom 25% of similar schools in 2016 at A*-C at GCSE in Welsh First Language.
5.3.4	The majority of the high fliers who have got A*s and As are from the Welsh stream	The authority notes this comment. However, the number of pupils in the Welsh-medium stream at Brecon High School is currently very small, and as stated in the consultation document, 'Official Welsh Government sets relating

	<p>Most of Brecon's Welsh stream are in the top sets for most subjects</p> <p>Welsh stream performance and grades are exceptionally high year on year</p> <p>Pupils in Brecon's Welsh stream are achieving above average results year on year</p>	<p>to the school's performance relates to all pupils at the school, rather than pupils in the Welsh-medium stream alone. The number of Welsh-medium pupils at each school, particularly Brecon High School, is small, therefore it would not be valid to compare the performance of Welsh-medium pupils in these schools.'</p>
5.3.5	<p>Estyn calls the Welsh-medium stream a strength of Brecon High School</p>	<p>It is true that the Estyn report on the core inspection of Brecon High School carried in May 2012 states: The provision for Welsh language is a strength of the school...However, the school has not yet made enough progress on promoting the use of the Welsh language in school life.' However, as stated in the consultation document in respect of this proposal, the number of pupils accessing the Welsh-medium stream at Brecon High School has decreased significantly since then, which has impacted on the level of Welsh-medium provision available at the school. Estyn's response to the current proposal to close the Welsh-medium stream is provided on page 13 of this report.</p>
5.3.6	<p>Estyn's report on education at Brecon in December 2016 states 'Many write in Welsh with a good degree of accuracy and use different tenses appropriately. Many have good pronunciation and speak Welsh confidently'</p>	<p>It is true that this statement appears in Estyn's monitoring report following their monitoring visit in November 2016. This statement appears within Recommendation 1, which relates to Welsh Second Language.</p>
5.3.7	<p>There are a number of other subjects that could be offered through the medium of Welsh if there was sufficient demand from students</p>	<p>The authority notes this comment, and notes that additional Welsh-medium subjects could be offered if there were sufficient demand. However, the fact remains that the number of pupils currently accessing the Welsh-medium stream at Brecon High School is small, which makes it very difficult for the school to offer a comprehensive Welsh-medium curriculum for these pupils.</p>
5.3.8	<p>Past pupils who attended the Welsh stream at Brecon are now employed as Welsh speakers – they would not have done that had they not attended the Welsh stream at the school</p>	<p>The authority notes that Welsh-medium provision at the school has had a positive impact on the Welsh language skills of past pupils of the Welsh-medium stream, which has meant that they have been able to continue to use their Welsh language skills in the workplace. However, the number of pupils</p>

		accessing the Welsh-medium stream has decreased significantly in recent years; it is acknowledged that the uncertainty caused by the two previous consultation exercises on closure of the Welsh-medium stream at the school has contributed to this. The current small number of pupils makes the provision unviable, and also means that the school is unable to offer a comprehensive Welsh-medium curriculum to pupils. There is no reason to believe that these pupils would not have had the same opportunities to develop their Welsh language skills had they attended alternative schools which provide Welsh-medium secondary education.
5.3.9	Although the level of Welsh-medium provision at Brecon High School has not been consistent, it appears that the quality of education in the Welsh stream has been stronger than the quality of education in the school in general.	The authority notes this comment.
5.3.10	Closing the Welsh stream would destroy the sense of community Brecon Welsh stream provides  The Welsh stream in Brecon High School is like a family	The authority notes this comment. However, the number of pupils attending the Welsh-medium stream at Brecon High School is very small, and the authority's view is that this makes the provision unviable. In addition, the authority's view is that the small class sizes within the Welsh-medium stream is not providing an appropriate educational experience for pupils.
5.3.11	It is not a failing of the school that A levels are not offered through the medium of Welsh – through agreement of the south Powys post 16 consortium this provision has been centred on Builth Wells High School so it is never the case that Brecon would be offering these courses. The South Powys Consortium helps to maintain access to some A levels through the medium of Welsh	The authority notes this comment. The south Powys consortium for post-16 education is a collaborative model that has been developed jointly by the authority and schools. For a number of years, since before the establishment of the South Powys Consortium, Builth Wells High School has provided a number of Welsh-medium post-16 courses, however Brecon High School has not provided any Welsh-medium post-16 courses. Whilst it is true that Welsh-medium pupils could choose to study Welsh-medium subjects at other schools, no pupils have chosen this option.
5.3.12	Acknowledge the challenge to Brecon High School of maintaining the current provision within	The authority notes this comment and acknowledges the challenge faced by Brecon High School to maintain the current provision given the small number

	the budget constraints	of pupils accessing the school's Welsh-medium stream.
5.3.13	<p>Not all parents are looking for 8, 9 or 10 GCSEs in Welsh – Brecon High School gives the opportunity for pupils to be confidently bilingual when they leave school so that they can apply for jobs where Welsh language skills are necessary</p>	<p>The authority notes this comment. However, the authority's priority is to provide equality of opportunity for Welsh-medium pupils and to ensure that they are able to access a comprehensive Welsh-medium curriculum. The current provision at Brecon High School does not provide this opportunity.</p> <p>Should the Welsh-medium stream at Brecon High School close, the school would be categorised as a category 4 school, which is described as a 'Predominantly English Medium Secondary School'.</p> <p>The Welsh Government document 'Defining Schools according to Welsh medium provision' (2007) provides the following definition for the curriculum provision of this type of school: 'Pupils are mainly taught through the medium of English. Welsh is taught as a second language up to KS4. One or two subjects (which would include Welsh first language) may be taught as an option through the medium of Welsh or using both languages.'</p> <p>Within this definition, the school could continue to offer some subjects through the medium of Welsh, which could include Welsh first language, to enable pupils to continue to develop their Welsh language skills, however this would be a decision for the school. There are examples of 'Predominantly English Medium Secondary Schools' in Powys that do provide the opportunity for pupils to study Welsh First Language, however no funding is provided by the authority to support this provision.</p>
5.3.14	<p>Year 11 at Brecon High School currently have very few subjects through the medium of Welsh – this puts a question on whether it's worth putting your child in Welsh-medium education if they eventually have to move for English-medium for most subjects</p> <p>When pupils were in year 7 they had lots of lessons in Welsh, now they only have 2</p>	<p>The authority notes this comment. The authority's priority is to provide equality of opportunity for Welsh-medium pupils and to ensure that they are able to access a comprehensive Welsh-medium curriculum. The current provision at Brecon High School does not provide this opportunity.</p>

5.3.15	Apart from the size of the Welsh stream at Brecon High School, what is the problem?	<p>As stated in the consultation document in respect of this proposal, the reasons for the proposal are as follows:</p> <ul style="list-style-type: none"> <li>- Low pupil numbers in the Welsh-medium stream at Brecon High School</li> <li>- Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education</li> </ul>
5.3.16	If Builth Wells High School can have a Welsh stream with more subjects, why can't Brecon?	<p>In the Cabinet minutes of a meeting held on the 22<sup>nd</sup> November 2011, following an informal consultation on secondary school modernisation, it notes that additional investment and support would be provided to dual stream schools to achieve the target of a Category 2B school.</p> <p>Discussions took place with all schools about their Welsh-medium provision at the time and how they would develop this in order to move towards achieving the target of a Category 2B school. Whilst the Cabinet minutes refer to 'additional investment', it was not possible to fulfil this due to the challenging financial situation facing the council.</p> <p>The Fair Funding Formula arrangements were reviewed for the 2013-14 financial year, and are very similar in respect of dual stream schools to the model used in Ceredigion. Additional support is provided to schools based on the number of subjects delivered through both languages, and the same level of support is provided to all dual stream secondary schools. Some schools, such as Builth Wells High School, have succeeded in strengthening and increasing the Welsh-medium provision available, however this has not been the case at Brecon High School.</p>
5.3.17	Dispute the need for two classes in each cohort – there has been just one class in Brecon and it has provided an excellent education	<p>As stated in the consultation document in respect of this proposal, the reasons for the proposal are as follows:</p> <ul style="list-style-type: none"> <li>- Low pupil numbers in the Welsh-medium stream at Brecon High School</li> </ul>

		<ul style="list-style-type: none"> <li>- Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education</li> </ul> <p>The small number of pupils currently attending the Welsh-medium stream at Brecon High School means that the school is only able to offer a limited range of Welsh-medium subjects to pupils, and this is exacerbated at Key Stage 4 when pupils choose their options subjects.</p>
<b>5.4 Brecon High School's Welsh ethos and commitment to Welsh-medium education</b>		
5.4.1	<p>Brecon High School has a fantastic Welsh ethos</p> <p>The Welsh ethos is high across the whole school</p> <p>Pupils at Brecon High School have constant opportunities to use Welsh</p> <p>Pupils have fantastic opportunities to see, hear and use Welsh at Brecon High School</p> <p>The ethos of Brecon High School will change if there is no Welsh stream in the school</p> <p>If the Welsh stream goes from the school, the Welshness will go as well</p> <p>If the Welsh stream closed, you wouldn't hear Welsh in the corridor in the high school</p>	<p>The authority is pleased to note the positive comments relating to Brecon High School's Welsh language ethos and the opportunities for pupils to use Welsh within the school. However, the fact remains that the number of pupils currently attending the Welsh-medium stream at the school is very small. The number of Welsh-medium pupils in the alternative providers which pupils would be expected to transfer to is significantly greater, therefore the authority's view is that this would lead to increased opportunities for pupils to use their Welsh.</p> <p>All secondary schools in Wales are encouraged to develop a Welsh-language ethos, whether or not they provide Welsh-medium education. If there were no Welsh-medium stream at Brecon High School, the school would continue to teach Welsh 2<sup>nd</sup> Language to pupils, and would be expected to maintain a Welsh ethos.</p>
5.4.2	<p>The headteacher and teachers at Brecon High School are 100% in support of the Welsh stream</p> <p>Brecon High School has a new headteacher who needs time to prove to the council that he can</p>	<p>The authority is pleased to note the positive comments in relation to the support of the headteacher and staff of Brecon High School to the Welsh-medium stream. However, the fact remains that the number of pupils currently attending the Welsh-medium stream at the school is very small, which makes the provision unviable.</p>



	make a very successful Welsh stream in Brecon	
5.4.3	The previous 2 consultations showed how supportive Brecon High School is towards Welsh-medium education	The responses received during previous consultations were taken into consideration at the appropriate points within those processes. However the number of pupils accessing the Welsh-medium stream at Brecon High School is very small, which makes the provision unviable.
5.4.4	About 20 years ago, priority was given to Welsh speakers when appointing staff – however this policy changed when there was a change of headteacher – as there have been no teachers to deliver subjects through the medium of Welsh, Welsh-medium provision has decreased	The authority notes this comment and would agree that the diminishing level of Welsh-medium provision available at Brecon High School over a number of years is due to the fact that the school has not prioritised the appointment of staff who are able to deliver subjects through the medium of Welsh over a number of years.
<b>5.5 Contribution of Welsh-medium pupils to Brecon High School</b>		
5.5.1	<p>Welsh-medium pupils contribute to the development of the Welsh language in the school – how could they contribute without a Welsh stream in the school?</p> <p>The Welsh language environment at Brecon High School is strengthened by the 1<sup>st</sup> language students</p> <p>Concern about the implications for 2<sup>nd</sup> language Welsh pupils – they improve their language skills by speaking to 1<sup>st</sup> language students</p> <p>If there were no Welsh stream, there would be less Welsh events in the school – it would have an impact on the cultural side of the school</p> <p>The culture and ethos of Brecon High School has been strengthened by having Welsh-medium</p>	<p>The authority is pleased to note the positive comments in relation to the positive contribution made by Welsh-medium pupils to the Welsh language ethos of Brecon High School.</p> <p>All secondary schools in Wales are encouraged to develop a Welsh-language ethos, whether or not they provide Welsh-medium education. If there were no Welsh-medium stream at Brecon High School, the school would continue to teach Welsh 2<sup>nd</sup> Language to all pupils and would be expected to provide opportunities for pupils to use Welsh outside the classroom.</p>

	<p>learners at the school</p> <p>Welsh-medium pupils have a positive impact on Brecon High School</p>	
5.5.2	<p>Welsh-medium pupils are completely immersed in the life of the school and are involved in the sports and musical life of the school</p> <p>Ysgol y Bannau pupils have been a large part of the back bone of activities at Brecon High School eg Orchestra, Drama, Sports</p> <p>Lots of Welsh stream pupils have already left which has impact on sports teams and other activities</p>	<p>The authority acknowledges the involvement of Welsh-medium pupils in a range of sports and cultural activities at Brecon High School. However the authority's priority is to provide equality of opportunity for Welsh-medium pupils and to ensure that they are able to access a comprehensive Welsh-medium curriculum. The current Welsh-medium provision at Brecon High School does not offer this.</p>
5.5.3	<p>You can't say that removal of the Welsh stream will not have an impact on the school</p>	<p>The authority fully acknowledges that the removal of the Welsh-medium stream would have an impact on Brecon High School. However due to the small number of pupils currently accessing the Welsh-medium stream at Brecon High School, the authority's view is that the impact would not be significant.</p>
5.5.4	<p>Transporting Welsh stream pupils from Brecon High School will have a negative impact on the school's success</p>	<p>Due to the current small number of Welsh-medium pupils at Brecon High School, the authority does not anticipate that implementation of the proposal would have a negative impact on Brecon High School.</p>
<p><b>5.6 Provision that could be offered at Brecon High School should the Welsh-medium stream close</b></p>		
5.6.1	<p>If the Welsh stream closes, Brecon needs to set up more facilities for 2<sup>nd</sup> language Welsh i.e. singing groups, more fun sessions to encourage Welsh as a second language</p> <p>What opportunities would you expect Brecon High</p>	<p>All secondary schools in Wales are encouraged to develop a Welsh-language ethos, whether or not they provide Welsh-medium education. If there were no Welsh-medium stream at Brecon High School, the school would continue to teach Welsh 2<sup>nd</sup> Language to all pupils and would be expected to provide opportunities for pupils to use Welsh outside the classroom. The actual opportunities offered would depend on the school.</p>

	<p>School to provide to second language students to use Welsh if 1<sup>st</sup> language Welsh speakers were removed from the school?</p>	
5.6.2	<p>Could any provision be offered for Welsh-medium pupils if Brecon was a category 4 school?</p> <p>Would Welsh language pupils still be able to do Welsh first language at Brecon High School if it was a category 4 school?</p> <p>What will happen to children who are currently assessed in Welsh 1<sup>st</sup> language in Brecon at the end of Key Stage 3? Will they be able to continue to be assessed in Welsh 1<sup>st</sup> language or will they have to do Welsh 2<sup>nd</sup> language?</p> <p>If the Welsh stream closed, it is a joke that children would not be able to read, write or talk in Welsh except in Welsh 2<sup>nd</sup> language</p> <p>As a minimum, would like a commitment that Welsh 1<sup>st</sup> language GCSE and A level could be available in Brecon if the Welsh stream closed</p> <p>Would be a waste of time for Welsh-medium pupils to be expected to do Welsh 2<sup>nd</sup> language if they transferred to English-medium provision at Brecon High School. Understand that they would not be able to do first language as they would be disadvantaged by doing this without the support of the Welsh stream, but they should be able to do some kind of higher level Welsh e.g. 2<sup>nd</sup> language A level. The council must take responsibility for this and not leave it for the</p>	<p>Should the Welsh-medium stream at Brecon High School close, the school would be categorised as a category 4 school, which is described as a 'Predominantly English Medium Secondary School'.</p> <p>The Welsh Government document 'Defining Schools according to Welsh medium provision' (2007) provides the following definition for the curriculum provision of this type of school: 'Pupils are mainly taught through the medium of English. Welsh is taught as a second language up to KS4. One or two subjects (which would include Welsh first language) may be taught as an option through the medium of Welsh or using both languages.'</p> <p>Whether or not to provide the opportunity for pupils who study Welsh First Language or any other subjects through the medium of Welsh would be a decision for the school. There are examples of 'Predominantly English Medium Secondary Schools' in Powys that do provide the opportunity for pupils to study Welsh First Language, however no funding is provided by the authority to support this provision.</p> <p>Brecon High School does not currently provide A level Welsh First Language, although pupils can access this subject at Builth Wells High School via the South Powys Collaboration, therefore it is very unlikely that this subject would be offered at Brecon should the Welsh-medium stream close.</p> <p>The authority's priority is to provide equality of opportunity for Welsh-medium pupils and to ensure that they are able to access a comprehensive Welsh-medium curriculum. The current provision at Brecon High School does not provide this opportunity.</p>

	<p>school to sort out</p> <p>Many parents have stated that they would accept a reduced number of subjects through the medium of Welsh at Brecon High School if necessary, even if just Welsh first language as a very last resort, if this allowed their children to remain locally</p>	
5.6.3	<p>If the Welsh stream closes next year, will pupils already in the school be able to do subjects in Welsh until they finish school?</p>	<p>As stated in the consultation document, the authority's proposal is as follows:</p> <p>'From the 1<sup>st</sup> September 2017, there would be no Welsh-medium provision in Brecon High School for pupils in years 7, 8, 9 and 10. However, Welsh-medium provision would continue to be provided in Brecon High School for those pupils who would be entering year 11 in September 2017. This provision would continue until July 2018.'</p> <p>The definition of a category 4 school 'Predominantly English Medium Secondary School' allows for the provision of one or two Welsh-medium subjects, which could include Welsh first language, however this would be a decision for the school to make.</p>
5.6.4	<p>A focus group has been created to look at creating a category 2B Welsh stream at Brecon High School regardless of the outcome of the ongoing consultation</p>	<p>The authority notes this comment. The authority would welcome the strengthening of the Welsh-medium provision in Brecon High School, however should the authority decide to proceed with implementation of the current proposal, the authority would not be able to provide any funding to support this development.</p> <p>The authority's priority is to provide equality of opportunity for Welsh-medium pupils and to ensure that they are able to access a comprehensive Welsh-medium curriculum. The current provision at Brecon High School does not provide this opportunity, and the authority's view is that the most effective way to improve the provision available to Welsh-medium pupils in the short term is to consolidate the current providers.</p>

<b>5.7 Criticism of the current Welsh-medium provision at Brecon High School</b>		
5.7.1	<p>The current Welsh-medium provision does not provide an opportunity for all pupils to access a full Welsh-medium curriculum throughout their educational careers.</p> <p>The current provision at Brecon High School is not acceptable from a language point of view</p>	The authority notes this comment.
5.7.2	The unsatisfactory Welsh-medium provision at Brecon High School has had an impact on the number of pupils accessing Welsh-medium education as some parents have not chosen Welsh-medium education whilst others have chosen Welsh-medium primary education but moved their children to private education on transfer to secondary.	The authority notes this comment.
5.7.3	With regard to the Welsh Government's Welsh language categories, Brecon High School is currently classified as a category 3 school – this level of provision is unsatisfactory compared with the provision at a category 1 or category 2A school.	The authority notes this comment.
5.7.4	The level of Welsh-medium provision at Brecon High School has not improved over many years, in fact it has deteriorated significantly.	The authority notes this comment.
5.7.5	Historically, Brecon High School has struggled to recruit Welsh-medium teachers to teach in the stream at Brecon	The authority notes this comment.

5.7.6	English is the main language used in the school, for example in assemblies, sports, performances, during break times	The authority notes this comment.
5.7.7	Some parents are under the impression that the current arrangement at Brecon High School provides sufficient Welsh-medium provision and will enable pupils to become fully bilingual, however this is not the case.	The authority notes this comment.
5.7.8	There is a lack of understanding among parents in relation to the level of provision at Brecon High School – they are shocked to realise the true picture.	The authority notes this comment.
5.7.9	The school has not been honest in terms of the information shared with parents about the level of Welsh-medium provision available.	The authority notes this comment.
<b>5.8 Other</b>		
5.8.1	There would be a big impact on Brecon High School if there was no Welsh stream in the school	The authority notes this comment.
5.8.2	It's good that pupils can learn in two languages in Brecon High School	The authority notes this comment and agrees that in an ideal world, all schools would provide opportunities for pupils to learn in Welsh. However, due to the small number of pupils currently accessing Welsh-medium provision at Brecon High School, the school is unable to provide equality of opportunity for Welsh-medium pupils compared with the opportunities available to English-medium pupils.
<b>6 GENERAL ISSUES RELATING TO BRECON HIGH SCHOOL</b>		
<b>6.1 Quality of education at Brecon High School</b>		

6.1.1	Do not agree that the education provided in Brecon High School is of a poor standard – the standard of education is excellent	Whilst the school was removed from Special Measures in November 2016, Brecon High School had been in Special Measures since February 2014.
6.1.2	Standards in Brecon High School are now one of the best in the county	<p>In terms of the level 2 inclusive indicator, Brecon High School performed above the line of modelled expectations in 2016, which placed the school among the higher performing schools in Powys for this indicator.</p> <p>However, school performance is compared with similar schools across Wales based on free school meals eligibility, not with other schools in Powys. Whilst the level 2 inclusive indicator placed the school in the higher 50% of similar schools, for level 2, level 1 and Capped 8, the school performed in the bottom 25% of similar schools, and in the lower 50% of similar schools for Core Subject Indicator.</p>
6.1.3	<p>Brecon High School is now out of special measures</p> <p>The timing of the consultation is unfortunate as Brecon has now been taken out of Special Measures</p> <p>Brecon High School has come out of Special Measures by working hard to be the best school and to offer our children the best education and experience</p> <p>Children and teachers at Brecon High School have worked hard to come out of special measures</p>	It is true that Brecon High School has now been removed from Special Measures. Cabinet members will be made aware of this when they are determining how to proceed in relation to this proposal.
6.1.4	Standards in Welsh 2 <sup>nd</sup> language at Brecon High School have improved due to the contribution of the Welsh-medium stream	Standards in Welsh 2 <sup>nd</sup> language have improved at Brecon High School. However, there is no evidence that this is due to the Welsh-medium stream.

6.1.5	Brecon High School is showing clear evidence of improvement	The authority acknowledges in the consultation document in respect of this proposal that 'There has been a good improvement trajectory of performance in recent years' at Brecon High School. Since the consultation document was published, Brecon High School has been removed from Special Measures. Cabinet members will be made aware of this when they are determining how to proceed in relation to this proposal.
6.1.6	With regard to National School Categorisation System Brecon is now on a par with Ystalyfera and above Builth having achieved 2B	Ysgol Gyfun Ystalyfera is placed in the Green support category. Builth High School is placed in the Amber support category. However, both Brecon and Builth are placed in Standards Group 2 by Welsh Government.
6.1.7	The results from Ystalyfera and Builth compared to Brecon show that fuller immersion in Welsh does not mean better results. Estyn have said that this consultation and previous consultations have not proved that there will be educational improvements	Estyn's response to the current consultation is provided on page 13 of this report. In their response, Estyn conclude that: 'the proposer appears to have suitably demonstrated that, given the small numbers of pupils in the Welsh-medium stream, that overall the proposal is likely to at least maintain the current standards of education in the area.'
<b>6.2 Issues relating to the planned new building</b>		
6.2.1	<p>Unfair that local Welsh-medium children will not have an opportunity to be part of the brand new schools</p> <p>What message will it send to Ysgol y Bannau pupils if there is a brand new secondary school building across the road but if you speak Welsh you have to go to school 20 miles away</p> <p>You will have a Welsh-medium primary school directly opposite the new building but you are saying that those pupils will not be coming to Brecon High School's new school</p> <p>Welsh-medium pupils will be missing out on the</p>	<p>Whilst a new building for Brecon High School would be a fresh start for secondary education in Brecon, there would be no significant increase in Welsh-medium pupil numbers in the short term, therefore it would be difficult for the new school to offer any more Welsh-medium subjects than are currently offered.</p> <p>The quality of accommodation at Builth Wells High School was rated B by the Welsh Government's 21<sup>st</sup> Century Schools Survey, therefore the authority has no concerns about the quality of accommodation at Builth Wells.</p> <p>Whilst the condition of Ysgol Gyfun Ystalyfera was rated D, capital work is currently being undertaken to improve the quality of accommodation at the school. The school's condition grading will improve as a result of this work.</p> <p>Should this proposal be implemented, there would be no Welsh-medium</p>



<p>opportunity to attend a new school with new facilities</p> <p>Disgusted that the council are trying to shut down the Welsh-medium stream despite spending £50 million on a new school</p> <p>If there is no Welsh stream in the new school, it would be like saying 'You can't come here' to the Welsh-medium pupils</p> <p>It's unfair that you are spending millions on a new school but you are not letting Welsh-medium pupils come into it</p> <p>To provide a new school at the exclusion of a Welsh stream would be denying equality</p> <p>Should the proposal go ahead, it would result in a 21<sup>st</sup> Century School that accepts students from most backgrounds, including Nepalese and Eastern Europe, providing them with all the amenities and advantages that Powys would hope for, but telling our local Welsh-speaking stakeholders that they are excluded</p> <p>All the diverse communities who work and study effectively together will be welcome in the new building except those who wish to be educated in Welsh</p> <p>Welsh-medium pupils will not be able to reap the rewards of the new super school – one standard of learning environment for English speakers, a lesser one for Welsh speakers – this is possibly</p>	<p>stream in Brecon High School, and therefore there would be no Welsh-medium stream at the new school building. However Welsh-medium pupils would still be able to apply for a place in Brecon High School, should that be their preference, and places would be allocated in accordance with the authority's Admissions Policy.</p>
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	<p>racist</p> <p>It would be an error to spend millions of pounds on a new building for Brecon High School and to disenfranchise Welsh speakers</p> <p>In these more optimistic times for Brecon High School it would be more forward thinking of Powys to include our Welsh speaking students and all the academic, sporting and artistic talent they can bring in a flagship, future proof school</p>	
6.2.2	<p>A new “super school” will attract new teachers, good teachers who will want to work in this new, first class environment, children will perform better and will have the best possible learning environment, however only children learning through English will be able to benefit from this</p>	<p>The authority has no concerns about the quality of accommodation that would be available at the alternative providers to which pupils may transfer should the proposal be implemented. As stated in the consultation document, the condition of Builth Wells High School was graded B by the Welsh Government’s 21<sup>st</sup> Century Schools Survey, and whilst the condition of Ysgol Gyfun Ystalyfera was graded D, capital work is currently being undertaken to improve the quality of accommodation at this school.</p> <p>Concerns have been raised in relation to the ability of the two current dual stream providers in mid and south Powys to attract and appoint Welsh-medium teachers, the authority would hope that centralising the provision would improve the opportunities to recruit high quality Welsh-medium teachers.</p>
6.2.3	<p>If the Welsh stream is removed, planning for the new building would be undertaken based on this knowledge, which would make it very difficult to re-establish a Welsh stream in the future in a school potentially only planned for English-medium pupils</p>	<p>The authority notes this comment.</p>
6.2.4	<p>Building a new school is an opportunity for Powys to get behind the aim to ensure 1 million Welsh</p>	<p>Whilst a new building for Brecon High School would be a fresh start for secondary education in Brecon, there would be no significant increase in</p>

	<p>speakers</p> <p>The new building in Brecon would be a golden opportunity to create a transformational change to Welsh-medium secondary education in Brecon</p> <p>If there was a Welsh stream in the new build, the Welsh stream would appeal to more parents</p> <p>If there was a Welsh stream in the new school, do you think the numbers would increase?</p> <p>Welsh-medium provision could be strengthened in the new school if the council was prepared to offer more leadership and to insist that the provision developed</p>	<p>Welsh-medium pupil numbers in the short term, therefore it would be difficult for the new school to offer any more Welsh-medium subjects than are currently offered.</p>
6.2.5	<p>Parents of pupils in Sennybridge CP School will be moving their children to Brecon High School when the new school building is opened</p>	<p>The authority notes this comment. Should the proposal be implemented, pupils of Sennybridge CP School could choose between accessing Welsh-medium provision at Ysgol Gyfun Ystalyfera or English-medium provision at Brecon High School. Capital work is currently being undertaken to improve the quality of accommodation at Ysgol Gyfun Ystalyfera. The authority is satisfied that the quality of accommodation at Ystalyfera will be comparable to the quality of accommodation at Brecon High School once the new school building is opened.</p>
6.2.6	<p>When you submitted the business case for funding for the new school to Welsh Government, were they aware of your proposal to remove Welsh-medium provision?</p>	<p>The Outline Business Case that was submitted to Welsh Government in September 2016 was for capital investment in a new 11-18 English-medium school. The OBC was submitted on a without prejudice basis to any decisions taken by Cabinet. The OBC was approved in October 2016.</p>
6.2.7	<p>The case for a new school at Brecon was always pitched as a bilingual school</p>	<p>Whilst a new building for Brecon High School would be a fresh start for secondary education in Brecon, there would be no significant increase in Welsh-medium pupil numbers, therefore it would be difficult for the school to offer any more Welsh-medium subjects than are currently offered.</p>

6.2.8	Ridiculous to invest millions of Welsh money in a new school but not include provision for the Welsh language stream – was this included in the original business case?	The Strategic Outline Case that was submitted to Welsh Government in March 2015 was for an 11-16 English-medium school.
6.2.9	<p>Welsh Government has agreed that Brecon High School will be developed up to and including a sixth form – this is an ideal opportunity to include plans for the Welsh-medium stream within that</p> <p>When the new school is built, there could be 150 in the 6<sup>th</sup> form – this would have an impact on the curriculum offer at post 16, and the school could then offer more Welsh-medium classes</p>	Welsh Government has approved the Outline Business Case for an 11-18 English-medium school for 750 pupils. The authority will be submitting a Full Business Case to the Welsh Government for funding, which will reflect the outcome of this consultation. It includes 150 sixth form places, however as it currently stands, the proposal is for an English-medium school, and Welsh-medium sixth form subjects would continue to be delivered from Builth Wells. Whilst a new building for Brecon High School would be a fresh start for secondary education in Brecon, there would be no significant increase in Welsh-medium pupil numbers in the short term, therefore it would be difficult for the new school to offer any more Welsh-medium subjects than are currently offered. This would also be the case in relation to sixth form provision.
6.2.10	Transporting Welsh speaking children out of Brecon will significantly increase the carbon footprint of the new building	The authority acknowledges that additional travel would have an environmental impact. However, following previous successful transport appeals, transport is already provided by the authority to Ysgol Gyfun Ystalyfera for Welsh-medium pupils from the Sennybridge area and to Builth Wells High School for Welsh-medium pupils from the Brecon area. Should the proposal be implemented, the additional transport that would be required would be minimal.
6.2.11	Want assurance that Ysgol y Bannau pupils can be accommodated under English-medium in the new building and not assumed that parents will send their children to Builth / Ystalyfera	Ysgol y Bannau pupils will be able to apply for a place in Brecon High School, should that be their preference, and places would be allocated in accordance with the authority's Admissions Policy.
6.2.12	A new school building is all Brecon needs to be a successful, excellent school	The authority notes this comment.

6..2.13	A Welsh stream would enhance the new build	The authority notes this comment. However, the authority's priority is to ensure equality of provision for Welsh-medium learners compared with English-medium learners. The current small number of Welsh-medium pupils at Brecon High School means that the Welsh-medium provision offered is limited and does not provide equality for Welsh-medium learners compared with English-medium learners. Whilst a new building for Brecon High School would be a fresh start for secondary education in Brecon, there would be no significant increase in Welsh-medium pupil numbers, therefore it would be difficult for the school to offer any more Welsh-medium subjects than are currently offered.
<b>6.3 Staff at Brecon High School</b>		
6.3.1	The proposal is causing uncertainty for staff  Teachers have moved because of the consultation	The authority acknowledges that any school reorganisation proposal leads to a period of uncertainty for members of staff affected by the proposal, and that this has been exacerbated by the ongoing uncertainty in relation to the future of the Welsh-medium stream at Brecon High School. The authority is keen to conclude this process as swiftly as possible in order to end this period of uncertainty for all those affected by the proposal.
6.3.2	The school has been under pressure for many years, yet the same staff are still here – this shows their commitment  The school's staff are committed	The authority is pleased to note the commitment of the staff of Brecon High School.
6.3.3	What will happen to the teachers who only teach subjects in Welsh?	The authority acknowledges that any school reorganisation proposal leads to a period of uncertainty for members of staff affected by the proposal, and that the ongoing uncertainty in relation to the future of the Welsh-medium stream at Brecon High School has caused ongoing uncertainty for members of staff at the school that teacher through the medium of Welsh. It is possible that closure of the Welsh-medium stream at Brecon High School would have an impact on the number of teaching staff required by the school. Should the proposal be implemented, the authority would support the school with the management of change procedures, if required.

<b>6.4 Other</b>		
6.4.1	There are a lot of people in Brecon who would not want their children educated anywhere other than Brecon High School	The authority notes this comment. Should there be no Welsh-medium stream at Brecon High School, parents would be able to apply for a place for their children at an alternative school which provides education through the medium of Welsh or they could apply for a place for their child in Brecon High School, where they would be educated through the medium of English. Places would be allocated in line with the authority's Admissions Policy.
6.4.2	Brecon High School is a Powys County Council school too and should be treated as equal to other schools	The authority is fully aware that Brecon High School is a Powys County Council school, and disagrees that the school has not been treated as equal to other schools.
<b>7 ISSUES RELATING TO BUILTH WELLS HIGH SCHOOL</b>		
<b>7.1 Quality of education at Builth Wells High School</b>		
7.1.1	<p>Builth Wells High School's last Estyn report put the school into Special Measures</p> <p>Builth Wells High School has failed its inspection due to the actual education provided at the school</p> <p>Estyn have labelled Builth as a failing school with inadequate prospects for improvement</p> <p>Builth is in Special Measures with unsatisfactory chance of improvement</p>	<p>It is true that Builth Wells High School is currently in Special Measures, following an inspection which took place in October 2015. This is stated on page 36 of the consultation document in respect of this proposal. However, the authority is confident that the school is making good progress.</p> <p>Builth Wells High School was placed in Standards Group 2 by Welsh Government in the National Categorisation in 2017. The capacity to improve at the school has improved, as evidenced in the National Categorisation of Schools.</p>
7.1.2	<p>It's unfair for Brecon children to be forced to a school that is failing its children by the education it provides</p> <p>Unfair that local Welsh-medium children will be</p>	It is true that Builth Wells High School is currently in Special Measures, following an inspection which took place in October 2015. This is stated on page 36 of the consultation document in respect of this proposal. However, the authority is confident that the school is making good progress.

	<p>sent to a school that is in Special Measures</p> <p>It is unreasonable to suggest that transferring children out of a school that is not in special measures could be better educationally</p> <p>Unfair to move children from a school that is improving and to move them to a school that is failing and not improving</p> <p>Unfair to propose that Welsh-medium provision transfers to a school that has just gone into special measures</p>	<p>Both Builth Wells High School and Brecon High School were placed in Standards Group 2 by Welsh Government in the National Categorisation in 2017.</p> <p>As stated in the proposal outlined on page 3 of the consultation document, should the proposal be implemented 'Pupils living in other parts of the catchment area currently served by the Welsh-medium stream at Brecon High School that live closer to alternative Welsh-medium secondary provision outside Powys would have the opportunity to transfer to these schools.' A proportion of pupils living in the current catchment area of the Welsh-medium stream would live closer to Ysgol Gyfun Ystalyfera, which is not in special measures.</p>
7.1.3	<p>Closing Builth to wipe the fact that the school is in special measures will mean that points like those highlighted in the Estyn report will take longer to be sorted and corrected</p> <p>Builth High School is still in Special Measures and it looks like the only way out is for the school to be closed and re-opened as a new school, rather than actually improving and putting better procedures in place as has happened at Brecon High School</p>	<p>The proposal to establish a new dual-sited school that will operate from the current sites of Builth Wells and Llandrindod High Schools is intended to deliver a sustainable model of secondary education in the area, which would be able to provide high quality education. It is true that the proposed new school would replace two schools that are currently in special measures. The fact that the schools are in special measures is a key reason for the proposal.</p> <p>In respect of Builth Wells High School, the school is currently in Special Measures, following an inspection which took place in October 2015. However, the authority is confident that the school is making good progress.</p> <p>Builth Wells High School was placed in Standards Group 2 by Welsh Government in the National Categorisation in 2017. The capacity to improve at the school has improved, as evidenced in the National Categorisation of Schools.</p>
7.1.4	<p>Alarming that the council wants to make changes and put further pressure on Builth Wells High School with increased numbers when they are in special measures – getting their house in order should be their priority before putting extra work,</p>	<p>It is true that Builth Wells High School is currently in Special Measures, following an inspection which took place in October 2015. This is stated on page 36 of the consultation document in respect of this proposal. However, the authority is confident that the school is making good progress.</p>

	pressure and changes on them	<p>Builth Wells High School was placed in Standards Group 2 by Welsh Government in the National Categorisation in 2017. The capacity to improve at the school has improved, as evidenced in the National Categorisation of Schools.</p> <p>The proposal's impact on Builth Wells High School / the New Mid Powys Secondary School is considered on page 27-28 of the consultation document. In respect of the impact on leadership and management at the school, the authority concluded that 'It is possible that implementation of the proposal may place some additional pressure in terms of leadership and management in the short term, as the school may need to make arrangements to accommodate additional pupils. However, the proposal is not expected to have a negative impact in the longer term.'</p> <p>A number of pupils that previously attended the Welsh-medium stream at Brecon High School have already transferred to the Welsh-medium stream at Builth Wells High School, therefore the authority has already had to make arrangements to accommodate these additional pupils. The number of pupils currently attending the Welsh-medium stream at Brecon High School is small, therefore the additional impact should these pupils transfer to Builth would be minimal.</p>
7.1.5	Why would parents want their children to go to a school that is failing and is 20 miles away?	<p>As stated in the consultation document in respect of this proposal, the reasons for the proposal are as follows:</p> <ul style="list-style-type: none"> <li>- Low pupil numbers in the Welsh-medium stream at Brecon High School</li> <li>- Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education</li> </ul> <p>There are more Welsh-medium pupils at Builth Wells High School compared with Brecon High School, therefore pupils would be part of a larger cohort of pupils. In addition, greater curriculum choice is offered to Welsh-medium pupils throughout all key stages of education.</p>



		<p>Whilst it is true that Builth Wells High School is currently in Special Measures, following an inspection which took place in October 2015, the authority does not agree that the school is 'failing' – the authority is confident that the school is making good progress. Builth Wells High School was placed in Standards Group 2 by Welsh Government in the National Categorisation in 2017, and the capacity to improve at the school has improved, as evidenced in the National Categorisation of Schools.</p> <p>The authority acknowledges that implementation of the proposal would lead to additional travel for the affected pupils.</p>								
7.1.6	Some pupils have gone to Ystalyfera because Builth Wells High School is in Special Measures	The authority notes this comment.								
<b>7.2 Comparisons between Builth Wells High School and Brecon High School</b>										
7.2.1	Builth Wells High School is in a far worse situation than Brecon and has had an Estyn report that is worse than any of Brecon's	<p>It is true that Builth Wells High School is currently in Special Measures, following an inspection which took place in October 2015. This is stated on page 36 of the consultation document in respect of this proposal. However, the authority is confident that the school is making good progress.</p> <p>Builth Wells High School was placed in Standards Group 2 by Welsh Government in the National Categorisation in 2017. The capacity to improve at the school has improved, as evidenced in the National Categorisation of Schools.</p>								
7.2.2	As stated in the Consultation Document, Capacity to Improve for Brecon is C and the school is rated as Amber, whereas Capacity to Improve for Builth is D and the school is rated Red	<p>The capacity to improve at both Brecon and Builth Wells High Schools have improved in the 2017 National Categorisation of Schools. The 2017 categorisations for both schools are provided in the following table:</p> <table border="1"> <thead> <tr> <th>School</th> <th>Standards Group</th> <th>Improvement Capacity</th> <th>Support Category</th> </tr> </thead> <tbody> <tr> <td>Brecon High School</td> <td>2</td> <td>B</td> <td>Yellow</td> </tr> </tbody> </table>	School	Standards Group	Improvement Capacity	Support Category	Brecon High School	2	B	Yellow
School	Standards Group	Improvement Capacity	Support Category							
Brecon High School	2	B	Yellow							

		Builth Wells High School	2	C	Amber
7.2.3	Classroom control is poorer in Builth than in Brecon – this was highlighted strongly in the Estyn report re Builth, and was also highlighted to the children of the Brecon Welsh stream when they went there to do a taster day	It is true that Estyn identified that ‘Pupils in a few classes display poor behaviour’ in the core inspection of Builth Wells High School carried out in 2015. However, in Estyn’s monitoring visit in June 2016, they judged that ‘Most pupils behave well in lessons.’			
7.2.4	The work at Builth High School isn’t as challenging as it is in Brecon, this was highlighted by children from the Welsh stream who visited Builth and in the Estyn report that put Builth into special measures recently	The authority notes this comment. However the number of pupils accessing the Welsh-medium stream at Brecon High School, which make the provision unviable.			
7.2.5	Educational achievement is lower in Builth than it is in Brecon  Brecon students achieve better than Builth students	Both schools were placed in Standards Group 2 by Welsh Government in the National Categorisation in 2017.			
7.2.6	Builth is in Special Measures but Brecon is improving	It is true that Builth Wells High School is in Special Measures following an inspection which took place in October 2015, whilst Brecon High School was removed from Special Measures following a monitoring visit in November 2016. However, Builth Wells High School is also securing improvements. The school was placed in Standards Group 2 by Welsh Government in the National Categorisation in 2017, and capacity to improve at the school has also improved, as evidenced in the National Categorisation of Schools.			
<b>7.3 Welsh-medium pupil numbers at Builth Wells High School</b>					
7.3.1	There are not currently viable numbers of Welsh-medium learners at Builth	The current number of Welsh-medium pupils at Builth Wells High School is significantly larger than the number of Welsh-medium pupils at Brecon High School.			

	Are you happy with the number of pupils in the cohort at Builth Wells High School now?																																														
7.3.2	Welsh-medium pupil numbers in the Builth catchment are decreasing year on year, numbers in the Brecon catchment are increasing	<p>The number of Welsh-medium primary pupils in the current catchment area of Brecon High School is provided on page 12 of the consultation document. This information does not show that pupil numbers are consistently increasing year on year.</p> <p>The number of Welsh-medium primary pupils in the current catchment area of Builth Wells High School are as follows:</p> <table border="1"> <thead> <tr> <th></th> <th>Builth Wells CP School</th> <th>Llandrindod C. in W. School Trefonnen</th> <th>Rhayader C. in W. School</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td><b>R</b></td> <td>22</td> <td>8</td> <td>8</td> <td>38</td> </tr> <tr> <td><b>1</b></td> <td>11</td> <td>20</td> <td>9</td> <td>40</td> </tr> <tr> <td><b>2</b></td> <td>16</td> <td>8</td> <td>11</td> <td>35</td> </tr> <tr> <td><b>3</b></td> <td>14</td> <td>8</td> <td>7</td> <td>29</td> </tr> <tr> <td><b>4</b></td> <td>21</td> <td>12</td> <td>13</td> <td>46</td> </tr> <tr> <td><b>5</b></td> <td>19</td> <td>11</td> <td>4</td> <td>34</td> </tr> <tr> <td><b>6</b></td> <td>14</td> <td>6</td> <td>5</td> <td>25</td> </tr> <tr> <td><b>Total</b></td> <td><b>117</b></td> <td><b>73</b></td> <td><b>57</b></td> <td><b>247</b></td> </tr> </tbody> </table> <p>This shows that the number of Welsh-medium pupils in the current catchment of the Welsh-medium stream at Builth Wells High School is larger than the number of Welsh-medium pupils in the current catchment of the Welsh-medium stream at Brecon High School in all year groups.</p>		Builth Wells CP School	Llandrindod C. in W. School Trefonnen	Rhayader C. in W. School	Total	<b>R</b>	22	8	8	38	<b>1</b>	11	20	9	40	<b>2</b>	16	8	11	35	<b>3</b>	14	8	7	29	<b>4</b>	21	12	13	46	<b>5</b>	19	11	4	34	<b>6</b>	14	6	5	25	<b>Total</b>	<b>117</b>	<b>73</b>	<b>57</b>	<b>247</b>
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7.3.3	<p>If the extra hypothetical Welsh-medium children don't go to Builth, Builth won't be able to offer the predicted improvements</p> <p>It's clear that Builth High School will not achieve the critical mass of Welsh-medium pupils needed</p>	<p>The authority has identified in the consultation document in respect of this proposal that there are a number of risks linked to implementation of the proposal. These include the risk that 'pupils choose to attend English-medium secondary provision instead of continuing to access Welsh-medium provision on transfer to secondary school' and that 'pupil numbers at Ysgol y Bannau decrease due to the lack of Welsh-medium secondary provision at Brecon'.</p>																																													

	<p>to provide a “greatly improved” learning environment to pupils</p> <p>Less than 50% of this year’s year 6 at Ysgol y Bannau have chosen Builth High School for September 2017 – this is less than expected and a blow to establishing a critical mass of pupils in Builth</p> <p>Not all Welsh-medium learners have moved to Builth, therefore you haven’t created the critical mass you hoped to create</p> <p>Current indications from parents / pupils at Ysgol y Bannau suggest that a ‘critical mass’ would not be achieved – parents would send their children to the English stream at Brecon instead of sending them to Builth</p> <p>The stream at Builth will remain the size it was before the threat of closure of the stream in Brecon</p> <p>Closing the provision in Brecon to increase the numbers in Builth will not work in the long term</p> <p>The number of Welsh-medium pupils going to Builth will be low initially and even lower in the future</p> <p>Centralising in Builth will only increase the numbers in Builth slightly, and numbers will decline drastically in the future</p>	<p>These risks acknowledge the uncertainty in relation to the number of pupils that could be attending provision in Builth Wells in the future, and that it is likely that not all Welsh-medium learners will transfer to Builth Wells.</p> <p>However, more Welsh-medium secondary provision is currently provided in Builth Wells compared with the provision at Brecon High School, therefore the authority is satisfied that even if less pupils than expected from the Brecon area transfer to Builth Wells High School / the New Mid Powys Secondary School, more Welsh-medium provision will continue to be available to them compared with the provision at Brecon High School.</p>
7.3.4	Parents already know which high school their	On page 16 of the consultation document in respect of this proposal, the

	<p>children will attend when they decide which primary school they wish their children to attend, therefore parents of current pupils at Ysgol y Bannau will not wish their children to attend Builth Wells High School</p>	<p>authority identified the risk that ‘Pupils choose to attend English-medium secondary provision instead of continuing to access Welsh-medium provision on transfer to secondary school’. The document also states that ‘In the short term, the authority would expect there to be some reduction in the proportion of pupils from the Brecon area continuing to access Welsh-medium provision in the secondary sector’.</p> <p>However, the current Welsh-medium provision in Brecon High School is very limited and the authority’s view is that this does not provide equality of opportunity for Welsh-medium pupils.</p> <p>As stated in the consultation document ‘Retaining pupils within the Welsh-medium sector is one of the Welsh Government’s priorities, and the authority will work with the primary schools concerned to establish transition links with the alternative providers with the aim of reversing any reduction in transfer rates into KS3 in the longer term.’</p>
7.3.5	<p>Builth High School will get even more undesirable for Brecon parents as people see and hear that other families are constantly backwards and forwards between Builth and Brecon</p>	<p>The authority notes this comment and accepts that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils’ future education. However, the current number of pupils accessing the Welsh-medium stream at Brecon High School is very small which makes it unviable.</p>
7.3.6	<p>The council wants to close the stream in Brecon now because if they left it a few more years Brecon would have more pupils than Builth</p>	<p>This is untrue. The reasons why the authority is proposing to close the Welsh-medium stream at Brecon High School are stated in the consultation document in respect of the proposal, and are as follows:</p> <ul style="list-style-type: none"> <li>- ‘Low pupil numbers in the Welsh-medium stream at Brecon High School</li> <li>- Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education’</li> </ul>
<p><b>7.4 Welsh-medium provision at Builth Wells High School</b></p>		

7.4.1	How many subjects are currently taught through the medium of Welsh in Builth?	<p>During the current academic year, the following number of subjects are taught through the medium of Welsh in years 7-11 at Builth Wells High School:</p> <table border="1" data-bbox="1016 296 1868 544"> <thead> <tr> <th>Year</th> <th>Number of Welsh-medium subjects</th> <th>Number of bilingual subjects</th> </tr> </thead> <tbody> <tr> <td>7</td> <td>12</td> <td>0</td> </tr> <tr> <td>8</td> <td>12</td> <td>0</td> </tr> <tr> <td>9</td> <td>12</td> <td>0</td> </tr> <tr> <td>10</td> <td>9</td> <td>5</td> </tr> <tr> <td>11</td> <td>9</td> <td>4</td> </tr> </tbody> </table>	Year	Number of Welsh-medium subjects	Number of bilingual subjects	7	12	0	8	12	0	9	12	0	10	9	5	11	9	4
Year	Number of Welsh-medium subjects	Number of bilingual subjects																		
7	12	0																		
8	12	0																		
9	12	0																		
10	9	5																		
11	9	4																		
7.4.2	It's unfair that Builth High School was able to go ahead with increasing Welsh-medium provision	<p>In the Cabinet minutes of a meeting held on the 22<sup>nd</sup> November 2011, following an informal consultation on secondary school modernisation, it notes that additional investment and support would be provided to dual stream schools to achieve the target of a Category 2B school.</p> <p>Discussions took place with all schools about their Welsh-medium provision at the time and how they would develop this in order to move towards achieving the target of a Category 2B school. Whilst the Cabinet minutes refer to 'additional investment', it was not possible to fulfil this due to the challenging financial situation facing the council.</p> <p>The Fair Funding Formula arrangements were reviewed for the 2013-14 financial year, and are very similar in respect of dual stream schools to the model used in Ceredigion. Additional support is provided to schools based on the number of subjects delivered through both languages, and the same level of support is provided to all dual stream secondary schools. Some schools, such as Builth Wells High School, have succeeded in strengthening and increasing the Welsh-medium provision available, however this has not been the case at Brecon High School.</p>																		
7.4.3	In the first consultation the council said they would use Ysgol y Bannau children to improve the standard of Welsh in Builth – this is not a reason	The council did not say they would 'use Ysgol y Bannau children to improve the standard of Welsh in Builth' in the first consultation on closure of the Welsh-medium stream at Brecon High School. In the consultation document																		

	to make Ysgol y Bannau children travel. If Builth's standard of Welsh is not good enough then improve the teaching not transport the better performing children to Builth to improve their standard	issued at that time, the council identified as an advantage of the proposal that 'an increased number of Welsh-medium pupils would enable Builth Wells High School to further develop its Welsh ethos'.
7.4.4	Builth shows more bilingualism in the way the school is run than Brecon ever did	The authority notes this comment.
7.4.5	Although there is more Welsh-medium provision in Builth than in Brecon, it is not as consistent as Brecon in all departments	The authority notes this comment.
7.4.6	The council has been unable to ensure the development of the Welsh-medium stream in Brecon High School, so there is no assurance that the council cannot ensure this in Builth Wells High School either	The authority notes this point. However, in recent years Builth Wells High School has actively developed its Welsh-medium provision, through the recruitment of additional Welsh-medium teachers. The authority is satisfied that the current SMT and governing body at Builth Wells High School are committed to the further development of Welsh-medium provision.
7.4.7	Proposal to extend the Welsh medium curriculum at Builth Wells may not materialise given you are unlikely to increase your critical mass sufficiently	<p>The authority notes this concern. On page 16 of the consultation document, the council identified a risk that 'Pupils choose to attend English-medium secondary provision instead of continuing to access Welsh-medium provision on transfer to secondary school'. In the risk management measures in relation to this risk, the authority states the following: 'Retaining pupils within the Welsh-medium sector is one of the Welsh Government's priorities, and the authority will work with the primary schools concerned to establish transition links with the alternative providers with the aim of reversing any reduction in transfer rates into KS3 in the longer term.'</p> <p>More Welsh-medium secondary provision is currently provided in Builth Wells compared with the provision at Brecon High School, therefore the authority is satisfied that even if less pupils than expected from the Brecon area transfer to Builth Wells High School / the New Mid Powys Secondary School, more Welsh-medium provision will continue to be available to them compared with the provision at Brecon High School.</p>

7.4.8	There are more Welsh medium pupils in Builth so Welsh-medium pupils would hear more Welsh	The authority agrees that the fact that there are more Welsh-medium pupils in Built Wells High School than there are at Brecon High School would mean that pupils would have more opportunities to use Welsh.
<b>7.5 Other</b>		
7.5.1	Builth have said that they can't do any more than they do now to accommodate pupils in terms of access to after school activities, and that Ysgol y Bannau pupils aren't the only pupils that travel to school so they can't give them any extra help	The authority notes this concern. The authority has acknowledged that implementation of the proposal would impact on the ability of pupils to access after school activities should they transfer to the provision at Builth Wells. Builth Wells High School, and particularly the Welsh-medium stream, already serves a large catchment area, and many pupils are reliant on home to school transport. The authority's view is that pupils from the Brecon area transferring to Builth Wells High School / the New Mid Powys Secondary School would not be disadvantaged compared to other pupils that already attend the school.
7.5.2	Moving provision to Builth is a short term solution not a long term solution	The authority disagrees with this comment. As stated on page 21 of the consultation document, 'the authority's view is that closure of the Welsh-medium stream at Brecon High School is the most suitable way forward in order to ensure that more robust linguistic continuity can be provided to Welsh-medium learners. This would provide a solid base which could be further developed in the future, through the possible establishment of designated Welsh-medium secondary provision to serve the area.'
7.5.3	Will Builth Wells High School be given additional financial support, advice or direction from the council to address solutions? Are the school aware of their additional responsibilities to help deliver solutions you don't have an answer for? Are you putting the schools in a situation for which there may be no acceptable solution without you committing additional resources? Concern that Builth High School, already in special measures, will be under more pressure	The proposal's impact on Builth Wells High School is considered on pages 27-28 of the consultation. In addition, Builth Wells High School were consultees as part of the consultation, and could have contacted the authority to raise any concerns they had in relation to implementation of the proposal.



7.5.4	If parents wanted their children to go to Builth Wells High School they would have sent them to primary schools in Builth Wells to start with	Pupils in the Brecon area would not be eligible for home to school transport to attend primary provision in the Builth Wells catchment, therefore it is unlikely that parents would have sent their children to primary schools in the area.
<b>8 ISSUES RELATING TO YSGOL GYFUN YSTALYFERA</b>		
8.1	<p>Families in Sennybridge are realising that travelling to Ystalyfera, out of the area, is not a positive thing for their children</p> <p>Children and families from Sennybridge are starting to choose Brecon Welsh stream over Ystalyfera</p> <p>Pupils who have chosen Ystalyfera in the past are now looking to Brecon since realising that travelling is not a positive option</p> <p>Unfair that pupils in Sennybridge will only be able to choose a single language secondary school</p>	<p>In recent years, the majority of Welsh-medium pupils from Sennybridge C.P. School have transferred to Ysgol Gyfun Ystalyfera for secondary provision. As stated in the consultation document in respect of this proposal 'This is a pattern that has developed over time...where parents have chosen for their children to attend Ysgol Gyfun Ystalyfera for their secondary provision, partly due to the greater level of Welsh-medium provision available.'</p> <p>Ysgol Gyfun Ystalyfera is a Welsh-medium secondary school, and can offer a full Welsh-medium curriculum to pupils. As stated in the council's draft Welsh in Education Strategic Plan (WESP) for 2017-20, 'The authority fully agrees with the view of Welsh Government that pupils are more likely to become fully bilingual after attending Welsh-medium schools, particularly when they come from non-Welsh speaking homes'.</p>
8.2	Why are you so adamant that Sennybridge Welsh stream should feed Ystalyfera when the distance to Ystalyfera is 18 miles, 10 miles further than to Brecon High School? What are your motives?	<p>In recent years, the majority of Welsh-medium pupils from Sennybridge C.P. School have transferred to Ysgol Gyfun Ystalyfera for secondary provision. This has been the choice of parents, partly due to the greater level of Welsh-medium provision available.</p> <p>Ysgol Gyfun Ystalyfera is a Welsh-medium secondary school, therefore the Welsh-medium provision available to pupils is significantly greater than that offered in Brecon High School, or any other dual stream school. The authority's view is that the additional travel distance of 10 miles referred to is not an unreasonable additional distance in order to access full Welsh-medium provision, and this is supported by the parents who have chosen for their children to transfer to Ystalyfera in recent years.</p> <p>The authority's only motive is to ensure that pupils from the Sennybridge area</p>

		continue to be able to access Welsh-medium secondary provision of the highest quality, and should this proposal be implemented, the authority would take steps to formalise the arrangement with Neath Port Talbot County Borough Council to ensure that the Sennybridge is included in the official catchment area of Ysgol Gyfun Ystalyfera.
8.3	<p>It's impossible for Powys children attending school in Ystalyfera to maintain social friendships with children from Swansea and Neath who attend that school</p> <p>Concern that pupils from Powys would be lost in a large urban school like Ystalyfera</p>	<p>The authority acknowledges that the current catchment area of Ysgol Gyfun Ystalyfera is large, however the authority is aware that Neath Port Talbot County Borough Council intends to establish a second Welsh-medium secondary stie in the south of the county, which will result in the catchment area for the Ystalyfera site being reduced.</p> <p>Historically, Brecon High School was a school of over 800 pupils, and therefore Ysgol Gyfun Ystalyfera is not significantly larger than the numbers that have been educated at Brecon in the past, and it is expected that the number of pupils on the Ystalyfera site will reduce following the establishment of a second site in the south of the county. The school is located in the village of Ystalyfera which is smaller than Brecon, therefore it is not true that it is an urban school.</p>
8.4	Concern that pupils from Sennybridge would have to transfer to Ystalyfera on their own if they were the only pupil in the year group	All secondary schools have transition plans for pupils transferring into the school. The authority recognises that should the proposal be implemented, pupils from Sennybridge could be transferring to a different school to English-medium pupils, however this is already happening due to parental choice.
8.5	In previous consultation documents it has been stated that the capacity for Ystalyfera is 1285 pupils, however projections are that pupil numbers will exceed this figure to 1355 by January 2019 – what if Neath Port Talbot is no longer willing or able to accept children from out of county?	<p>As stated in footnote 14 on page 35 of the consultation document in respect of this proposal, Ysgol Gyfun Ystalyfera will close on the 31<sup>st</sup> August 2017, as will Ysgol Gymraeg Y Wern and a new 3-19 school will open in their place. The projected pupil numbers for January 2018 onwards include the projected pupil numbers for Ysgol Gymraeg y Wern and Ysgol Gyfun Ystalyfera.</p> <p>Neath Port Talbot County Borough Council are currently progressing a proposal to open a second Ystalyfera site in the south of the area. This will provide additional capacity for Welsh-medium secondary provision in the county, and the number of Powys pupils likely to access Ystalyfera, including</p>

		Sennybridge pupils, have been taken into account in planning this work.
8.6	There is going to be a change at Ysgol Ystalyfera – there is going to be a new campus in Neath Port Talbot. How well known is this? Are parents in the area aware of this?	Footnote 14 on page 35 of the consultation document in respect of this proposal refers to the development of a second campus for Ysgol Gyfun Ystalyfera in the south of Neath Port Talbot County Borough. Pupils living in Powys will continue to access the current site, therefore it is not anticipated that the development of a second campus would have a significant impact on Powys pupils.
8.7	70 Welsh-medium students from Powys are attending Ysgol Gyfun Ystalyfera – Neath Port Talbot is getting money that Powys should be getting	Welsh-medium pupils from the Ystradgynlais area wishing to continue to access Welsh-medium provision on transfer to secondary education have for many years transferred to Ysgol Gyfun Ystalyfera at the start of year 7. When the authority undertook its transformation review in the area at the start of the current decade, it was decided to continue with this arrangement rather than duplicate the provision in Ysgol Maesydderwen. Ysgol Gyfun Ystalyfera is a Welsh-medium secondary school, therefore the breadth of Welsh-medium provision and opportunities to use Welsh within the school are significantly greater than those that would be offered in any dual stream provision.
8.8	Pupils who have been to Ystalyfera but moved to Brecon say that they have more opportunities to use Welsh in Brecon High School than they did in Ystalyfera	Ysgol Gyfun Ystalyfera is a Welsh-medium secondary school which provides a full Welsh-medium curriculum to pupils. In addition, Welsh is the main language used in the school, and extra-curricular activities are provided in Welsh. The authority does not agree that more opportunities are provided for pupils to use Welsh in Brecon High School than at Ystalyfera.
8.9	Over a number of years, some parents have chosen to transport their children to Ystalyfera for secondary education as this school, as a Welsh-medium secondary school, could offer certainty to the parents and pupils with regard to the provision that would be available throughout Key Stage 3 and 4.	The authority acknowledges that as a Welsh-medium secondary school, Ysgol Gyfun Ystalyfera can offer certainty to parents and pupils with regard to the Welsh-medium provision available throughout all key stages.
8.10	Pupils would have more Welsh speaking friends in a Welsh school like Ystalyfera	The authority agrees that given the significantly greater number of Welsh-medium pupils at Ystalyfera, pupils would have more Welsh speaking friends

		at this school.
8.11	Many Welsh-medium pupils at Sennybridge School have already decided that they will be going to Ystalyfera, and have visited the school	The authority notes this comment.
<b>9. IMPACT ON YSGOL Y BANNAU</b>		
<b>9.1 Pupil numbers at Ysgol y Bannau</b>		
9.1.1	<p>Ysgol y Bannau would decline dramatically in the long term if the Welsh stream in Brecon High School closed</p> <p>The uncertainty about the future of Welsh-medium provision in Brecon High School is affecting pupil numbers in Ysgol y Bannau</p> <p>Children are already being removed from Ysgol y Bannau due to the ongoing uncertainty</p> <p>It has taken decades to build Ysgol y Bannau into the successful designated Welsh-medium primary school it is at present, with a steady 140+ on roll for years – this number will rise given the security of Welsh-medium education in Brecon, however there will undoubtedly be a fall in numbers should Welsh-medium provision be removed from Brecon High School</p> <p>Powys County Council does not seem concerned that the number of pupils in Ysgol y Bannau will decline</p> <p>The reduction in pupil numbers at Ysgol y Bannau</p>	<p>The authority acknowledges that the proposal could have a negative impact on Ysgol y Bannau in the short term, and this is identified in the consultation document. However, whilst Welsh-medium pupil numbers in other parts of Powys have grown over recent years, this hasn't been the case at Ysgol y Bannau.</p> <p>There has been dissatisfaction with the Welsh-medium secondary provision available in Brecon for many years, since long before the authority mentioned the possibility that the Welsh-medium stream could close, which has resulted in a number of parents choosing for their children to attend alternative provision, instead of transferring to the Welsh-medium stream at Brecon High School. The authority's view is that this uncertainty in relation to secondary progression has contributed to the lack of growth of Ysgol y Bannau.</p> <p>The authority's view is that closure of the Welsh-medium stream at Brecon High School would provide greater clarity in terms of the Welsh-medium provision available in the secondary sector. This would enable the authority to work with other organisations such as Mudiad Meithrin and Menter Brycheiniog a Maesyfed to promote the benefits of bilingualism and Welsh-medium education, with the aim that any reduction in pupil numbers could be reversed in the longer term, with the potential that they could increase.</p>

	<p>is a threat to the creation of a critical mass of pupils for Key Stages 3 and 4</p> <p>The council needs to accept that it will be responsible for the decline in numbers in Ysgol y Bannau</p> <p>If the Welsh stream goes from the high school, parents will think that there's no point sending their children to Welsh-medium education and the numbers will go down</p> <p>Only the Welsh speaking families will be left in Ysgol y Bannau – at the moment 2/3 of pupils have no Welsh at home</p> <p>Numbers in the 3 year old setting at Ysgol y Bannau have decreased over the last two years</p>	
9.1.2	<p>The consultation document refers to providing support to Ysgol y Bannau to maintain pupil numbers, if not grow, to help with the numbers transferring to Builth Wells, why can't the same support be provided to Ysgol y Bannau to support a Welsh-medium stream in Brecon High School?</p>	<p>Over the years, the authority has worked with organisations such as Menter Brycheiniog and Twf to promote Welsh-medium education in the Brecon area. However, the limited secondary provision available has caused difficulties with this work. The authority's view is that closure of the Welsh-medium stream at Brecon High School would provide greater clarity in terms of the Welsh-medium provision available in the secondary sector. This would enable the authority to work with other organisations such as Mudiad Meithrin and Menter Brycheiniog a Maesyfed to promote the benefits of bilingualism and Welsh-medium education, with the aim that any reduction in pupil numbers could be reversed in the longer term, with the potential that they could increase.</p>
9.1.3	<p>Have had to increase the opening hours of the Cylch Meithrin in Brecon due to an increase in the number of children</p>	<p>The authority is pleased to note that the number of children attending the Cylch Meithrin provision in Brecon is increasing. Should the proposal be implemented, the authority would work with organisations such as Mudiad Meithrin and Menter Brycheiniog a Maesyfed to promote the benefits of bilingualism and Welsh-medium education, in order to promote progression</p>

		into Welsh-medium education, and would hope that the greater clarity in terms of the Welsh-medium provision available in the secondary sector for pupils from the Brecon area would support this.
<b>9.2 Threat of closure of Ysgol y Bannau</b>		
9.2.1	<p>The proposal could result in closure of Ysgol y Bannau</p> <p>The proposal would have a huge impact on the viability of Ysgol y Bannau</p> <p>The proposal would lead to closure of a lovely, happy and safe Welsh-medium primary school</p> <p>Removing the Welsh-medium stream will almost certainly guarantee the closure of Ysgol y Bannau</p> <p>Concern about the future of Ysgol y Bannau if the proposal goes through</p> <p>You say that you have no plans to close Ysgol y Bannau, however the proposal is already having a detrimental impact and if parents vote with their feet, the school is likely to close in the future</p>	<p>The authority is not planning to close Ysgol y Bannau. The authority is committed to Ysgol y Bannau as a provider of Welsh-medium education in Brecon, and would hope that the improved clarity with regard to secondary progression would lead to an increase in pupil numbers at the school in the long term.</p> <p>The authority's draft WESP for 2017-20 states the authority's aim to increase the number of Welsh-medium pupils in Powys, and Ysgol y Bannau will be a key partner for the authority in this work.</p>
9.2.2	<p>The reduction in pupil numbers could mean that the school will become too small to maintain its present site and will return to being a unit in an English-medium primary school in Brecon town</p> <p>Concern that Ysgol y Bannau will have to move in the future</p>	<p>The authority currently has no plans to relocate Ysgol y Bannau.</p> <p>The authority acknowledges that the model of a designated Welsh-medium school is preferable to a dual stream school in terms of ensuring that pupils can develop their bilingual skills, therefore the authority would not propose the school returning to being a unit in an English-medium primary school.</p>
<b>9.3 Issues relating to parental preference</b>		

9.3.1	<p>The parents of most pupils at Ysgol y Bannau want their children to transfer to Brecon High School not Builth Wells High School</p> <p>The majority of parents of year 6 pupils in Ysgol y Bannau wish their children to transfer to Brecon High School in September 2017, and will continue to send their children here if the Welsh stream closes</p>	<p>The authority notes this comment. However, even if all pupils attending Ysgol y Bannau transferred to the Welsh-medium stream at Brecon High School, the number of pupils in each year group would remain small.</p> <p>The authority accepts that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils' future education.</p>
9.3.2	<p>Many parents of pupils at Ysgol y Bannau are non-Welsh speakers who take a 'leap of faith' when they choose Welsh-medium education – they will not take that 'leap of faith' if there is no secondary provision available locally</p>	<p>In contrast to other designated Welsh-medium primary schools in Powys, pupil numbers at Ysgol y Bannau have not grown significantly in recent years. The authority's view is that the lack of secondary provision which provides equality of opportunity for Welsh-medium pupils and access to a comprehensive Welsh-medium curriculum is one of the reasons for this. The authority's hope is that the improved clarity in relation to the Welsh-medium opportunities available in the secondary phase would encourage more parents to take a 'leap of faith' and choose Welsh-medium education. This supports the Welsh Government's Welsh-medium education strategy, which states that: 'Welsh-medium education from the early years, with robust linguistic progression through every phase of education, offers the best conditions for developing young people who are truly bilingual'.</p>
<b>9.4 Impact on staff</b>		
9.4.1	<p>There will be redundancies amongst the staff</p> <p>The reduction in pupil numbers could be to such an extent that the school will face teacher redundancies</p>	<p>The authority acknowledges that any school organisation proposal will lead to a period of uncertainty for staff, and that staff at Ysgol y Bannau may be concerned about the school's future. However the authority is committed to Ysgol y Bannau as a provider of Welsh-medium education in Brecon, and would hope that the improved clarity with regard to secondary progression would lead to an increase in pupil numbers at the school in the long term.</p>
<b>9.5 Other</b>		

9.5.1	Without the Welsh stream at Brecon High School, Ysgol y Bannau will operate in isolation	<p>Ysgol y Bannau currently operates in isolation to some extent, this was one of the reasons why Clwstwr y Ffynnon was established, to strengthen links between Ysgol y Bannau and other Welsh-medium providers in south Powys.</p> <p>Should the proposal be implemented, Ysgol y Bannau would become a feeder school for Builth Wells High School, which would result in strengthened links with that school and other schools which feed the school's Welsh-medium stream.</p>
9.5.2	Ysgol y Bannau has an after school club called Y Gorlan which employs Welsh speaking 6 <sup>th</sup> form pupils from Brecon High School. If these pupils weren't attending Brecon High School they would not be back in time to do this, therefore Y Gorlan would struggle to find people to work these strange hours	The authority notes this comment.
9.5.3	When Ysgol y Bannau was built there was a lot of talk about the fact that Welsh-medium primary pupils could choose Welsh-medium provision at Brecon High School, however there appears to have been a change of viewpoint	<p>The authority agrees that in an ideal world, pupils would be able to access comprehensive Welsh-medium primary and secondary provision locally. However the current provision at Brecon High School does not offer comprehensive provision for pupils. In addition, the current arrangement of providing access to Welsh-medium secondary provision in Brecon has not led to any significant increase in Welsh-medium pupil numbers in the area over recent years.</p> <p>The authority's view is that in order to increase the provision available in order to provide a greater level of equality for Welsh-medium pupils, the current two providers need to be consolidated.</p>
9.5.4	Ysgol y Bannau is being discriminated against	The authority's view is that the current provision at Brecon High School is not providing equality of opportunity for Welsh-medium pupils in the catchment, and that this is unfair to pupils. The aim of the proposal is provide greater equality of provision for Welsh-medium pupils, however it is acknowledged that there will be some negative implications associated with this.



9.5.5	<p>There is no point having Welsh-medium primary provision in Brecon if there is no follow on provision</p> <p>The proximity of Ysgol y Bannau to Brecon High School makes it obvious that there should be continuity in Welsh-medium education from primary to secondary</p> <p>It's good for Ysgol y Bannau that there is a Welsh stream next door, if it moves this won't be the case</p>	<p>The authority does not agree with this statement. Ysgol Dafydd Llwyd located in Newtown has grown significantly in recent years despite there being no Welsh-medium secondary provision located in the town.</p> <p>Due to the growth in numbers at Ysgol Dafydd Llwyd, the council has recently invested in a new building for the school, which allows for further growth. The new school is located next door to Newtown High School, an English-medium secondary school.</p>
9.5.6	Ysgol y Bannau is at the top of a hill, this can put lower income families without cars off choosing Welsh-medium education	The authority notes this comment, and accepts that the location of Ysgol y Bannau could be a barrier to accessing Welsh-medium education for some families.
<b>10. ISSUES RELATING TO EQUALITY / DISCRIMINATION</b>		
<b>10.1 Discrimination against poorer families</b>		
10.1.1	<p>Welsh-medium education will only be accessible to wealthier families</p> <p>The council is discriminating against those less fortunate to favour those that are well off</p> <p>Low income families will be unable to carry on in Welsh-medium education</p> <p>Families from low income families will have to choose between Welsh and quality of life</p>	<p>In the draft equality impact assessment produced in respect of this proposal, the authority identified that should the proposal be implemented, 'Some people on low incomes will be affected. Whilst free home to school transport would be provided to alternative provision, it is likely that the greater distance to travel to the school for other activities would have a greater impact on people on low incomes'.</p> <p>The draft impact assessment will be updated to reflect issues raised during the consultation period, and will be taken into consideration by Cabinet when determining how to proceed in relation to this proposal.</p>
10.1.2	Pupils from disadvantaged families will be prevented from accessing Welsh-medium	The authority notes these concerns. However, the authority's view is that the current limited Welsh-medium provision provided at Brecon High School is

	<p>education – parents will be unable to support their children if they are not in a position to travel to attend events, activities, parents evenings or to take children to school after hospital / dentist appointments</p> <p>The proposal does not create equal opportunity as parents from disadvantaged families will not be able to travel the distances to support their children in extra-curricular activities</p>	<p>disadvantaging Welsh-medium pupils and is not providing equal opportunity for these pupils.</p> <p>The draft equality impact assessment produced in respect of this proposal identified that the proposal would have an impact on people/families on low incomes. The impact assessment will be updated to reflect issues raised during the consultation period, and will be taken into consideration by Cabinet when determining how to proceed in relation to this proposal.</p>
10.1.3	<p>The majority of pupils travelling to Builth for Welsh-medium secondary education are from more advantaged families with those unable to consider this as an option remaining in Brecon with less provision</p>	<p>The authority notes this comment and acknowledges that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils' future education, which would include consideration of the impact of additional travel.</p>
10.1.4	<p>The proposal discriminates against pupils with working parents</p>	<p>The authority does not agree that the proposal discriminates against pupils with working parents. The authority has acknowledged that implementation of the proposal would lead to an increase in travel for pupils, and that this would also impact on parents, and that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils' future education, which would include consideration of the impact of additional travel.</p>
<b>10.2 Discrimination against Welsh-medium pupils</b>		
10.2.1	<p>Welsh-medium children will be disadvantaged compared to English-medium pupils who are easily able to access all extra-curricular activities at no or low cost to their families</p> <p>Moving Welsh speaking children out of their community is not providing equality, it is marginalising them and pushing them away from</p>	<p>The authority's view is that Welsh-medium pupils are currently disadvantaged to the limited Welsh-medium curriculum available to them at Brecon High School. The aim of the proposal is to provide greater equality to Welsh-medium pupils in terms of the Welsh-medium curriculum available to them, however it is acknowledged that there are disadvantages and risks associated with this.</p>

	<p>their local community</p> <p>Children wanting to learn through the medium of Welsh are not being treated equally – pupils are being asked to transfer to a sub-standard school which is under-achieving in order to continue with education through the medium of Welsh – English-medium pupils are not being asked to do this</p> <p>If Welsh is a student's first language, Powys is proposing to force them to travel elsewhere – is this equal opportunity for all or discrimination?</p>	
10.2.2	<p>The council intends to exclude children from attending the school they assisted in improving simply because of the language they speak</p>	<p>The authority is not excluding children from attending Brecon High School. Should the proposal be implemented, pupils currently attending the Welsh-medium stream at Brecon High School could either transfer to alternative providers of Welsh-medium education or they could transfer to the English-medium stream at Brecon High School.</p>
10.2.3	<p>Question of fairness and discrimination to Welsh-medium pupils if they are to be expected to transfer to study Welsh second language – they will not have the opportunity to learn and develop their first language / mother tongue</p> <p>If there is no Welsh first language taught at Brecon High, there will be a breach of equal opportunities – first language Welsh speakers will not even be able to study Welsh language and literature apart from as a second language</p>	<p>Should the Welsh-medium stream at Brecon High School close, the school would be categorised as a 'Predominantly English Medium secondary school'</p> <p>The Welsh Government document 'Defining Schools according to Welsh medium provision' (2007) provides the following definition for the curriculum provision of this type of school: 'Pupils are mainly taught through the medium of English. Welsh is taught as a second language up to KS4. One or two subjects (which would include Welsh first language) may be taught as an option through the medium of Welsh or using both languages.'</p> <p>Whether or not to provide the opportunity for pupils who study Welsh First Language would be a decision for the school. There are examples of 'Predominantly English Medium secondary schools' in Powys that do provide the opportunity for pupils to study Welsh First Language, however no funding is provided by the authority to support this provision.</p>

<b>10.3 Discrimination against the Welsh language</b>		
10.3.1	<p>The proposal is discrimination against the Welsh language</p> <p>The proposal treats the Welsh language less favourably than English</p> <p>Comparison with the Welsh Not</p> <p>The implication in the proposal is that the Welsh language and those who wish to speak it are of less important than their monoglot counterparts</p>	<p>The authority does not agree with these statements. The authority's view is that the current Welsh-medium provision at Brecon High School is discriminating against Welsh-medium pupils in the Brecon area. The aim of the proposal is to provide greater equality to Welsh-medium pupils compared with English-medium pupils.</p>
10.3.2	<p>The whole process has given the impression that the falling numbers have been planned and shows a strong sense of discrimination towards the Welsh language</p>	<p>This is not the case. The current consultation has been carried out in line with the requirements of the School Organisation Code. No final decision has yet been made in relation to the future of the Welsh-medium stream at Brecon High School, and all issues raised will be taken into consideration by Cabinet when determining how to proceed. However, it is acknowledged that a number of parents decided to move their children to alternative Welsh-medium provision following the initial Cabinet decision to consult on closure of the Welsh-medium stream, and that this has impacted on the numbers currently attending the stream.</p>
<b>10.4 Issues relating to racism</b>		
10.4.1	<p>It's unequal and possibly racist that English speaking pupils will be able to access the benefits of a new school building, but this won't be available to Welsh speakers</p>	<p>The authority does not agree with this statement. The authority's view is that the current provision is unequal and unfair to Welsh-medium pupils due to the limited Welsh-medium curriculum available at Brecon High School. The aim of the proposal is to provide greater equality to Welsh-medium pupils in terms of the Welsh-medium curriculum available to them, however it is acknowledged that there are disadvantages and risks associated with this.</p> <p>Whilst a new building for Brecon High School would be a fresh start for</p>

		<p>secondary education in Brecon, there would be no significant increase in Welsh-medium pupil numbers in the short term, therefore it would be difficult for the new school to offer any more Welsh-medium subjects than are currently offered.</p> <p>Should this proposal be implemented, there would be no Welsh-medium stream in Brecon High School, and therefore there would be no Welsh-medium stream at the new school building. However Welsh-medium pupils will still be able to apply for a place in Brecon High School, should that be their preference, and places would be allocated in accordance with the authority's Admissions Policy.</p>
10.4.2	The council is trying to carry out cultural cleansing in this part of Powys. How can the council justify this discrimination?	The authority does not agree with this statement. The authority's view is that the current provision is unequal and unfair to Welsh-medium pupils due to the limited Welsh-medium curriculum available at Brecon High School. The aim of the proposal is to provide greater equality to Welsh-medium pupils in terms of the Welsh-medium curriculum available to them, however it is acknowledged that there are disadvantages and risks associated with this.
<b>10.5 Other</b>		
10.5.1	Brecon High School successfully integrates the Nepalese community and students from Eastern Europe, but now the council wants to take the Welsh-medium voice out of the school	All secondary schools in Wales are encouraged to develop a Welsh language ethos, whether or not they provide Welsh-medium education. If there were no Welsh-medium stream at Brecon High School, the school would continue to teach Welsh 2 <sup>nd</sup> language to pupils, and would be expected to maintain a Welsh ethos and provide opportunities for pupils to use incidental Welsh. This would ensure that pupils from the Nepalese community and Eastern Europe would continue to have exposure to the Welsh language.
10.5.2	<p>In terms of equality of provision / equal opportunity, this is not the best option</p> <p>The proposal goes against Powys County Council's own School Organisation Policy due to not creating equal opportunities for all students</p>	The authority's view is that the current provision is unequal and unfair to Welsh-medium pupils due to the limited Welsh-medium curriculum available at Brecon High School. The aim of the proposal is to provide greater equality to Welsh-medium pupils in terms of the Welsh-medium curriculum available to them, however it is acknowledged that there are disadvantages and risks associated with this.

10.5.3	The council is breaking its own equal opportunities policy	The authority's view is that the current provision is unequal and unfair to Welsh-medium pupils due to the limited Welsh-medium curriculum available at Brecon High School. The aim of the proposal is to provide greater equality to Welsh-medium pupils in terms of the Welsh-medium curriculum available to them, however it is acknowledged that there are disadvantages and risks associated with this.
<b>11. WELSH-MEDIUM PUPIL NUMBERS AND ACCESS TO WELSH-MEDIUM PROVISION</b>		
<b>11.1 Current Welsh-medium pupils will transfer to English-medium provision</b>		
11.1.1	<p>If the Welsh stream is closed pupils will be forced out of Welsh-medium education</p> <p>If there was no Welsh stream in Brecon, pupils would have to move to English-medium provision as the additional travel time is unrealistic</p> <p>Brecon High School will continue to be a popular option for the majority of Ysgol y Bannau parents, whether it retains a Welsh stream or not</p>	<p>It is not true that pupils would be 'forced' out of Welsh-medium education should the proposal be implemented. However, the authority acknowledges that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils' future education.</p> <p>Should the Welsh-medium stream at Brecon High School close, pupils currently attending the Welsh-medium stream at Brecon High School and other Welsh-medium primary providers in the catchment area could choose to transfer to their nearest alternative provider of Welsh-medium secondary education, which in some cases would be out of county, or they could choose to access English-medium provision locally.</p>
11.1.2	<p>If you close the stream you will lose Welsh-medium pupils to English-medium education</p> <p>Many parents have already opted for English-medium provision due to the proposal</p> <p>Many pupils have already gone to other English-medium schools instead of going to Builth</p> <p>Parents of pupils at Ysgol y Bannau don't want their children to travel to Builth so they are</p>	<p>On page 16 of the consultation document, the council has identified the following as a risk of the proposal:</p> <p>'Pupils choose to access English-medium secondary provision instead of continuing to access Welsh-medium provision on transfer to secondary school'.</p> <p>The authority's view is that the Welsh-medium provision currently available at Brecon High School does not provide appropriate linguistic continuity for Welsh-medium pupils, and the aim of the proposal is to provide greater equality in terms of the provision available to Welsh-medium pupils. However</p>

	<p>sending them to Gwernyfed or Crickhowell</p> <p>Pupils currently in the Welsh-medium stream at Brecon High School won't transfer to Builth – they will be lost to Welsh-medium education</p> <p>If the Welsh stream closed, a lot of the Welsh-medium pupils currently at Brecon High School would stay in the school anyway</p> <p>The majority of year 6 pupils at Ysgol y Bannau have committed to transfer to Brecon High School in September 2017, these children will be lost to Welsh-medium education if you close the Welsh-medium stream</p>	<p>as stated in the consultation document, 'in the short term, the authority would expect there to be some reduction in the proportion of pupils from the Brecon area continuing to access Welsh-medium provision in the secondary sector.'</p> <p>Retaining pupils within the Welsh-medium sector is one of the Welsh Government's priorities, and the authority is required to monitor pupil progression within Welsh-medium education annually, and report this information to Welsh Government. As stated in the consultation document, 'should the proposal be implemented, the authority would work with the primary schools concerned to establish transition links with the alternative providers, with the aim of reversing any reduction in transfer rates into KS3 in the longer term'.</p>
<p><b>11.2 Parents won't choose Welsh-medium primary education in the first place</b></p>		
11.2.1	<p>Future parents will not make the initial commitment to send their children to Ysgol y Bannau if the local secondary provision is removed, therefore pupil numbers will suffer and Welsh will be lost to south Powys</p> <p>Parents won't send their children to a Welsh-medium primary if it means a lengthy bus trip when they reach secondary school age</p> <p>The number of children and families choosing Welsh-medium in the Brecon area will fall drastically</p> <p>The proposal will mean that parents won't enter Welsh-medium education or will leave it</p>	<p>On page 17 of the consultation document, the council has identified the following as a risk of the proposal:</p> <p>'Pupil numbers at Ysgol y Bannau decrease due to the lack of Welsh-medium secondary provision at Brecon'.</p> <p>The document goes on to state that 'The authority acknowledges that there may be a reduction in pupil numbers at Ysgol y Bannau in the short term. However, the authority is committed to increasing the number of pupils accessing Welsh-medium education, and would work with Ysgol y Bannau, Menter Brycheiniog and other organisations to promote the benefits of Welsh-medium primary education in the Brecon area. The authority would hope that the greater clarity in relation to secondary arrangements for pupils from the Brecon area and the increased level of provision available would lead to an increase in pupil numbers in future.'</p>

	Parents have already been lost to Welsh-medium primary education due to the uncertainty	
11.2.2	The council is putting barriers in the way of parents who would otherwise consider Welsh-medium education	The authority is committed to providing access to Welsh-medium education to all parents that request it, and to provide access to an appropriate Welsh-medium curriculum for Welsh-medium pupils. The number of pupils currently accessing the Welsh-medium provision at Brecon High School is very small, and the provision available is limited.
11.2.3	New families living in the area would not see Welsh-medium education as an option	The authority is committed to providing access to Welsh-medium education to all parents that request it. Should the proposal be implemented, Welsh-medium education would continue to be an option to all parents, through access to primary provision at Ysgol y Bannau and the Welsh-medium stream at Sennybridge C.P. School and the provision of home to school transport to the nearest provider of Welsh-medium secondary provision.
<b>11.3 Suggestions to increase Welsh-medium pupil numbers</b>		
11.3.1	<p>The Welsh-medium stream at Brecon is an advert for Welsh-medium education in the Brecon area – to help Welsh-medium numbers grow you must keep the Welsh stream in Brecon</p> <p>Keeping the Welsh stream in Brecon will grow Welsh in this part of Wales</p> <p>Welsh-medium pupil numbers vary from year to year, but future for the Welsh language in Brecon will only increase the numbers</p> <p>Powys needs to nurture Welsh, this can only be done if you work on smaller cohorts and get them to grow in the areas they are</p>	<p>There is no evidence that this is the case. As stated in the consultation document in respect of this proposal, there has been no increase in pupil numbers in Ysgol y Bannau in recent years, despite there being access to Welsh-medium secondary provision in Brecon High School. This is in contrast to other areas of Powys, where there has been an increase in the number of pupils attending Welsh-medium primary schools.</p> <p>The current provision in Brecon and across Powys has not led to any significant overall growth in Welsh-medium pupil numbers in recent years. As stated in the authority's draft WESP for 2017-20, 'The council recognises that significant changes are needed to the way Welsh-medium education is delivered within the county in order to encourage confidence in the system and an increase in the number and percentage of pupils accessing Welsh-medium education throughout their educational careers'.</p>
11.3.2	There has to be a positive drive to promote	The authority acknowledges the need to promote the Welsh-medium



	Welsh-medium education, led and supported by the authority	opportunities available in Powys. The authority's draft WESP for 2017-20 includes a commitment to 'work with key stakeholders, such as the Mentrau Iaith, to implement a Communications / Marketing Strategy in conjunction with the establishment of any new Welsh-medium provision, in line with the authority's Welsh-language Promotion Strategy'.
11.3.3	Powys needs to look in more detail, research properly and invest initially in order to grow Welsh-medium education so that in the future it will grow and sustain itself	The authority's vision and strategic direction for Welsh-medium education is set out in the draft Welsh in Education Strategic Plan (WESP) for 2017-20.  The authority's view is that change is needed to the current method of delivering Welsh-medium education in Powys. The current method of delivery is not leading to growth in the number of pupils educated through the medium of Welsh. As stated in the authority's draft WESP for 2017-20, 'The council recognises that significant changes are needed to the way Welsh-medium education is delivered within the county in order to encourage confidence in the system and an increase in the number and percentage of pupils accessing Welsh-medium education throughout their educational careers'.
11.3.4	If Welsh-medium education was compulsory in primary schools, there would be an increase in numbers	The authority currently has no plans to make Welsh-medium education compulsory in primary schools.
11.3.5	Does the council advertise Welsh-medium options to all primary schools?	Information about Welsh-medium provision is provided in the council's Admissions Booklet.
<b>11.4 Access to Welsh-medium education</b>		
11.4.1	As many people as possible should have access to Welsh-medium education in Wales  Every child should have access to Welsh-medium education  Would hope that the council would do everything it can to safeguard, promote and ensure that	The authority agrees that as many people as possible should have access to Welsh-medium education, and is committed to providing access to Welsh-medium education to all that request it.

	<p>people have the opportunity to access Welsh language provision</p> <p>The Welsh stream must be kept in Brecon to ensure that everyone has access to Welsh-medium education</p>	
11.4.2	<p>The proposal would remove all accessible secondary Welsh-medium education for low income families in the Brecon catchment area</p> <p>Asking all pupils who wish to be educated in Welsh to travel many miles to school is a retrograde step</p>	<p>The authority notes this concern, and acknowledges that implementation of the proposal would lead to additional travel for Welsh-medium pupils in the Brecon catchment. However, the authority's view is that the current Welsh-medium provision at Brecon High School is not providing equality of opportunity for Welsh-medium pupils.</p>
11.4.3	<p>How central will Welsh-medium provision be?</p> <p>Where will be the most southern dedicated Welsh-medium stream secondary school?</p>	<p>Should the proposal be implemented, the most southern Welsh-medium provision in Powys would be located in Builth Wells. However, Welsh-medium secondary provision is also available at a number of out-of-county locations on the periphery of south Powys, including Ysgol Gyfun Ystalyfera, Ysgol Gyfun Gwynllyw and Ysgol Gyfun Rhydywaun.</p>
11.4.4	<p>There should be a Welsh stream in every school because that is the way the Welsh language will be promoted</p> <p>All schools in Wales should have a Welsh stream or the opportunity to have a Welsh stream</p> <p>Pupils should have the opportunity to continue their secondary education locally in Welsh</p> <p>It's good that Welsh-medium education is available locally</p>	<p>The authority notes this comment and agrees that in an ideal world, all schools would provide opportunities for pupils to learn in Welsh, and all pupils would have the opportunity to continue to access Welsh-medium secondary education in their local secondary school. However, due to the small number of pupils currently accessing Welsh-medium provision at Brecon High School, the school is unable to provide equality of opportunity for Welsh-medium pupils compared with the opportunities available to English-medium pupils.</p>
11.4.5	<p>Brecon is the right place for Welsh-medium</p>	<p>The authority acknowledges that the population of the Brecon catchment is</p>

	<p>education</p> <p>Brecon is the second largest population centre in Powys, so it is odd that you plan to reduce Welsh-medium provision here and bus students away from Brecon</p> <p>Brecon has the required population density, transport links and hub status within local and Welsh government to make Welsh-medium education viable and sustainable</p>	<p>larger than the population of the Builth Wells catchment, however there are currently more Welsh-medium pupils in Builth Wells High School compared with Brecon High School.</p>
11.4.6	<p>Closing the Welsh stream at Brecon High School would mean removing all Welsh-medium secondary education from the Brecon Beacons National Park which would undermine their policies on promoting the Welsh language within the park</p>	<p>It is true that should the proposal be implemented, there would be no Welsh-medium secondary education within the Brecon Beacons National Park. However, primary education would continue to be provided at Ysgol y Bannau, and the council would continue to provide access to Welsh-medium provision through the provision of home to school transport to alternative providers.</p>
<b>11.5 Issues relating to parental choice</b>		
11.5.1	<p>Currently there is a lack of choice for Welsh-medium pupils – if pupils don't get on with other children in their class or their teachers and want to change schools, their only option is English-medium</p> <p>In Brecon there are 3 English-medium primary schools and only one Welsh-medium primary school, so Welsh-medium parents do not have a choice</p>	<p>The authority notes these comments, however the authority currently has no plans to introduce another Welsh-medium stream in the primary sector in Brecon.</p>
11.5.2	<p>The council needs to create choice within WM education, not reduce choice, which closing Brecon High Welsh stream will do</p>	<p>The authority's priority is to provide equality for Welsh-medium pupils compared with English-medium pupils. The current Welsh-medium provision at Brecon High School is very limited and does not provide equality of</p>

	<p>Closing the Welsh stream in Brecon would restrict choice</p> <p>Pupils and families should be able to choose between going to Brecon High School and Builth Wells High School</p>	<p>opportunity for Welsh-medium pupils. Should the proposal be implemented, pupils and their parents would still be able to choose between transferring to alternative Welsh-medium provision or accessing English-medium provision locally.</p>
11.5.3	<p>Ysgol y Bannau is too big a leap for some families as it is a 100% Welsh school, so a stream within another primary school would be a choice for some families</p>	<p>The authority currently has no plans to introduce another Welsh-medium stream in the primary sector in Brecon.</p>
<b>11.6 Other</b>		
11.6.1	<p>If families really want their children to have a full Welsh-medium education they would have sent them to Ystalyfera – look at the numbers going to Ystalyfera to see the number of pupils that will continue with Welsh-medium education after the Brecon stream closes</p>	<p>Whilst it is true that a number of parents from the current catchment of the Welsh-medium stream at Brecon High School have chosen for their children to attend Ysgol Gyfun Ystalyfera, a number have also chosen for their children to attend Builth Wells High School.</p>
11.6.2	<p>Your acceptance of losing a percentage of pupils to English-medium in the short term is likely to be a permanent consequence of closing the Welsh-medium stream in Brecon. How does this comply with the Welsh Government's strategic aims for the Welsh language, including those outlined within the Donaldson report?</p> <p>2 years ago the council had 57 pupils in Brecon and 107 in Builth. If you close the Welsh stream, you will have gone from a total of 164 pupils to 124 pupils</p>	<p>The authority has acknowledged on page 16 of the consultation document that 'in the short term, the authority would expect there to be some reduction in the proportion of pupils from the Brecon area continuing to access Welsh-medium provision in the secondary sector'.</p> <p>However, the current Welsh-medium provision in Brecon High School is very limited – based on the school's current provision, it is categorised as a Category 3 school, which is described as a 'Predominantly English-medium secondary school with significant use of Welsh'.</p> <p>Retaining pupils within the Welsh-medium sector is one of the Welsh Government's priorities. Pupil retention is monitored annually and the figures are reported to Welsh Government. Should the proposal be implemented, the</p>

		authority's view is that the provision available to Welsh-medium pupils in the secondary sector would be more comprehensive. Should the proposal be implemented, the authority would work with the primary schools concerned to establish transition links with the alternative providers, with the aim of reversing any reduction in transfer rates into KS3 in the longer term.
<b>12. GENERAL ISSUES RELATING TO WELSH-MEDIUM EDUCATION</b>		
<b>12.1 Issues relating to the establishment of a Welsh-medium Secondary School in South Powys</b>		
<b>12.1.1 In favour of establishing a Welsh-medium Secondary School</b>		
12.1.1.1	<p>The council has been unable to ensure the development of the Welsh stream in Brecon and cannot ensure this in Builth Wells High School either – the only way to ensure provision that is consistent is by establishing a Welsh-medium secondary school</p> <p>It is appalling that there is no Welsh-medium secondary school in the whole of south Powys – Powys is failing its children, who do not have the same opportunities as children in other areas of Wales</p>	<p>The authority notes this comment. The authority acknowledges on page 16 of the consultation that one disadvantage associated with the proposal is that 'Powys based provision would still be in a dual stream school, rather than a designated Welsh-medium school.'</p> <p>The consultation document also states on page 21 that 'the authority's view is that closure of the Welsh-medium stream at Brecon High school is the most suitable way forward in order to ensure that more robust linguistic continuity can be provided to Welsh-medium learners. This would provide a solid base which could be further developed in the future, through the possible establishment of designated Welsh-medium secondary provision to serve the area.'</p>
12.1.1.2	RhAG branches in mid and south Powys consider establishing a designated Welsh-medium secondary school in the area as a basic aim, to ensure that pupils can access a full range of pre-16 and post-16 subjects through the medium of Welsh	The authority notes this comment. As stated on page 21 of the consultation document, 'the authority's view is that closure of the Welsh-medium stream at Brecon High school is the most suitable way forward in order to ensure that more robust linguistic continuity can be provided to Welsh-medium learners. This would provide a solid base which could be further developed in the future, through the possible establishment of designated Welsh-medium secondary provision to serve the area.'
12.1.1.3	Reference to a survey carried out by RhAG in 2011 which found that:	The authority notes this comment.

	<ul style="list-style-type: none"> <li>- 81% of respondents were in favour of establishing a Welsh-medium secondary school (category 1 or 2A) in south Powys</li> </ul> <p>and a survey carried out by RhAG in 2016, during the consultation period, which found that:</p> <ul style="list-style-type: none"> <li>- 76% of respondents were in favour of establishing a Welsh-medium secondary school (category 1 or 2A) in south Powys, and</li> <li>- 76% were of the view that the current arrangement does not offer equality of opportunity for pupils in South Powys.</li> </ul>	
12.1.1.4	Currently the only way for Powys pupils to receive their secondary education fully through the medium of Welsh is by travelling out of county to access this type of provision.	The authority notes this comment.
12.1.1.5	Due to the lack of access to a designated Welsh-medium secondary school in Powys, Powys County Council is currently disadvantaging a significant proportion of learners, this is in contrast to other authorities across Wales.	The authority notes this comment.
12.1.1.6	If a Welsh-medium secondary school was established in the area, it would grow and thrive once it had become established, in line with the experience in other areas across Wales	The authority notes this comment.
12.1.1.7	Establishing a Welsh-medium secondary school would enable parents to see a clear path in terms of transition within Welsh-medium education.	The authority notes this comment.

12.1.1.8	Powys is in the minority as a county without a Welsh-medium secondary school	The authority notes this comment.
12.1.1.9	Powys County Council should adopt the principle that designated Welsh-medium secondary schools (category 1 or 2A) are the preferred model for providing Welsh-medium secondary education in Powys as the basis for any further proposals developed following this consultation.	The authority notes this comment.
12.1.1.10	Establishing Welsh-medium secondary schools across the county should be a key element of the council's strategic planning in order to further develop Welsh-medium education in Powys.	The authority notes this comment.
12.1.1.11	Prefer the model of a Welsh-medium school to a dual stream school – in a dual stream school not everyone understands Welsh so you have to speak English	The authority notes this comment.
<b>12.1.2 Against establishing a Welsh-medium Secondary School</b>		
12.1.2.1	<p>The council shouldn't close the Welsh stream at Brecon to work towards getting a Welsh-medium high school, as this will decrease the number of families choosing Welsh-medium education and will lead to less Welsh-medium children not more</p> <p>Lots of children will lose out on Welsh-medium education if the council closes the Welsh-medium stream at Brecon High School in its bid to establish the first category 2A school in the county</p>	<p>The authority has a duty to provide access to Welsh-medium education to those pupils that choose it. The authority's view is that the current provision in mid and south Powys does not provide equality for Welsh-medium pupils due to the limited Welsh-medium curriculum available, and the authority's view is that the only way to improve this is to centralise provision in the area in order to provide access to an increase Welsh-medium curriculum.</p> <p>The authority has acknowledged in the consultation document that there are a number of risks associated with the proposal, which include a potential impact on Welsh-medium pupil numbers in the short term. The authority is not currently proposing to establish a Welsh-medium secondary school in the mid/south Powys area, however, as stated on page 21 of the consultation</p>

		document, ‘the authority’s view is that closure of the Welsh-medium stream at Brecon High school is the most suitable way forward in order to ensure that more robust linguistic continuity can be provided to Welsh-medium learners. This would provide a solid base which could be further developed in the future, through the possible establishment of designated Welsh-medium secondary provision to serve the area.’
12.1.2.2	Putting Welsh-medium pupils in a designated Welsh-medium secondary school “ghetto’s” the language	The authority does not agree that Welsh-medium secondary school’s “ghetto” the language.
12.1.2.3	Not all parents want their children educated entirely through the medium of Welsh and your ultimate aim to provide a Welsh medium school or extended curriculum is not everyone’s preference	The authority has a duty to provide access to Welsh-medium education to those pupils that choose it. The authority’s view is that the current provision in mid and south Powys does not provide equality for Welsh-medium pupils due to the limited Welsh-medium curriculum available, and the authority’s view is that the only way to improve this is to centralise provision in the area in order to provide access to an increase Welsh-medium curriculum.
<b>12.1.3 Criticism of dual stream model</b>		
12.1.3.1	Based on previous experience, we are concerned that the dual stream model will not success, despite the best efforts of the school	The authority notes this comment.
12.1.3.2	The dual stream model in Powys is disadvantaging Welsh-medium pupils compared with pupils in other areas of Wales  The uncertainty that exists within the dual stream system is unfair to Welsh-medium pupils	The authority notes this comment.
12.1.3.3	The success of the dual stream model is dependent on individuals – changes in a school’s headteacher and governing body can have a serious impact on the leadership and Welsh	The authority notes this comment.



	language ethos of a dual stream school	
12.1.3.4	The council has been unable to ensure the development of the Welsh stream in Brecon and cannot ensure this in Builth Wells High School either	The authority notes this comment.
<b>12.1.4 Other</b>		
12.1.4.1	Powys should have a Welsh-medium secondary school but Powys does not have the numbers to do this, and trying to force children to a central point will not work	The authority's view is that the current Welsh-medium secondary provision in mid and south Powys does not provide equality for Welsh-medium pupils due to the limited Welsh-medium curriculum available, and that the best way to improve the provision available is to centralise the provision.
12.1.4.2	A report by the council identified that the largest percentage of respondents who would prefer a designated Welsh-medium school were those in the Brecon catchment area, so why is the council deciding to centralise and make a start for a Welsh-medium school in Builth?	The report referred to was the result of a survey carried out by the authority to assess the demand for designated Welsh-medium secondary provision across Powys. The question asked to parents was whether they would prefer for their children to attend a designated Welsh-medium secondary school or a Welsh-medium stream in a dual stream school. The report identified that the largest percentage of respondents who would prefer a designated Welsh-medium school were those in the Brecon catchment. However that isn't the same as saying that the greatest demand for Welsh-medium secondary provision is in the Brecon catchment. This proposal is not about establishing a designated Welsh-medium school.
<b>12.2 Reference to the benefits of bilingualism and Welsh-medium education</b>		
12.2.1	<p>Bilingual pupils will be able to contribute to and benefit from a bilingual society</p> <p>Bilingual children will have a distinct advantage in the job market</p> <p>Being bilingual will improve pupils thinking and creativity</p>	The authority is fully aware of the benefits of bilingualism and Welsh-medium education and is committed to providing access to Welsh-medium education to all pupils that request it. Due to the rural nature of Powys and the number of pupils currently educated through the medium of Welsh, it is inevitable that in some cases, access to Welsh-medium provision will be via the provision of home to school transport to the nearest provider.

	<p>Being bilingual will make it easier for pupils to learn other languages</p> <p>Being bilingual will give pupils a stronger sense of identity and will help them stand out from the crowd</p> <p>Being bilingual will help pupils to value and appreciate other cultures</p> <p>Reference to benefits to pupils of being able to learn, speak and use more than one language</p> <p>Reference to benefits of being bilingual – research by Neuroscientists at University College London:  <a href="http://www.fil.ion.ucl.ac.uk/spm/doc/papers/am_vb_mreview.pdf">http://www.fil.ion.ucl.ac.uk/spm/doc/papers/am_vb_mreview.pdf</a></p> <p>It's a great advantage for children to learn and be educated in the native language of Wales</p>	
<b>12.3 Reference to other local authorities</b>		
12.3.1	<p>Places like Monmouthshire are actively surveying and researching their present families with 2 year olds to see what demand for WM education will be in the future, why are you not doing this?</p>	<p>The authority carried out a survey to measure demand for Welsh-medium education in 2010, and the results have helped to inform the primary and secondary modernisation programmes. The authority has been prepared to carry out a further survey since 2014 in line with Welsh Government guidelines, however there have been difficulties with accessing the information required to conduct this survey.</p> <p>Even if any such survey did identify significant additional demand for Welsh-medium education in the Brecon catchment area, it would be many years until this additional demand fed through to the secondary sector, therefore any</p>

		<p>future increase in Welsh-medium pupil numbers would not improve the breadth of Welsh-medium provision available to pupils currently accessing Welsh-medium provision in the Brecon catchment area.</p>
12.3.2	<p>The support and provision in Gwent for Welsh-medium children is far greater than has been shown in Powys</p>	<p>The authority's vision and aspiration for Welsh-medium education is set out in the council's draft Welsh in Education Strategic Plan for 2017-20. As stated in the document, 'The authority aspires to develop an infrastructure that enables all pupils to access full provision in either Welsh or English throughout their educational careers.'</p> <p>Due to the rural nature of Powys, the authority is faced with making difficult decisions in order to work towards achieving this aspiration.</p> <p>In local government terms, Gwent was abolished in 1996, and has been succeeded by Blaenau Gwent County Borough, Caerphilly County Borough, Monmouthshire, the City of Newport and Torfaen County Borough. These areas are very different to Powys in terms of area and population density in particular, therefore the challenges facing these authorities are very different to those facing Powys County Council.</p>
<b>12.4 Criticism of RhAG</b>		
12.4.1	<p>RhAG are focussing on the wrong thing by concentrating on establishing a Welsh-medium secondary school – if you follow their recommendations you will lose any future in Welsh-medium education</p> <p>RhAG are fighting to get Powys to have a Welsh-medium only secondary school, but that must not be at the cost of stopping some children having access to Welsh-medium education</p>	<p>Due to the open and public nature of the consultation exercise carried out in respect of the proposal to close the Welsh-medium stream in Brecon High School, RhAG were entitled to respond to the consultation. However, no greater weighting is given to the response received from RhAG than any other response received.</p> <p>Whilst the current proposal under consideration does not propose the establishment of a Welsh-medium secondary school, the authority agrees that more Welsh-medium opportunities are provided to pupils in a Welsh-medium secondary schools compared to those offered in a dual stream secondary school. As stated in Powys' draft WESP for 2017-20: 'The authority fully agrees with the view of Welsh Government that pupils are more likely to become fully bilingual after attending Welsh-medium schools, particularly</p>

		when they come from non-Welsh speaking homes’.
12.4.2	The questionnaires sent by RhAG are misleading and don't give an opportunity to put what we want	<p>A report on the survey carried out by RhAG during the consultation period was received as a response to the consultation, however this is only one response. No greater weighting is given to the response received from RhAG than any other response.</p> <p>Any parents who did not agree with the content of the questionnaire distributed by RhAG were entitled not to complete it, and in addition, they were entitled to submit their own response to the consultation on closure of the Welsh-medium stream at Brecon High School, to inform the council of their views.</p>
<b>12.5 Other</b>		
12.5.1	There was an experiment in Builth where English-medium children were immersed in Welsh so that they could move to Welsh-medium education at secondary level. Why has this not been tried with English-medium pupils in Sennybridge, or advertised in the Brecon area?	<p>It is true that a late immersion or ‘trochi’ programme was provided at Builth Wells High School a number of years ago. The possibility of establishing this type of programme was discussed with the previous headteacher of Brecon High School in 2011-12, however it was agreed that it was not an appropriate time for the school to introduce such a programme as it would be difficult to offer an appropriate level of immersion for pupils.</p> <p>Late immersion or ‘trochi’ programmes were historically funded by the Welsh Language Board, and this funding was later incorporated into the Welsh in Education Grant. However, this grant was discontinued in 2015, and is now incorporated into the Education Improvement Grant. At the current time, the authority does not have any funding available to support ‘trochi’ programmes, however identifying opportunities to introduce this type of provision is an objective of the council’s draft WESP for 2017-20.</p>
12.5.2	It’s important that the council centralises Welsh-medium provision – it is difficult for schools in this area to get Welsh-medium teachers and by centralising, they can focus on getting better teachers and can offer a wider variety of subjects	The authority notes this comment and acknowledges the difficulties experienced by schools in the area to appoint Welsh-medium teachers.

	in Welsh	
12.5.3	Concern that raising the age of admission will have a negative impact on language competency as pupils won't be immersed in the Welsh language until they are 5	The authority notes this comment. The raising of the age of admission in Powys schools is a separate process, and consultation on this took place during the spring term 2016. The authority has recognised the need to ensure that Welsh-medium pre-school provision is provided across the authority.
<b>13. ISSUES RELATING TO THE WELSH LANGUAGE</b>		
<b>13.1 Detrimental impact on the Welsh language</b>		
13.1.1	<p>Closure of the Welsh-medium stream will have a detrimental impact on the Welsh language</p> <p>PCC needs to accept that it will be responsible for the decline in the Welsh language in the Brecon area</p> <p>The council should be looking to promote Welsh not kill it at its roots</p> <p>The proposal will kill the language in South Powys</p> <p>The Welsh language is Wales' most precious asset, to lose it would be shameful</p> <p>Closing the Welsh stream will have an affect on the Welsh language in Brecknockshire</p> <p>The proposal will make the Brecon area an English only area</p> <p>Brecon would once again become an anglicised part of Wales as it was in the past</p>	<p>The authority does not agree with these comments. The current method of delivering Welsh-medium education in the area has not led to any significant increase in the number of Welsh-medium pupils, therefore the authority's view is that change is needed to the method of delivery in order to encourage confidence and the system and a growth in Welsh-medium pupil numbers.</p> <p>Further to this, there was a decrease of 1.7% in the number of Welsh speakers in Brecon between the 2001 census and the 2011 census, which suggests that the proportion of Welsh speakers in the area was declining before the authority commenced any proposals to close the Welsh-medium stream.</p> <p>Should the proposal be implemented, pupils in the Brecon area would continue to have access to Welsh-medium education, at Ysgol y Bannau and Sennybridge CP School in the primary sector, and at alternative providers such as Builth Wells High School and Ysgol Gyfun Ystalyfera in the secondary sector. The improved choice and linguistic experience for Welsh-medium pupils at these alternative providers would enable them to be even more confident Welsh speakers.</p> <p>These pupils would continue to live in the Brecon area even if they were receiving their education elsewhere, and they would still be able to contribute to the development of the Welsh language in the Brecon area.</p>

	<p>The proposal will not secure the future of the Welsh language in Brecon – it will deny it completely</p> <p>Concern that the proposal will take the Welsh language out of the Brecon community, and there will be no bilingual teenagers in the community between Ystradgynlais and Builth Wells</p> <p>The proposal would be detrimental to Welsh language and culture</p> <p>Closure of the Welsh stream will have a detrimental impact on the use of the Welsh language in the Brecon area</p> <p>There will be less people speaking Welsh in Brecon if the Welsh stream closes</p> <p>The area is very anglicised, there is no future for the Welsh language here if the Welsh stream closes</p> <p>It's important for the town of Brecon to keep the Welsh language local</p> <p>First language Welsh students are the future of the Welsh language locally, they need to be an integrated part of the community</p>	
<p><b>13.2 Impact on Welsh language organisations / activities</b></p>		
<p>13.2.1</p>	<p>There is considerable local interest in the growth of the Welsh language, which is borne out by the fact that there are almost a dozen classes</p>	<p>The authority notes the concerns in relation to the future of Welsh for Adults provision and other Welsh language activities in the Brecon area. However, the authority's priority is to provide equality of provision for Welsh-medium</p>

	<p>teaching Welsh to adults in the Brecon area</p> <p>Concern about the impact on Welsh for Adults provision</p> <p>Since the consultations have started, the numbers attending Cymraeg i'r Teulu lessons have fallen, this will worsen if the Welsh stream closes</p> <p>Brecon is the centre for the Welsh language with evening classes held in the college, moving the stream will cause this to cease</p>	<p>pupils, and the authority's view is that the current provision in Brecon High School does not offer this.</p>
13.2.2	<p>Concern about the impact on Twf and Mudiad Meithrin</p>	<p>The Twf project came to an end in 2016, and has been replaced by the 'Cymraeg i Blant' project which is run by Mudiad Meithrin.</p> <p>Mudiad Meithrin is a key partner of the council's in terms of the delivery of Welsh-medium early years provision in Powys. Regular meetings take place between Mudiad Meithrin staff and council officers, and a Mudiad Meithrin representative attends meetings of the council's Welsh-medium Education Forum.</p> <p>Should the proposal be implemented, more equitable Welsh-medium provision would be provided to secondary learners in the Brecon area. The authority would work with Mudiad Meithrin and other organisations such as Menter Brycheiniog a Maesyfed to promote the opportunities available in the Brecon area.</p>
13.2.3	<p>A number of local eisteddfodau are heavily supported by children and parents from local Welsh-medium schools. There would be a considerable loss to the cultural and community life of the area if there were fewer Welsh speaking children able to take part</p>	<p>Should the proposal be implemented, pupils in the Brecon area would continue to have access to Welsh-medium education, at Ysgol y Bannau and Sennybridge CP School in the primary sector, and at alternative providers such as Builth Wells High School / the New Mid Powys Secondary School and Ysgol Gyfun Ystalyfera in the secondary sector. The improved choice and linguistic experience for Welsh-medium pupils at these alternative providers would enable them to be even more confident Welsh speakers.</p>

	<p>Welsh language organisations in Brecon need Brecon to have its Welsh children learning and living in Brecon</p> <p>Communities in the Brecon area are working hard to promote Welsh in different ways, however this will be more difficult without Welsh-medium secondary provision in Brecon</p> <p>The proposal will affect opportunities for young people in the area to use Welsh</p>	<p>These pupils would continue to live in the Brecon area even if they were receiving their education elsewhere, and they would still be able to contribute to the development of the Welsh language in the Brecon area.</p> <p>The alternative schools to which pupils might choose to transfer should the proposal be implemented serve large catchment areas, and there is no reason to believe that these alternative schools would not continue to encourage pupils to support Welsh language activities in their home communities.</p>
13.2.4	There are more Welsh language organisations in the community in Brecon than there are in Builth	The authority notes this statement. However, there are currently more Welsh-medium pupils in the Builth Wells catchment than the Brecon catchment.
13.2.5	Welsh-medium pupils contribute to the development of the Welsh language in the school and in Brecon as a community, how could they contribute without a Welsh stream in the high school?	<p>All schools in Wales are expected to ensure a bilingual ethos, regardless of whether or not they offer Welsh-medium education. Should there be no Welsh-medium stream at Brecon High School, the school would continue to teach Welsh as a Second Language, and would be expected to provide opportunities for pupils to use Welsh outside the classroom.</p> <p>Should the Welsh-medium stream close, pupils continuing to access Welsh-medium secondary provision would still live in the Brecon area and would continue to be able to contribute to Welsh language activities in the local area.</p>
<b>13.3 General criticism of the council's treatment of the Welsh language</b>		



13.3.1	<p>Shocked that the council does not appreciate the treasure that is our native tongue</p> <p>The council is not showing a positive commitment to the Welsh language</p> <p>The council should be doing all it can to promote the national culture throughout the country, not specialising it in a few areas – cannot see the Basque or Catalan authorities closing down Basque or Catalan medium schools/streams</p>	<p>The authority is committed to supporting the Welsh language, to providing access to Welsh-medium education to all that request it, and to providing equality of opportunity for Welsh-medium pupils. The authority's view is that the current provision in Brecon High School is not providing equality of opportunity for Welsh-medium pupils, and is not encouraging growth in the number of pupils accessing Welsh-medium education in the Brecon area. The figures provided on page 12 of the consultation document show that Welsh-medium pupil numbers in the area, and in particular at Ysgol y Bannau, have remained fairly stagnant over the last few years. This is contrast with other designated Welsh-medium primary schools in Powys.</p> <p>Whilst the authority has identified in the consultation document that implementation of the proposal could impact on number of pupils attending Ysgol y Bannau in the short term, the authority's hope is that pupils numbers would recover and increase in the longer term due to the greater clarity in relation to secondary progression.</p>
13.3.2	<p>Concern that the council is about to close the Welsh youth club which is the only place pupils can go to speak Welsh</p>	<p>The authority is currently reviewing the provision of Youth Services in Powys, however at the present time, no decision has been made to close any clubs.</p>
<b>13.4 Impact on the ability of employers in the local area to employ Welsh speakers</b>		
13.4.1	<p>The proposal will impact on the number of Welsh speaking employees in the private and public sector in the Brecon area which will have financial implications for employers including PCC eg translation costs and compliance with the new Welsh language laws – surely it is more cost effective to invest in Welsh medium education locally to ensure home grown Welsh speakers are supported</p> <p>Welsh Language Measure 2011 and introduction of the Welsh Language Standards requires</p>	<p>The current small number of pupils attending the Welsh-medium stream at Brecon High School makes the provision unviable, and the authority's view is that the small class sizes and limited Welsh-medium provision is not providing an appropriate educational experience for Welsh-medium pupils. Should the proposal be implemented, Welsh-medium secondary provision would continue to be available to pupils in the Brecon area through the provision of free home to school transport to alternative provision. The alternative providers provide an increased level of Welsh-medium provision, and the authority's view is that the increased provision would have a positive impact on pupils' bilingual skills, and would better equip them to use their Welsh language skills in the workplace in the future.</p>

	<p>Brecon Beacons National Park to provide services through the medium of Welsh as well as English. A lack of local Welsh-medium provision will be detrimental to the National Park's residents in the long term and could impact negatively on the authority's ability to provide a bilingual service as future generations are not being allowed to develop Welsh language skills ready to take their places in the job market</p> <p>Concern that organisations such as the BBNP would not be able to recruit Welsh speakers</p> <p>There are currently not enough Welsh speakers to fill jobs where Welsh speakers are needed – the proposal will not help with this</p>	
<b>13.5 Other</b>		
13.5.1	<p>The National Park has a duty under Welsh Language Standard 145 to promote the use of the language and to set a target for increasing the number of Welsh speakers in our area – the national park authority anticipates that closure of the Welsh-medium stream at Brecon High School will have a substantial negative impact on the number of Welsh speakers in this area</p>	<p>The current method of delivering Welsh-medium education in the area has not led to any significant increase in the number of Welsh-medium pupils, therefore the authority's view is that change is needed to the method of delivery in order to encourage confidence and the system and a growth in Welsh-medium pupil numbers.</p> <p>Further to this, there was a decrease of 1.7% in the number of Welsh speakers in Brecon between the 2001 census and the 2011 census, which suggests that the proportion of Welsh speakers in the area was declining before the authority commenced any proposals to close the Welsh-medium stream.</p> <p>Should the proposal be implemented, pupils in the Brecon area would continue to have access to Welsh-medium education, at Ysgol y Bannau and Sennybridge CP School in the primary sector, and at alternative providers such as Builth Wells High School / the New Mid Powys Secondary School and</p>

		<p>Ysgol Gyfun Ystalyfera in the secondary sector. The improved choice and linguistic experience for Welsh-medium pupils at these alternative providers would enable them to be even more confident Welsh speakers.</p> <p>These pupils would continue to live in the Brecon area even if they were receiving their education elsewhere, and they would still be able to contribute to the development of the Welsh language in the Brecon area.</p>
<b>14. POLICIES / STRATEGIES RELATING TO THE WELSH LANGUAGE</b>		
<b>14.1 Powys County Council's Welsh in Education Strategic Plan (WESP)</b>		
14.1.1	The proposal is contrary to the Powys Draft WESP for 2017-20	<p>The proposal is not contrary to the Powys draft WESP for 2017-20. The authority's aim as stated in the draft WESP is 'To provide equality of provision for Welsh-medium learners in Powys'. The current small number of Welsh-medium pupils and limited Welsh-medium subject provision at Brecon High School means that this provision does not provide equality of provision for Welsh-medium learners.</p> <p>Further to this, the council's third Strategic Objective for 2017-20 as stated in the draft WESP is 'To provide equitable and sustainable linguistic progression for Welsh-medium pupils from Key Stage 2 into Key Stages 3, 4 and 5'. The current provision at Brecon High School does not meet this objective.</p>
14.1.2	The WESP wants 14.5% of pupils to be assessed through the medium of Welsh at secondary level	<p>It is true that the authority's draft WESP for 2017-20 includes a target for 14.5% of year 9 pupils to be assessed in Welsh first language.</p> <p>However, in the draft WESP, the authority also recognises that 'significant changes are needed to the way Welsh-medium education is delivered within the county in order to encourage confidence in the system and an increase in the number and percentage of pupils accessing Welsh-medium education throughout their educational careers'.</p> <p>In respect of secondary provision, the draft WESP acknowledges on page 15 that 'it is possible that the authority's plans to provide equitable provision for</p>

		Welsh-medium learners in the secondary sector will lead to a reduction in the proportion of pupils continuing to access Welsh-medium provision on transfer to secondary school in the short term.'
14.1.3	<p>The vision in the draft WESP is 'To provide equality of opportunity for Welsh-medium pupils' – providing a new-build High School for Brecon at the exclusion of a Welsh-medium stream would be denying equality of opportunity. If education is taught through English to those pupils living in the Brecon area, equality of opportunity means that an equivalent Welsh language offer should be available at the same school for those wishing to learn through the medium of Welsh</p> <p>The proposal to provide transport to Welsh-medium provision in Builth or Ystalyfera is not providing an equivalent or equal education to those who choose to learn through the English language in Brecon</p>	The current Welsh-medium provision offered at Brecon High school does not provide equality of opportunity for Welsh-medium pupils, the aim of the proposal is to address this by providing access to a more comprehensive Welsh-medium curriculum to Welsh-medium learners.
14.1.4	Reference to the Draft Strategic Objectives 'To increase the opportunities for pupils to access Welsh medium early years provision' and 'to provide equitable and sustainable linguistic progression for Welsh-medium pupils from key Stage 2 into Key Stages 3, 4 and 5' – closure of the Welsh-medium stream at Brecon High School would lead to falling numbers at Ysgol y Bannau, this will undermine the objective of increasing opportunities for pupils to access Welsh-medium early years provision	<p>As identified in the consultation document in respect of this proposal, it is possible that the proposal will lead to a reduction in pupil numbers at Ysgol y Bannau in the short term. However, the authority is committed to Ysgol y Bannau as a provider of Welsh-medium education in Brecon.</p> <p>The authority is currently carrying out a tendering exercise in relation to early years education in Brecon, which includes the provision of Welsh-medium provision in Brecon.</p>
14.1.5	Draft Strategic Objective 'To establish, and	The authority agrees that an increase in the number of Welsh-medium primary

	identify opportunities to establish, new designated Welsh-medium provision in the primary sector' – this should lead to more primary schools in the Brecon area and beyond and should increase the number of bilingual pupils, leading to higher numbers who could potentially enter the Welsh-medium stream at Brecon High School	providers in the Brecon area and beyond should increase the number of pupils, leading to higher numbers who could potentially enter the Welsh-medium stream at Brecon High School. However, there is a lengthy process which must be followed in order to establish any new provision, therefore it is likely to be a number of years until any new provision is established, and even longer until any new provision fed into the secondary sector. The authority's priority is to provide the best possible opportunities for Welsh-medium pupils in the system now.
14.1.6	Why are you consulting on re-writing the WESP at the same time as you are consulting on closure of the Welsh-medium stream in Brecon	The timescale for re-writing and consulting on the revised WESP for 2017-20 is set by the Welsh Government and is included in the Welsh in Education Strategic Plans (Wales) Regulations 2013.
14.1.7	<p>Powys County Council never carried out the commitment in the current WESP to make Brecon High's Welsh-medium stream up to 2B status</p> <p>The current WESP for 2014-17 states that the authority's policy is to create a category 2B Welsh stream at Brecon High School, yet in the consultation document it states that due to the challenging financial situation faced by the authority this has not been achievable</p>	<p>In the Cabinet minutes of a meeting held on the 22<sup>nd</sup> November 2011, following an informal consultation on secondary school modernisation, it notes that additional investment and support would be provided to dual stream schools to achieve the target of a Category 2B school. This decision is reflected in the WESP for 2014-17.</p> <p>Early discussions took place with Brecon High School about providing additional support, however due to the challenging financial situation at both Powys County Council level and at Brecon High School, it was not possible to fulfil the commitment to provide additional investment to the school.</p> <p>The decision to move to an alternative model in relation to Welsh-medium secondary provision was made by Cabinet on the 27<sup>th</sup> January 2015. At this meeting, Cabinet approved the commencement of a Secondary School Reorganisation programme, which intended to transform the secondary and post-16 sector across the county. One of the aims of this Programme was:</p> <ul style="list-style-type: none"> <li>- 'Reconfiguration of Welsh-medium education with the aim of establishing at least one Welsh-medium secondary school in the county, and the consolidation of other Welsh-medium streams into larger units.'</li> </ul>

14.1.8	When you re-write the WESP, make sure Welsh-medium secondary education is available for all and not just the privileged	The authority is committed to providing access to Welsh-medium primary and secondary education to all pupils regardless of their socio-economic background. However, in some cases, access to such provision will be via the provision of free home to school transport.
<b>14.2 A Million Welsh Speakers by 2050</b>		
14.2.1	<p>A target has been set that there will be 1 million Welsh speakers by 2050 – this proposal goes against this</p> <p>There has been a reduction in the number of Welsh-medium pupils progressing to secondary due to the consultation – this goes against the Welsh Government’s target of 1 million Welsh speakers</p> <p>How will you achieve the assembly’s target of 1 million Welsh speakers if the Welsh stream is closed?</p> <p>How will you meet the Welsh Government target for 25% of the Welsh population to be Welsh speakers by 2050?</p>	<p>The council’s draft WESP for 2017-20 takes account of the Welsh Government strategy to create a million Welsh speakers by the year 2050.</p> <p>The current method of delivering Welsh-medium education in Powys has not led to an increase in the number of pupils educated through the medium of Welsh. In the draft WESP for 2017-20, the authority recognises that ‘a fundamental change is required in Powys to ensure all learners can access high quality, robust provision from the early years onwards’ and that ‘significant changes are needed to the way Welsh-medium education is delivered within the county in order to encourage confidence in the system and an increase in the number and percentage of pupils accessing Welsh-medium education throughout their educational careers’.</p> <p>The draft WESP also acknowledges that the authority’s plans to provide access to more equitable provision for Welsh-medium pupils may a negative impact on Welsh-medium pupil numbers in Powys in the short term, however the authority’s aim is that this would be reversed in the longer term.</p>
<b>14.3 Welsh-medium Education Strategy</b>		
14.3.1	The council’s plans go against the Welsh-medium Education Strategy	Strategic aim 3 of the Welsh-medium Education Strategy, on page 15 of the Strategy is ‘To ensure that learners develop their Welsh-language skills to their full potential and encourage sound linguistic progression from one phase of education and training to the next’. Further to this, the Strategy states that ‘Welsh-medium education from the early years, with robust linguistic progression through every phase of education, offers the best conditions for developing young people who are truly bilingual’.

		The current Welsh-medium provision at Brecon High School does not provide sound linguistic progression for pupils in the Brecon area. The authority's view is that implementation of the proposal would contribute to implementation of the Welsh-medium Education Strategy by providing access to more robust linguistic progression to Welsh-medium pupils in the Brecon area.
14.3.2	The Welsh Government publication 'Welsh-medium Education Strategy: next steps' commits Welsh Government to 'publish best practice guidance on how local authorities should measure demand for Welsh-medium education' – you should wait for this guidance before going ahead with these proposals to ensure that you are considering the correct way to measure demand	The authority carried out a survey to identify demand for Welsh-medium education in line with Welsh Government requirements in 2010, however due to the rural nature of Powys and the dispersed nature of the population, it is difficult to draw any firm conclusions from this work. The authority is looking to identify alternative ways to measure and create demand for Welsh-medium education to inform work in relation to Welsh-medium provision in the primary phase. However, any additional demand identified would take many years to feed through to the secondary phase. The authority's priority is to provide equality of opportunity for pupils currently being educated through the medium of Welsh. The current provision does not provide this.
14.3.3	The Welsh-medium Education Strategy includes a commitment to 'enable an increase in the number of people of all ages and backgrounds who are fluent in Welsh and able to use the language with their families, in their <b>communities</b> '	<p>In the draft Welsh Language Impact Assessment carried out in relation to this proposal, the authority acknowledges that 'implementation of the proposal would mean that Welsh-medium secondary provision would not be available in the town of Brecon'. However, Welsh-medium provision would be available through the provision of home to school transport to alternative provision.</p> <p>However, as stated in the draft Welsh Language Impact Assessment, 'Whilst Welsh-medium pupils would be leaving Brecon to access Welsh-medium secondary provision, they would continue to live in the town and surrounding areas, and will continue to be able to participate in Welsh language activities in the local community. The Authority's view is that the increased level of Welsh-medium provision available to them will enable all Welsh-medium pupils to become more confident Welsh speakers, who will be able to play a greater role in terms of the Welsh language in the community.'</p> <p>The authority's view is that implementation of the proposal would continue to enable people of all ages to use Welsh in their communities.</p>

14.3.4	The proposal is in-line with the Welsh Government's strategic aims as outlined in the Welsh-medium Education Strategy. The strategy states that 'Welsh-medium education from the early years, with robust linguistic progression through every phase of education, offers the best conditions for developing future bilingual citizens.' (p.7)	The authority notes this comment and agrees that the proposal is in-line with the aims of the Welsh-medium Education Strategy.
<b>14.4 The Welsh Language (Wales) Measure 2011</b>		
14.4.1	<p>PCC has a responsibility under the Welsh Language Measure to provide services through the language of choice and to provide Welsh medium schooling if that is what parents want</p> <p>The Welsh language has official status in Wales and should be treated no less favourably than English – people in Wales should be able to live their lives through the medium of Welsh if they choose to</p>	The authority is committed to providing access to Welsh-medium education to all parents who choose it. In some cases, this may be through the provision of free home to school transport to the nearest provider.
<b>14.5 The Welsh Language Standards</b>		
14.5.1	The guiding principle of the Welsh language standards are that the Welsh language should be treated no less favourably than English – this proposal is flying in the face of the Welsh language standards	The authority's view is that the current Welsh-medium provision available in Brecon High School is treating Welsh-medium pupils less favourably than English-medium pupils. The aim of the authority's proposal is to address this, and to ensure that Welsh-medium pupils in the Brecon area can access a broader Welsh-medium curriculum throughout all key stages.
14.5.2	Welsh language standard 145 – PCC has a duty to maintain or increase the number of Welsh speakers in its area – fail to see how the removal of Welsh-medium education at Brecon High School will increase the number of Welsh	<p>The council's draft WESP for 2017-20 acknowledges that the current method of delivering Welsh-medium education in Powys has not led to an increase in the number of pupils educated through the medium of Welsh.</p> <p>In the draft WESP for 2017-20, the authority recognises that 'a fundamental</p>



	speakers in the area	<p>change is required in Powys to ensure all learners can access high quality, robust provision from the early years onwards' and that 'significant changes are needed to the way Welsh-medium education is delivered within the county in order to encourage confidence in the system and an increase in the number and percentage of pupils accessing Welsh-medium education throughout their educational careers'.</p> <p>The draft WESP also acknowledges that the authority's plans to provide access to more equitable provision for Welsh-medium pupils may have a negative impact on Welsh-medium pupil numbers in Powys in the short term, however the authority's aim is that this would be reversed in the longer term.</p>
14.5.3	<p>It is early days for the Welsh Language Standards and parents and councillors do not yet realise the impact on future job prospects in Wales</p> <p>Anyone wishing to receive a public service in Welsh must be able to do so, which means that you will need to be able to speak Welsh to work in the public sector – removal of the Welsh stream would lead to less Welsh speakers and local people will be unable to take up local jobs because they do not speak Welsh</p>	<p>The authority is fully aware of the implications of the Welsh Language Standards in terms of the need to ensure that pupils have the appropriate Welsh language skills to enable them to provide services in Welsh in the future.</p> <p>The authority's view is that the current Welsh-medium provision at Brecon High School does not provide the correct environment to ensure that pupils can continue to develop their bilingual skills throughout their time at secondary school, and to ensure that they are confidently bilingual when they leave school.</p>
<b>14.6 General comments relating to Welsh Government Language Strategy</b>		
14.6.1	<p>The proposal goes against Welsh Government priorities</p> <p>The proposal would result in the exact opposite of what the Welsh Government seeks to achieve</p> <p>The proposal is a backwards step which goes against the Welsh Government policy of trying to promote Welsh</p>	<p>The authority does not agree that this proposal goes against Welsh Government priorities. The aim of the proposal to provide a greater level of equality for Welsh-medium pupils in terms of the provision available to them, which will provide improved opportunities for them to continue to improve their Welsh language skills throughout their educational careers. This aligns with Strategic Aim 3 of the Welsh-medium Education Strategy, 'To ensure that learners develop their Welsh-language skills to their full potential and encourage sound linguistic progression from one phase of education and training to the next'. Further to this, the Strategy states that 'Welsh-medium</p>

	<p>Can the council see how this proposal will have a detrimental impact on WG aims and policy objectives?</p> <p>Is Powys education authority deliberately trying to undermine WG policy?</p> <p>The council should be looking at how to promote the Welsh language in line with the Welsh Government's strategies, not how to kill the language</p> <p>Laws and strategies by Welsh Government show the desire by the Welsh Government to increase the level of Welsh spoken across Wales – removing the Welsh medium from Brecon would go against this</p> <p>Powys will be losing Welsh-medium pupils at a time when Welsh Government is trying to increase Welsh-medium provision</p> <p>Loss of Welsh-medium pupils is likely to affect the council's ability to meet Welsh Government targets for the uptake of the Welsh language in the short and longer term</p>	<p>education from the early years, with robust linguistic progression through every phase of education, offers the best conditions for developing young people who are truly bilingual'.</p> <p>The authority is fully committed to the Welsh Government strategy to increase the number of Welsh speakers in Wales. In contrast with other designated primary schools in Powys, there has been no significant increase in the number of pupils in Ysgol y Bannau since 2010. The authority's aim is that the greater clarity in relation with secondary progression and the increased level of Welsh-medium provision available will create more confidence in Welsh-medium education and will lead to an increase in pupil numbers, therefore contributing to an increase in Welsh speakers.</p>
14.6.2	<p>PCC should aim for higher numbers of Welsh-medium learners instead of concentrating on more robust linguistic progression in order to contribute to the Welsh Government's targets on the number of Welsh speakers</p> <p>"A living language: a language for living – Welsh</p>	<p>As stated in the consultation document, 'Welsh-medium pupil numbers in the area have remained fairly stagnant over the last few years.' Access to secondary provision in Brecon has not led to an increase in the number of Welsh-medium pupils in the area, therefore the authority's view is that a new strategy is needed in order to create more confidence in Welsh-medium education.</p>

	<p>language strategy 2012 to 2017” emphasises the importance of Welsh-medium education strategy as an essential component in producing the Welsh speakers of the future – removing the Welsh stream from Brecon High School goes against this and will reduce the number of children learning through the medium of Welsh in the secondary sector</p> <p>Reference to extract from ‘The Position of the Welsh Language 2012-15’, the Welsh language commissioner’s 5 year report published 02/11/19 which highlights how education is the key to increasing the number of Welsh speakers</p>	
14.6.3	<p>The proposal seems to directly contradict the Welsh Government Strategy for the Welsh language: ‘to increase the provision of Welsh-medium activities for children and young people’, ‘to strengthen the position of the Welsh language in the community’, ‘to strengthen the infrastructure of the language’ – none of these are achieved by closing down Welsh-medium secondary education in Brecon</p>	<p>As stated in the consultation document, ‘Welsh-medium pupil numbers in the area have remained fairly stagnant over the last few years.’ Access to secondary provision in Brecon has not led to an increase in the number of Welsh-medium pupils in the area, therefore the authority’s view is that a new strategy is needed in order to create more confidence in Welsh-medium education.</p> <p>The number of pupils currently accessing the Welsh-medium stream at Brecon High School is very small, and the authority’s view is that the small class sizes and limited Welsh-medium provision offered is not providing an appropriate educational experience for Welsh-medium pupils. In addition, the provision is not encouraging confidence in the Welsh-medium provision available locally. The authority’s view is that centralising the provision at one location in mid and south Powys, and formalising the link with Ysgol Gyfun Ystalyfera in relation to pupils from the Sennybridge area will strengthen the infrastructure in terms of the provision of Welsh-medium secondary education in the area, and as stated in the consultation document, ‘would provide a solid base which could be further developed in the future, through the possible establishment of designated Welsh-medium secondary provision to serve the area.’</p>

14.6.4	None of the six aims in the Welsh Government's 'strategy for the promotion and facilitation of the use of the Welsh language in everyday life' will be met	<p>The six aims of the Welsh Government strategy 'a living language: a language for living – Welsh language strategy 2012 to 2017' are as follows:</p> <ul style="list-style-type: none"> <li>- To encourage and support the use of the Welsh language within families</li> <li>- To increase the provision of Welsh-medium activities for children and young people</li> <li>- To strengthen the position of the Welsh language in the community</li> <li>- To increase opportunities for people to use Welsh in the workplace</li> <li>- To improve Welsh language services to citizens</li> <li>- To strengthen the infrastructure for the language, including digital technology</li> </ul> <p>As stated in the consultation document, 'Welsh-medium pupil numbers in the area have remained fairly stagnant over the last few years.' Access to secondary provision in Brecon has not led to an increase in the number of Welsh-medium pupils in the area, therefore the authority's view is that a new strategy is needed in order to create more confidence in Welsh-medium education. Whilst the current provision provides some access to Welsh-medium secondary education locally in Brecon, the limited provision that is available is not providing the opportunity for the Welsh language and Welsh-medium education to grow in the area.</p> <p>With particular reference to the aims listed above, implementation of the proposal would 'improve Welsh language services to citizens' through the provision of an improved Welsh-medium curriculum to pupils, and would 'strengthen the infrastructure for the language'.</p>
14.6.5	The Well-being of Future Generations Act 2011 sets clear well-being goals in relation to the Welsh language	The Well-being goals of the Well-being of Future Generations Act 2011 have been considered in the Integrated Impact Assessment carried out in relation to this proposal. The assessment will be updated to take account of the issues raised during the consultation period, and will be considered by the Cabinet when determining how to proceed in relation to this proposal.

<b>15. ISSUES RELATING TO THE COMMUNITY / THE RURAL NATURE OF THE AREA</b>		
15.1	<p>Closure of the Welsh-medium stream would have a negative impact on the community as a whole</p> <p>Concern about the impact on Brecon Swimming Club as Welsh-medium pupils attending a different school would not be able to train in all sessions</p> <p>Closure of the stream would affect the economy of the whole community</p> <p>Closure would affect a variety of aspects of Welsh culture, tourism and attraction to foreign visitors</p>	<p>Consideration was given to the proposal's impact on the community of Brecon in the community impact assessment in respect of this proposal. The community impact assessment will be updated to reflect comments received during the consultation period, and the updated assessment will be taken into consideration by Cabinet when determining how to proceed in relation to this proposal.</p> <p>Whilst the authority notes the concerns in relation to the impact of the proposal on the community, the aim of the proposal is to improve the Welsh-medium opportunities available to pupils. Ultimately, economic and social factors are non-educational issues.</p>
15.2	<p>The proposal will not and cannot work in this area because of how rural the area is</p> <p>The proposal is based on what has worked in urban areas and will not work in our rural area</p> <p>In urban areas you can close schools and the travel distance for pupils isn't excessive as the communities are relatively close – this isn't the case in rural areas</p> <p>This is a rural community and the council needs to be more creative in delivering services</p>	<p>The authority is fully aware of the rural nature of Powys and the challenges associated with delivering high quality services in such a rural area. This is acknowledged in the authority's School Organisation Policy (2015), which states that 'In a rural county as diverse as Powys there is no one size fits all approach to school organisation.'</p> <p>The authority's view is that the current Welsh-medium provision at Brecon High School is not providing appropriate Welsh-medium opportunities for pupils. In addition, the current model of delivery has not led to an increase in Welsh-medium pupil numbers in Brecon, in contrast with other areas of Powys.</p> <p>The authority's view is that centralising the provision in Builth Wells is the most appropriate solution at the current time, however it is acknowledged that, as with every proposal, there are some disadvantages associated with this.</p>
15.3	<p>Because we are in a rural area, the term 'community' is being applied to include Brecon and Builth Wells, two separate communities 20</p>	<p>The authority has not used the term 'community' to include both Brecon and Builth Wells. The draft community impact assessment published during the consultation period referred to the proposal's impact on the community of</p>

	miles apart – this is not an acceptable interpretation	Brecon.
<b>16. FINANCIAL ISSUES</b>		
<b>16.1 Queries about the estimated savings</b>		
16.1.1	<p>Closing the Welsh-medium stream won't save any money as the saving mentioned in the consultation document has already been lost on transporting children to Builth</p> <p>If Brecon Welsh stream closes no real money will be saved and money would carry on being wasted on transport and less children would be able to continue in Welsh-medium education</p> <p>The main aim of this proposal is to save money, however there is no evidence to show that it will save money</p>	<p>The reasons for proposing to close the Welsh-medium stream as outlined in the consultation document are;</p> <ul style="list-style-type: none"> <li>- Low pupil numbers in the Welsh-medium stream at Brecon High School</li> <li>- Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education</li> </ul> <p>The total saving to the authority should the proposal be implemented is estimated to be £58,475, as detailed in the consultation document.</p>
16.1.2	The consultation document states that the saving if the proposal was implemented would be £58,475 – this is inaccurate	As stated in the consultation document, the total saving to the authority should the proposal be implemented is estimated to be £58,475. The authority is satisfied that this is accurate.
16.1.3	Have not seen information anywhere about how much this change will save – the project is to save money, however I do not understand whether it will actually save money – I estimate 4 coaches at £250 per day making 2 journeys each would cost £1000 per day, this would be £195,000 per year – this could pay for 6 teachers in Brecon	<p>The reasons for proposing to close the Welsh-medium stream as outlined in the consultation document are;</p> <ul style="list-style-type: none"> <li>- Low pupil numbers in the Welsh-medium stream at Brecon High School</li> <li>- Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education</li> </ul> <p>The total saving to the authority should the proposal be implemented is estimated to be £58,475, as detailed in the consultation document.</p>

16.1.4	The savings of the proposal plan are far outweighed by the benefits of retaining provision at Brecon	<p>As stated in the consultation document, the reasons for proposing to close the Welsh-medium stream are as follows:</p> <ul style="list-style-type: none"> <li>- Low pupil numbers in the Welsh-medium stream at Brecon High School</li> <li>- Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education</li> </ul> <p>The authority's view is that the current small number of pupils and limited subject provision in the Welsh-medium stream at Brecon High School is not providing an appropriate educational experience for pupils.</p>
<b>16.2 Funding provided for transport</b>		
16.2.1	Providing subjects in Brecon would cut transport costs	<p>As stated in the consultation document, the reasons for proposing to close the Welsh-medium stream are as follows:</p> <ul style="list-style-type: none"> <li>- Low pupil numbers in the Welsh-medium stream at Brecon High School</li> <li>- Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education</li> </ul> <p>The authority's view is that the number of pupils currently accessing Welsh-medium secondary provision in mid and south Powys is not large enough to sustain two Welsh-medium streams and to provide appropriate curriculum choice to Welsh-medium pupils, therefore the authority does not agree that continuing to provide two Welsh-medium streams in mid and south Powys is viable.</p>
16.2.2	<p>How can you justify spending £50k more to transport Welsh-medium pupils than it would have cost to bring Brecon High School up to 2B status?</p> <p>It is a scandalous waste of public resources that the council is spending more on transport than it would cost to upgrade Brecon High School to 2B status</p>	<p>During the recent consultation period on the proposal to close the Welsh-medium stream at Brecon High School, a county councillor requested details of the additional funding that would be required for the Welsh-medium provision at Brecon High School to meet the definition of a Category 2B school. The figure provided was £47000, which is the additional funding that would be provided to the school through the authority's funding formula to support the provision of Welsh-medium subjects for 80% of curriculum time in years 7 to 11.</p>

	<p>It would cost £40,000 to uplift Brecon Welsh stream to 2B status – if the council did this there would be no reason for children to want or need to go to Ystalyfera or Builth so the council would not have to pay for transport</p>	<p>However, whilst the funding provided to dual stream schools through the authority's funding formula is based on the % of curriculum time where Welsh-medium options are available to pupils, the Welsh Government's definition of a category 2B school is as follows: 'At least 80% of <b>subjects</b> (excluding Welsh and English) are taught through the medium of Welsh but are also taught through the medium of English.'</p> <p>In relation to the funding provided through the formula to support dual stream provision in key stage 4, the authority considers that Welsh-medium curriculum time is available when a minimum of 1 Welsh-medium options subject is available in each options block. For example, a dual stream school offering 1 Welsh-medium subject and 5 English-medium subjects in each options block, as well as all core subjects through the medium of Welsh, would receive the maximum funding available from the authority to support its dual stream provision, and would be providing 80% of curriculum time through the medium of Welsh. However, this school would not necessarily meet the Welsh government definition for a category 2B school, as the school would not be providing 80% of <b>subjects</b> through the medium of Welsh and English.</p> <p>Therefore, whilst the figure of £47000 provided during the consultation is the maximum additional funding that would be provided to support dual stream provision at Brecon High School based on the authority's funding formula, this would not be sufficient to enable the school to provide Welsh-medium provision which would meet the definition for a category 2B school.</p>
16.2.3	<p>It does not seem the best value for money to transport pupils to Builth and Ystalyfera</p>	<p>The authority's view is that the current small number of pupils and limited subject provision in the Welsh-medium stream at Brecon High school is not providing an appropriate educational experience for pupils. The authority is committed to providing greater equality for Welsh-medium pupils in the area, and the authority's view is that centralising provision in mid and south Powys in Builth Wells will provide access to increased Welsh-medium provision, and would provide better value for money to the council as it would reduce the duplication of provision in both Builth Wells and Brecon.</p>



16.3 Fair Funding Formula																													
16.3.1	PCC's Fair Funding Formula does not take into account the size of the school compared to the stream, therefore Brecon has always been unfairly the poorer stream of the two	The fair funding formula is based on various elements which include premises allowances. Additional funding to support the teaching element of provision is provided by the language uplift.																											
16.3.2	The money provided to dual stream secondary schools is only for the Welsh stream, but if you want to be able to create an ethos across the school with all letters etc bilingual, it will incur extra costs	The money provided through the funding formula is based on the school delivering through both languages. No uplift is provided to single language schools.																											
16.4 General issues relating to the council's budget																													
16.4.1	What is the total budget for education in Powys and how much goes on administration?	<p>The pie chart below shows the total Education budget in Powys in 2016-17. The chart shows the split of the total £99m.</p> <p>SSSR totalling £2.1m is the total cost of administration.</p> <table border="1"> <caption>Education Budget Split in Powys (2016-17)</caption> <thead> <tr> <th>Category</th> <th>Amount (£m)</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td>Schools Delegated Budgets</td> <td>£65.4m</td> <td>66%</td> </tr> <tr> <td>Home to School Transport</td> <td>£9.5m</td> <td>10%</td> </tr> <tr> <td>ALN</td> <td>£8.7m</td> <td>9%</td> </tr> <tr> <td>Operational</td> <td>£4.6m</td> <td>5%</td> </tr> <tr> <td>Capital Charges</td> <td>£6.3m</td> <td>6%</td> </tr> <tr> <td>Other</td> <td>£1.2m</td> <td>1%</td> </tr> <tr> <td>SSSR</td> <td>£2.1m</td> <td>2%</td> </tr> <tr> <td>School Meals</td> <td>£1.2m</td> <td>1%</td> </tr> </tbody> </table>	Category	Amount (£m)	Percentage	Schools Delegated Budgets	£65.4m	66%	Home to School Transport	£9.5m	10%	ALN	£8.7m	9%	Operational	£4.6m	5%	Capital Charges	£6.3m	6%	Other	£1.2m	1%	SSSR	£2.1m	2%	School Meals	£1.2m	1%
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16.4.2	Why do you budget forward transport costs but not education costs?	All of the authority's costs are considered as part of the overarching financial strategy for the authority, and are considered on an annual basis when the budget is approved by the council. Individual schools are provided with 3 year funding estimates to inform a 3 year budget planning cycle.
16.4.3	It may be that Powys needs more money from central government to enable pupils to operate on a level playing field with the rest of Wales	The authority notes this comment, however reducing funding to local government is the situation we are faced with. Because of this reduction in funding to local government, the authority's school transformation programme is essential to ensure that the authority can continue to provide high quality Welsh-medium and English-medium education within a reducing funding envelope.
16.4.4	The authority is spending £110976 transporting children away from Brecon simply because Brecon does not have a category 2B Welsh stream – can you explain how this is not serious financial mismanagement by the council?	The provision of home to school transport to both Builth Wells High School and Ysgol Gyfun Ystalyfera was awarded following a transport appeal which was managed by the legal services section of Powys County Council. Once the appeal panel had concluded that the level of Welsh-medium provision in Brecon High School was significantly lower than the provision in Builth Wells High School and Ysgol Gyfun Ystalyfera, the authority had no choice but to provide transport. The authority is content that the procedures followed were correct. The authority does not accept that this is financial mismanagement.
<b>16.5 Other</b>		
16.5.1	If Brecon was 2B status, the £3000 per child that the Welsh assembly pays to Ystalyfera for Powys children to go there would be paid to our schools rather than out of county schools – this would amount to £120,000 extra from the Welsh assembly going to Brecon High School rather than Ystalyfera	If the pupils were attending Powys schools rather than Ysgol Gyfun Ystalyfera, it is true that the authority would receive additional funding from Welsh Government through the settlement procedure. The additional funding allocated to Brecon High School would be calculated through the schools funding formula, and Brecon High School would have to support the additional pupils within the funding provided.
16.5.2	Plea for the council to withdraw this negative proposal and start investing the money wasted in	As stated in the consultation document in respect of this proposal, the reasons why the authority is proposing to close the Welsh-medium stream at Brecon

	administering the consultation to bolster our excellent schools, support teachers and give children the right to learn Welsh in Brecon	High School are as follows: - Low pupil numbers in the Welsh-medium stream at Brecon High School - Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education
16.5.3	£100,000 more per year has been put into Builth High School for Welsh-medium provision	Builth High School is funded in accordance with the fair funding formula, with the language uplift being based on the number of subjects delivered in both Welsh and English. The allowance provided to Builth Wells High School during 2016-17 was £100,619, whilst the allowance provided to Brecon High School during 2016-17 was £58,475.
16.5.4	The proposal is financially driven not educationally driven  The proposal appears to be a short term financial saving for the council dressed as an attempt to 'improve the standard of Welsh language education'	As stated in the consultation document in respect of this proposal, the reasons why the authority is proposing to close the Welsh-medium stream at Brecon High School are as follows: - Low pupil numbers in the Welsh-medium stream at Brecon High School - Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education
<b>17. ALTERNATIVE OPTIONS</b>		
<b>17.1 Improve the Welsh-medium provision in Brecon</b>		
17.1.1	The council should extend and improve Welsh-medium provision at Brecon High School  PCC should invest in Brecon High School's Welsh-medium stream and make it a 2B status just as everything is coming together for Brecon High School  Brecon High School should be funded properly to provide local Welsh-medium provision so that pupils are not transported elsewhere because	Financial support for the provision of education on a dual stream basis has been provided to Brecon High School for a number of years, in accordance with the authority's Fair Funding Formula. Despite this support being in place for many years, there has been no increase in the level of provision available at Brecon High School.

	<p>they speak Welsh</p> <p>Welsh-medium provision to continue in Brecon High School, and needs to be funded so that it is viable so that the school can provide a full curriculum, recruit staff and support their professional development</p> <p>Make Brecon Welsh stream a success and you wouldn't be forced to transport children across vast areas to access WM education</p> <p>Providing more subjects in Brecon would cut travel costs, would ensure the security, safety and welfare of pupils and would prevent anxiety and stress to pupils and their families</p> <p>The council should be supporting and encouraging Brecon High School to thrive and become a well-established and successful secondary school with Welsh-medium provision</p>	
17.1.2	<p>Brecon High School should receive more funding as a dual language school from the Welsh commissioner</p> <p>The council should put a case for special additional funding to the Welsh Government in order to secure a future for a Welsh language stream in Brecon</p>	<p>The authority is not aware of any additional funding available from the Welsh Language Commissioner or the Welsh Government to support the provision of a Welsh-medium stream in Brecon.</p>
17.1.3	<p>The Welsh stream in Brecon should be maintained and fully funded as Builth is in order to comply with government recommendations</p>	<p>Financial support for the provision of education on a dual stream basis has been provided to Brecon High School for a number of years, in accordance with the authority's Fair Funding Formula. The same level of support has been provided to other dual stream high schools, including Builth Wells High</p>

		School. Whilst other schools have used this funding to increase the level of Welsh-medium provision within the school, there has been no significant increase in Welsh-medium provision at Brecon High School.
17.1.4	<p>The council should advise and encourage senior management in Brecon High School to promote and showcase the school as a bilingual school in the community</p> <p>Brecon High School should raise its profile as a bilingual school through bilingual letters, concerts, articles etc</p>	The promotion of any school is the responsibility of the school's governing body and senior management team.
17.1.5	The council should be looking at long term solutions for Welsh medium in the Brecon area, not just how it can improve in the Builth area in the short term	The council is looking at a long term solution for Welsh-medium secondary provision for the whole mid and south Powys area, which will provide a comprehensive Welsh-medium curriculum for current pupils and future pupils. As stated on page 21 of the consultation document: 'the authority's view is that closure of the Welsh-medium stream at Brecon High School is the most suitable way forward in order to ensure that more robust linguistic continuity can be provided to Welsh-medium learners. This would provide a solid base which could be further developed in the future, through the possible establishment of designated Welsh-medium secondary provision to serve the area.'
17.1.6	Why are you not considering raising the status of Brecon High School to 2B as an option?	<p>In the Cabinet minutes of a meeting held on the 22<sup>nd</sup> November 2011, following an informal consultation on secondary school modernisation, it notes that additional investment and support would be provided to dual stream schools to achieve the target of a Category 2B school.</p> <p>Early discussions took place with Brecon High School about providing additional support, however due to the challenging financial situation at both Powys County Council level and at Brecon High School, it was not possible to fulfil this.</p> <p>The Fair Funding Formula arrangements were reviewed for the 2013-14</p>

		<p>financial year, and are very similar in respect of dual stream schools to the model used in Ceredigion. Additional support is provided to schools based on the number of subjects delivered through both languages, and the same level of support is provided to all dual stream secondary schools. Some schools have succeeded in strengthening and increasing the Welsh-medium provision available, however this has not been the case at Brecon High School.</p> <p>On the 27<sup>th</sup> January 2015, Cabinet approved the commencement of a Secondary School Reorganisation programme, which intended to transform the secondary and post-16 sector across the county. One of the aims of this Programme was:</p> <ul style="list-style-type: none"> <li>- 'Reconfiguration of Welsh-medium education with the aim of establishing at least one Welsh-medium secondary school in the county, and the consolidation of other Welsh-medium streams into larger units.'</li> </ul> <p>This replaced the previous decision made by Cabinet on the 22<sup>nd</sup> November 2011 that additional investment and support would be provided to dual stream schools to achieve the target of a Category 2B school.</p>
<b>17.2 Establish a category 2A Welsh-medium secondary school</b>		
17.2.1	This is a golden opportunity to make a significant improvement to the provision of Welsh-medium education in South/Mid Powys by establishing a Welsh-medium secondary school	The authority notes this comment.
17.2.2	The policy of dual stream secondary provision has not been successful in terms of developing Welsh-medium education	The authority notes this comment.
17.2.3	A majority of parents of Welsh-medium primary pupils have stated many times in a number of surveys that they wish to see the establishment of	The authority notes this comment.

	a Welsh-medium secondary school to serve the area	
17.2.4	The authority has previously stated that the cost is the reason for not establishing a category 2A school at the current time, however this shows a lack of vision and ignores the fact that a dual stream school is more expensive to maintain and wastes resources	The authority notes this comment.
17.2.5	Establishing a Welsh-medium secondary school would lead to a growth in Welsh-medium pupil numbers	The authority notes this comment.
17.2.6	If the council is serious about its aspiration to offer full Welsh-medium provision to the Welsh-medium pupils of Powys, continuing with the policy of a dual stream school in Builth Wells will not achieve this	The authority notes this comment.
17.2.7	Designated Welsh-medium secondary provision could be established via an all-through school, consisting of secondary provision in Builth Wells, and two designated Welsh-medium primaries – one in mid Powys and Ysgol y Bannau in Brecon.	The authority notes this comment.
17.2.8	Establishing a Welsh-medium school would provide equal opportunity to pupils in the south of the county compared with English-medium pupils and other pupils across Wales, and would offer equality for parents who want a fully Welsh-medium education for their children	The authority notes this comment.
17.2.9	Establishing a Welsh-medium school would safeguard Welsh-medium provision in the 6 <sup>th</sup> form	The authority notes this comment.

17.2.10	A Welsh-medium school would attract well-qualified, enthusiastic, talented staff	The authority notes this comment.
17.2.11	A Welsh-medium school would provide effective linguistic immersion for pupils	The authority notes this comment.
17.2.12	A Welsh-medium school would be a central hub for the Welsh language and would be a focus for the language in south Powys	The authority notes this comment.
17.2.13	Establishing a Welsh-medium school would correspond with national policy in terms of strengthening, expanding and developing Welsh-medium education, and would enable Powys County Council to achieve national targets which have been set by the Welsh Government.	The authority notes this comment.
<b>17.3 Shared teachers</b>		
17.3.1	<p>Well qualified teachers should be appointed to work in Builth and Brecon schools – this would ensure a greater number of subjects in both schools, both schools would share the same teachers and would maintain Welsh traditions in the school</p> <p>Teachers travelling between Brecon and Builth would be the best solution to increase the numbers on both sites</p> <p>Why can't a Welsh speaking team of teachers travel between Builth and Brecon?</p> <p>Teachers teaching in both schools would increase</p>	Whilst it is possible that the amalgamation of staff in order to maintain provision in both Brecon and Builth Wells would result in an extended curriculum offer for Brecon pupils, it would not address the very low pupil numbers on the Brecon site.



	<p>Welsh language provision in both schools and would not incur additional transport costs</p> <p>Surprised that Powys have not appeared to consider a federated approach to this problem, by moving teachers between Brecon and Builth High Schools, this would enable a Welsh stream to thrive at both schools, and would also allow the Welsh stream pupils to benefit from the new proposed Penlan campus</p>	
17.3.2	<p>The council has staff based locally in Brecon at Ysgol y Bannau and Brecon High School who can offer Welsh-medium provision and expertise throughout Key Stage 3 and 4, other staff could be supplied from Builth Wells to teach the remaining subjects</p>	<p>Whilst it is possible that utilising staff based at Ysgol y Bannau and Builth Wells High School / the New Mid Powys Secondary School in order to maintain provision in both Brecon and Builth Wells would result in an extended curriculum offer for Brecon pupils, it would not address the very low pupil numbers on the Brecon site.</p>
17.3.3	<p>A county advisory teacher for Welsh should liaise with both schools, organise meetings with senior management re timetables etc</p>	<p>The authority's Challenge Advisor with responsibility for Welsh as a subject provides challenge and advice to all schools who deliver Welsh first or second language. It is the responsibility of individual schools to structure the timetable and curriculum of their school. This is not the responsibility of the local authority.</p>
<b>17.4 Increase primary pupil numbers</b>		
17.4.1	<p>Powys needs to look at ways to increase numbers in Welsh-medium in the primary sector to create numbers that can filter into Brecon Welsh stream</p> <p>The authority should increase the number of Welsh streams in primary schools which feed secondary schools with Welsh streams, but especially Brecon High School</p>	<p>There has been no significant growth in pupil numbers at Ysgol y Bannau in recent years, therefore there is no evidence that there is demand for any additional Welsh-medium streams in the Brecon area at the current time. A Welsh-medium workstream was established as part of the Gwernyfed Area Review that was carried out a few years ago, however this workstream concluded that there was no demand for Welsh-medium primary provision in that area at the time.</p>

	<p>Encourage the council to increase the number of Welsh streams in primary schools that feed secondary streams</p> <p>More bilingual education in other primary schools in the local area would mean that the future of the Welsh stream at Brecon would be constructed on a more solid foundation</p>	
<b>17.5 Use of modern technology</b>		
17.5.1	<p>Pupils could be grouped in a room for a lesson but taught via video conferencing / Skype as is the case in other parts of the world</p> <p>Modern technology eg Skype should be used for older pupils</p>	The authority, supported by Welsh Government, has provided every secondary school in Powys with video conferencing facilities, therefore there has been no reason why Brecon High School could not have worked with other providers to offer additional Welsh-medium opportunities for pupils.
<b>17.6 Bring current schools together</b>		
17.6.1	<p>Propose you bring Brecon Welsh stream, Ysgol y Bannau and Sennybridge together as one through school operating from their individual sites but working together to achieve a strong Welsh-medium provision</p> <p>Bringing Brecon Welsh stream, Ysgol y Bannau and Sennybridge schools together would increase cohort numbers and would provide a pool of Welsh-medium teachers to fall back on and would eliminate additional transport costs</p>	The authority acknowledges the benefits of a Welsh-medium school compared with dual stream provision, and that the suggested model would succeed in establishing a school of this type. Whilst this model would strengthen transition from Sennybridge to the provision at Brecon, there would be no significant increase in secondary pupil numbers compared with the numbers that were attending the Welsh-medium stream in Brecon High School in 2014/15, therefore the authority's view is that this provision would not be viable.
17.6.2	Powys needs to get existing providers of Welsh-medium education to work together	The authority established a Welsh-medium learning partnership, 'Clwstwr y Ffynnon' a few years ago, which included all Welsh-medium providers in mid and south Powys. The aim of this group was to strengthen links between

	Brecon Welsh stream, Ysgol y Bannau and Sennybridge School could start working together as one e.g. combined visits, trips, activities	existing providers of Welsh-medium education and encourage joint activities. During 2013/14 and 2014/15, a day of Welsh language activities was held for all Welsh-medium providers in the area, and further joint activities are currently arranged by Menter Brycheiniog a Maesyfed and the Urdd.
<b>17.7 Keep two Welsh-medium streams</b>		
17.7.1	Retaining two Welsh streams would mean that all children could access Welsh-medium education  Keeping provision in Brecon and Builth would provide choice for families in Sennybridge	The authority notes this comment. However the current number of Welsh-medium pupils in mid and south Powys is not sufficient to support two Welsh-medium streams and to provide a comprehensive Welsh-medium curriculum for pupils.
17.7.2	Giving free transport to Builth is the answer to growing Welsh-medium education in the Brecon area, as long as Brecon's Welsh-medium stream remains – this would provide choice for families choosing Welsh-medium education	Should the Welsh-medium stream at Brecon High School close, the school would be categorised as a category 4 school, which is described as a 'Predominantly English Medium Secondary School'.  The Welsh Government document 'Defining Schools according to Welsh medium provision' (2007) provides the following definition for the curriculum provision of this type of school: 'Pupils are mainly taught through the medium of English. Welsh is taught as a second language up to KS4. One or two subjects (which would include Welsh first language) may be taught as an option through the medium of Welsh or using both languages.'  This category would allow the school to teach one or two subjects through the medium of Welsh, which could include Welsh first language, however this would be a decision for the school. There are examples of 'Predominantly English Medium secondary schools' in Powys that do provide the opportunity for pupils to study Welsh First Language, however no funding is provided by the authority to support this provision.
<b>17.8 Other</b>		
17.8.1	You need to spend an initial amount to fix the problem of Welsh-medium education in south	The authority is currently facing significant financial pressure, and is under pressure to ensure that services are delivered as cost effectively and

	Powys but it will be worth it in the future	efficiently as possible.  In September 2016, the council's Cabinet agreed to re-consult on the closure of the Welsh-medium stream at Brecon High School. The reason for this decision was 'to provide a more sustainable, educationally and linguistically viable model of Welsh-medium secondary education'.
17.8.2	The proposal would be more workable if the changes meant that there would still be provision but at worst the most children would have to travel is 20-30 minutes	The authority notes this comment and acknowledges that implementation of the proposal would lead to an increase in travel time for pupils
17.8.3	The council should monitor and ensure that there is 'robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education'	The authority does monitor the Welsh-medium provision available in each of the 6 dual stream secondary schools in Powys on an annual basis. Through this monitoring, the authority has identified that the current provision does not provide 'robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education'
17.8.4	There should be a hub in Brecon which could be a centre of excellence, and modern technology could be used to present lessons to students	The authority is currently planning a new building for Brecon High School which will provide first class facilities for the school, which will include the provision of modern technology which can be used to present lessons.
17.8.5	Not all parents are looking for 8, 9 or 10 GCSEs in Welsh – they want access to a few subjects and Welsh first language to ensure that pupils are confidently bilingual when they leave school so that they can apply for jobs where Welsh language skills are necessary	The authority notes this comment. However, the authority has a duty to ensure that full Welsh-medium provision is available for those pupils who choose it, to ensure that pupils have the best possible opportunities to continue to develop their Welsh language skills during their time in secondary school, so that they are confidently bilingual when they leave school. The current provision at Brecon High School does not provide this.
17.8.6	The answer is very simple – start properly funding and supporting Welsh-medium education to demonstrate to both parents and children that they are a valued and respected section of the community	Additional funding to support the provision of Welsh-medium education is provided to dual stream schools via the Fair Funding Formula. The Fair Funding Formula arrangements were reviewed for the 2013-14 financial year, and are very similar in respect of dual stream schools to the model used in Ceredigion.

		Additional support is provided to schools based on the number of subjects delivered through both languages, and the same level of support is provided to all dual stream secondary schools. Some schools, such as Builth Wells High School, have succeeded in strengthening and increasing the Welsh-medium provision available, however this has not been the case at Brecon High School.
17.8.7	It would be easier to close the Welsh stream at Builth Wells High School because there isn't a Welsh-medium school there like there is in Brecon	The authority does not agree with this comment. Currently, the number of pupils accessing the Welsh-medium provision at Builth Wells High School is significantly greater than the number of pupils accessing the provision at Brecon High School, and the school provides an increased level of Welsh-medium provision to pupils compared with the provision currently offered at Brecon High School. In addition, there are more feeder primary schools in the current catchment of the Welsh-medium stream of Builth Wells High School.
17.8.8	Feel that not all options have been considered – the council has latched onto the first idea of closing the stream at Brecon High School without considering any alternatives	<p>As outlined on page 19 of the consultation document, a wide range of possible options for the future of Welsh-medium provision in mid and south Powys have been considered since 2015. In particular, a number of options were evaluated in the business case relating to the review of secondary provision in Mid and South Powys. This business case concluded that 'the most appropriate option at the current time is to centralise Welsh-medium secondary provision across the Mid and South Powys region.'</p> <p>The only 2 options included in the consultation document in respect of the current proposal are to retain the Welsh-medium stream at Brecon High School or to close the Welsh-medium stream at Brecon High School. As stated on page 19 of the document, 'The authority is currently going through the statutory process to close Builth Wells High School and Llandrindod Wells High School and establish a new secondary school across two sites. The proposal is that the new school will be a dual stream school, with the current dual stream provision being retained on the Builth Wells site. Therefore, the only options now available to the authority in relation to the Welsh-medium provision at Brecon High School is whether or not to retain this provision.'</p> <p>A number of other options have been suggested during the consultation</p>

		period, and these will be taken into consideration by the Cabinet when determining how to proceed in relation to this proposal.
<b>18. ISSUES RELATING TO THE CONSULTATION PROCESS</b>		
<b>18.1 Pre-determination</b>		
18.1.1	<p>The council should have an independent investigation into why they pre-determined the outcome of this consultation by implementing free transport from Brecon to Builth before the consultation process had run its course</p> <p>Considering the decisions that have been made re transport, how has PCC not pre-determined the outcome of this proposal?</p> <p>How is paying for transport provision to other schools before the outcome of consultation is known not predetermination?</p>	<p>18 months or so ago, a number of parents of pupils that were attending the Welsh-medium stream at Brecon High School decided to move their children to another school to access Welsh-medium education. As an admissions authority, the council cannot refuse places to children if there is a place available at the school to which they apply. When parents applied for places at Builth Wells High School, there were places available, therefore the authority was unable to reject the applications, however transport was initially refused at Stage 1 and 2 of the transport application process.</p> <p>Following this, the applications were taken to appeal, and the appeal panel took the decision to award transport based on the greater breadth of Welsh-medium provision offered at the alternative providers compared with the breadth of provision offered at Brecon High School.</p> <p>The council acknowledges that the decision of the appeal panel to award transport has impacted on the number of pupils attending the Welsh-medium stream at Brecon High School, however this is not predetermination – transport was not automatically awarded to these parents, it was referred to the Appeals Panel in accordance with the agreed process.</p>
18.1.2	The decision was made several years ago – 6/7 years ago the then headteacher of Brecon High School said to a governor “the Welsh is going to Builth and Ysgol y Bannau will be dead”	A final decision on the future of the Welsh-medium stream at Brecon High School has not been made. The authority has no knowledge to either support or deny the accusation that this statement was made by the then headteacher of Brecon High School.
18.1.3	Ysgol y Bannau has been made an official feeder school for Builth Wells Welsh stream, with Builth representatives coming in to champion their	Ysgol y Bannau has not been made an official feeder school for Builth Wells Welsh stream as no final decision has yet been made in relation to the future of the Welsh-medium stream at Brecon High School. However, a number of

	<p>school – why are Builth primary school children not encouraged to attend Brecon Welsh stream? This is predetermination</p>	<p>parents of pupils at Ysgol y Bannau have chosen for their children to attend Builth Wells High School, therefore it is not unreasonable that Ysgol y Bannau has developed links with Builth Wells High School in order to facilitate transition of these pupils to high school. More Welsh-medium provision is available in Builth Wells High School than Brecon High School. As the authority's aim is to provide more equality for Welsh-medium pupils, Builth pupils would not be encouraged to attend Brecon High School.</p>
18.1.4	<p>Lots of things have pre-determined the consultation therefore it has not been able to run fairly</p>	<p>The outcome of the consultation has not been pre-determined. All issues raised during the consultation period will be taken into consideration by the Cabinet when determining how to proceed in relation to this proposal.</p>
<p><b>18.2 Issues relating to the timing of the consultation</b></p>		
18.2.1	<p>The council is not prepared to extend the unrealistic deadline for the end of the consultation, despite it being Christmas and many parents are focussed on that</p> <p>The timing of the consultation, over the Christmas period, is difficult, and there is insufficient time to respond</p> <p>Request for an extension to the closing date</p>	<p>The School Organisation Code requires councils to consult on proposals at least 42 days or 6 weeks, with at least 20 of these being school days. The council extended this period to seven weeks for this consultation, to take account of the Christmas period.</p> <p>The council recognises that this consultation has taken place during a particularly busy time, however the council needs to balance the need to provide sufficient time for stakeholders to respond to the consultation and the need to conclude the process so that Cabinet can make a decision on how to proceed in order to avoid an extended period of uncertainty.</p>
18.2.2	<p>The timing of the consultation will impact on the school's ability to design a curriculum for the next academic year – how can this be planned when it is not known whether there will be a Welsh stream</p> <p>The timing of the consultation does not help with year 6/7 transition</p> <p>The consultation should be cancelled until after</p>	<p>The authority notes that the timing of the consultation has caused some operational difficulties for the schools and pupils affected. All school reorganisation proposals lead to a period of uncertainty for those affected, and due to the fact that uncertainty in relation to the Welsh-medium stream at Brecon High School has continued for many years, the authority's view was that it was preferable to move forward with the consultation in order to seek a resolution to this issue.</p>

	the new building is built as there are too many variables at the moment for the council to make an informed decision	
18.2.3	The consultation is being conducted at a difficult time of year – it is difficult to get hold of members of the School Transformation Team as staff are unavailable – either not in the office, working from home or on leave	<p>Members of the School Transformation Team were working on all but 5 working days throughout the consultation period. On some of these working days, staff were out of the office or in meetings, however messages could be left and officers were contactable by e-mail.</p> <p>Responses to the consultation were to be submitted in writing or via e-mail, therefore responses could be submitted at any time, regardless of whether or not officers were in the office.</p>
<b>18.3 Issues relating to the consultation meetings</b>		
18.3.1	<p>The speakers responses in the consultation meeting were unsatisfactory</p> <p>None of the fears, concerns, anxieties and worries raised by the public in the public meeting were met with adequate reassuring or convincing responses</p> <p>Answers provided at the consultation meeting can only be described as lame and un thought out</p>	Officers endeavoured to answer all questions posed in the consultation meetings to the best of their abilities. Responses to all issues raised during the consultation period, including those raised in the consultation meetings, are provided in this report.
18.3.2	Why was there no councillor in the meeting with staff?	The authority's usual practice is that the portfolio holder and the leader attend the meeting with parents / the community and the portfolio holder attends the meeting with governors. However, the minutes of all three meetings, as well as the meetings held with pupils, will be included as an appendix with the report considered by Cabinet, and the issues raised in all meetings are included in this report, therefore the portfolio holder and all other Cabinet members will be aware of all issues raised during the consultation, including those raised in meetings and in other written responses, before making a decision on how to proceed.



18.3.3	Feeling that the public meeting was called by the council simply to convince the public to accept something that was a 'fait accompli' – there was not a lot of consultation taking place	The consultation meetings were arranged in order to give stakeholders the opportunity to let the council know their views on the proposal. Minutes were taken of all meetings, and the issues raised in all meetings have been included in this report. All issues raised during the consultation period will be taken into consideration by the Cabinet when determining how to proceed in relation to this proposal.
18.3.4	The public spoke at the public meeting and their concerns were ignored  Not one member of the public at the public meeting supported the plans	The views expressed in the consultation meetings and in written responses to the consultation will be taken into consideration by the Cabinet when determining how to proceed in relation to this proposal.
18.3.5	Members of Cabinet at the consultation meeting did not instil confidence that any decisions would be well informed and forward thinking	The authority notes this view. Cabinet members were in attendance at the consultation meeting in order to hear the views of stakeholders in relation to the proposal. All issues raised during the consultation period will be taken into consideration by the Cabinet when determining how to proceed in relation to this proposal.
<b>18.4 Issues relating to the minutes of the consultation meetings</b>		
18.4.1	Why are the minutes, an important document that was promised at the consultation meeting, being deliberately withheld from us in the consultation period, but were freely available to all in previous consultations  The withholding of minutes undermines the validity of the whole consultation and brings into question whether the whole process is being taken seriously and conducted with the honesty and integrity that is a requirement of a legitimate consultation process	The purpose of the minutes is to inform Cabinet members of the issues raised in the meetings, and they will be published along with the Cabinet papers in due course. This is in line with the procedure followed in relation to the minutes of other consultation meetings held in relation to other proposals.  The minutes were released to the Headteacher and Chair of Governors of Brecon High School before the end of the consultation period, to give them the opportunity to comment / request any amendments to the content.

	<p>As the minutes have not been made available, many who were unable to make the consultation meeting were unable to know exactly what was said and were unable to comment on the information provided at the meeting</p> <p>The fact that the minutes have not been made available has meant that this consultation has not been run fairly and shows that the council are trying to hide information that came out in the consultation meeting</p> <p>People who were unable to attend the public meeting were relying on having the minutes of the meeting available to them to have the details and answers to questions that were raised</p>	
18.4.2	<p>At the consultation meeting, the council was asked why the meeting was not being filmed and the answer given was that there were minutes being written and these would be made available – why were the minutes never made available?</p>	<p>The minutes were released to the Headteacher and Chair of Governors of Brecon High School before the end of the consultation period, to give them the opportunity to comment / request any amendments to the content.</p>
<b>18.5 Issues relating to who the council has consulted with</b>		
18.5.1	<p>Why have you not asked parents of Welsh-medium pupils travelling out of Brecon catchment if they would consider attending a local 2B school?</p>	<p>Information about the consultation was sent to the schools pupils might transfer to should the proposal be implemented for distribution to parents, which would include parents who had transferred to alternative Welsh-medium provision, therefore these parents did have the opportunity to respond to the consultation.</p>
18.5.2	<p>Why have you not asked parents of pupils in the Welsh-medium stream at Brecon High School if they would consider travelling to Builth if there was no provision available at Brecon?</p>	<p>Parents of pupils at Brecon High School, Ysgol y Bannau and Sennybridge CP School have been informed of the consultation in line with the requirements of the School Organisation Code, and were informed of the public meeting held at Brecon High School on the 1<sup>st</sup> December, therefore the</p>

	<p>Why have you not asked parents of pupils in the local Welsh primary school if they would consider travelling to Builth Wells if there was no Welsh-medium provision in Brecon?</p> <p>Has there been any engagement with parents of pupils at Ysgol y Bannau?</p> <p>New parents at Sennybridge are concerned that there has been little dialogue with them and they have had little choice</p> <p>The council has not consulted directly with parents of Welsh-medium pupils at this current stage</p> <p>The council has not asked parents what they want</p>	<p>council is satisfied that parents have had an opportunity to contribute to the consultation.</p>
18.5.3	<p>Are the pupils being consulted and when?</p>	<p>A young people's version and a primary version of the consultation document were produced and distributed to affected pupils. In addition, officers met with pupils at Brecon High School, Ysgol y Bannau and Sennybridge CP School during the consultation period.</p>
18.5.4	<p>Request for the Welsh Language Commissioner to get involved in this consultation</p>	<p>The School Organisation Code does not require the authority to consult with the Welsh Language Commissioner, however the Commissioner could have responded to the consultation if she had wished to.</p>
18.5.5	<p>How much weight is given to groups like RhAG in the consultation as they are not acting for the majority of Ysgol y Bannau parents who are the only parents who will be affected if you close Brecon Welsh stream</p> <p>The council is listening to RhAG which is led by</p>	<p>The School Organisation Code states the stakeholders that must be consulted with during any school reorganisation process. Whilst RhAG is not one of the stakeholders that must be consulted, due to the open and public nature of the consultation, RhAG are entitled to respond. There is no weighting to any of the stakeholders, however the Code states that the views of Estyn and young people must be highlighted in any consultation report.</p>

	<p>parents who want their children to be taught in a designated Welsh-medium school</p> <p>The council isn't listening to the views of the majority of parents – RhAG is a vocal group but it doesn't necessarily represent all the Welsh speaking community</p>	
<b>18.6 Comparisons with previous consultations</b>		
18.6.1	This consultation is not being taken as seriously as previous consultations	This consultation is being taken as seriously as previous consultations, and is being carried out in line with the requirements of the School Organisation Code. All issues raised during the consultation will be taken into consideration by the Cabinet when determining how to proceed in relation to the proposal.
18.6.2	There is no option to complete an online questionnaire as previous and people are only to respond in written form	An online response form was available on the council's website throughout the consultation period.
18.6.3	Why wasn't the consultation meeting filmed as in previous consultations? Not everyone was able to attend the meeting and some elderly people were relying on the filming as in previous consultations	The previous consultation meetings in relation to the proposals for secondary education were filmed due to the number of people expected to attend. As the number of pupils likely to be affected by this proposal is significantly less, the authority's view was that there was no need to film the meetings. This is in line with the arrangements for other consultations that have taken place recently, including proposals for primary education in Welshpool and proposals in relation to Nantmel C. in W. School, Llanbister C.P. School and Llanfihangel Rhydithon C.P. School.
18.6.4	<p>Why weren't facilitators used for this consultation as for the previous consultation in relation to Gwernyfed / Brecon High School?</p> <p>Why hasn't this consultation been given the same status as previous consultations with an external company facilitating and recording all aspects?</p>	ORS were brought in as facilitators during the previous consultations relating to secondary provision due to the scale of those proposals. At the time, the council was carrying out a large scale proposal that included four high schools, plus a number of proposals relating to primary schools. ORS were brought in primarily to carry out the task of analysing the consultation responses in relation to the secondary proposals. This was not necessary this time as there is internal officer capacity to carry out this work.

		The previous consultation meetings in relation to the proposals for secondary education were filmed due to the number of people expected to attend. As the number of pupils likely to be affected by this proposal is significantly less, the authority's view was that there was no need to film the meetings. This is in line with the arrangements for other consultations that have taken place recently, including proposals for primary education in Welshpool and proposals in relation to Nantmel C. in W. School, Llanbister C.P. School and Llanfihangel Rhydithon C.P. School.
18.6.5	Compared to the previous two consultations on closure of the Welsh-medium stream the response form for this one seems lazy in the extreme and it may well be very difficult to collate people's responses in a meaningful way	The response form use for this consultation is in-line with the requirements of the School Organisation Code, and is in-line with the response forms used for other consultations carried out by the authority in recent months, for example, changing the language category of Ysgol Dolafon, closure of Nantmel C. in W. School, Llanbister C.P. School and Llanfihangel Rhydithon C.P. School, closure of Talgarth C.P. School and Bronllys C.P. School and the reorganisation of primary education in Welshpool.
<b>18.7 Queries relating to the process going forward</b>		
18.7.1	When is the report on the outcome of consultation likely to be considered by Cabinet?	The current expectation is that the consultation report will be considered by the Cabinet in March 2017.
18.7.2	Could there be a new Cabinet considering the final report?	Local government elections will take place in May 2017. Should the consultation report be considered by the current Cabinet in March 2017, and should the current Cabinet decide to proceed with the publication of statutory notices, it is possible that the Objection Report would be considered by a new Cabinet.
<b>18.8 This consultation is not being taken seriously</b>		
18.8.1	This is a presentation not a consultation – this is a publicity stunt	The same value is being placed on this consultation exercise as any other consultation carried out by the council.

	<p>People feel that the consultation is not being conducted with the seriousness we would expect</p> <p>What value is being placed on this consultation, given that this is the third time there has been consultation on this proposal?</p> <p>It seems that this process may well be just a hoop you are obliged to make us jump through and that you can't really be bothered to put in the effort – hope that this is not the case and that all responses will be properly considered</p>	<p>The consultation has been carried out in line with the requirements of the School Organisation Code. All issues raised during the consultation will be taken into consideration by the Cabinet when determining how to proceed in relation to the proposal.</p>
18.8.2	<p>The way the consultation has been run has led to a lot of confusion and uncertainty – lots of families have been confused thinking that the stream had already closed or moved their children as they thought the Welsh stream is definitely closing</p>	<p>The authority notes this comment. The consultation has been carried out in line with the requirements of the School Organisation Code. The authority has not stated that the Welsh stream would definitely be closing. However, 18 months or so ago, following the initial Cabinet decision to consult on closure of the Welsh-medium stream at Brecon High School, the parents of a number of pupils that were attending the Welsh-medium stream at Brecon High School decided to move their children to another school to access Welsh-medium education.</p>
18.8.3	<p>Having to respond to the consultation again is excessive, time-consuming and unnecessary, many are being worn down – is this another example of manipulating the situation to reduce the number of responses?</p>	<p>The authority acknowledges that having to respond to another consultation has been time-consuming for parents. However, the same value is being placed on this consultation exercise as any other consultation carried out by the council.</p>
<b>18.9 Other</b>		
18.9.1	<p>Request for the council to write to parents to advise that the responses submitted to previous consultations will not be taken into consideration this time</p>	<p>This request was made by a parent during the public meeting held on the 1<sup>st</sup> December 2016. A letter to this effect was issued to parents during the week commencing the 5<sup>th</sup> December 2016.</p>

18.9.2	Have you considered the Well-being of Future Generations Act?	The authority has carried out an Integrated Impact Assessment in respect of this proposal, which takes account of the Well-being of Future Generations Act. The Assessment will be updated to reflect the views expressed during the consultation period, and will be considered by Cabinet when determining how to proceed in respect of this proposal.
18.9.3	All those directly affected by this want to keep the Welsh stream, the council should spend more time listening rather than proposing	All issues raised during the consultation will be taken into consideration by the Cabinet when determining how to proceed in relation to this proposal. However, Cabinet will also need to consider the small number of pupils currently attending the Welsh-medium stream at Brecon High School and the need to provide equality for Welsh-medium pupils.
18.9.4	The proposal is being pushed through with little research or understanding	The authority does not agree with this comment. The authority has been considering the future of the Welsh-medium stream at Brecon High School for a number of years. As outlined on page 19 of the consultation document, a wide range of possible options for the future of Welsh-medium provision in mid and south Powys have been considered since 2015. In particular, a number of options were evaluated in the business case relating to the review of secondary provision in Mid and South Powys.
<b>19. ISSUES RELATING TO THE CONSULTATION DOCUMENTATION</b>		
<b>19.1 Information not included in the consultation document</b>		
19.1.1	<p>PCC don't mention Builth's Estyn report at all apart from a table right at the end</p> <p>The consultation document hardly mentioned that Brecon is and has improved and that Builth is in Special Measures – in previous consultations, Brecon being in special measures was mentioned nearly every other word</p>	<p>The Welsh Government's School Organisation Code (2013) states that the consultation document must include the following information about Quality and standards in education:</p> <ul style="list-style-type: none"> <li>• 'The likely impact of the proposals on the quality of the following: <ul style="list-style-type: none"> <li>a. outcomes</li> <li>b. provision</li> <li>c. leadership and management</li> </ul> </li> <li>• Information about the most recent Estyn reports for each school likely</li> </ul>

		<p>to be affected;</p> <ul style="list-style-type: none"> <li>The likely impact of the proposals on the ability of school or schools which are the subject of the proposals or any other school which is likely to be affected, to deliver the full curriculum at the foundation phase and each key stage of education'</li> </ul> <p>The information provided in the consultation document meets these requirements.</p>
19.1.2	<p>Figures from the present year 6 in Ysgol y Bannau should be used as an indicator – PCC has the school preference returns</p> <p>Why haven't the council included the 10 year 6 pupils from Ysgol y Bannau that have committed to attend Brecon Welsh stream in the consultation document?</p> <p>Applications for secondary admissions were submitted by the deadline of the 11<sup>th</sup> November and the consultation document was published on the 21<sup>st</sup> November so why weren't these figures included.</p> <p>The document is flawed without the inclusion of information about the number of pupils that will be transferring to Brecon Welsh stream in September 2017 and cannot be used in its current form</p> <p>There is no mention that only 6 or 7 of the 19 pupils in year 6 in Ysgol y Bannau will be going to Builth</p>	<p>The deadline for submitting school preference forms was the 18<sup>th</sup> November 2016. Whilst the consultation was not distributed until the 21<sup>st</sup> November, the document was finalised a few weeks before this to allow time for translation, copying and distributing to the affected schools.</p> <p>Information about the preference of the current year 6 pupils is now available. 18 forms have been received from pupils currently in year 6 at Ysgol y Bannau, and the preference stated are as follows:</p> <p>Brecon High School Welsh-medium stream – 10 pupils  Builth Wells High School Welsh-medium stream – 6 pupils  Ysgol Gyfun Ystalyfera – 1 pupil  Llandovery College – 1 pupil</p>



19.1.3	Why are the other feeder schools numbers for Builth not in this consultation document as we should be able to see how they compare to the numbers in Ysgol y Bannau and Sennybridge	This proposal relates to the closure of the Welsh-medium stream at Brecon High School due to the small number of pupils currently attending this provision. The number of pupils in the primary schools that feed the Welsh-medium stream in Builth Wells are not relevant to this consultation.
19.1.4	Unfair that you only publish the figures that support your case and omit the figures that don't support your case	The data included in the consultation document is factual data which reflects the position at the time of writing. The data included is in line with the requirements of the School Organisation Code.
19.1.5	The document doesn't include the number of pupils that have left Welsh-medium education	The data included in the consultation document is factual data which reflects the position at the time of writing. The data included is in line with the requirements of the School Organisation Code.
19.1.6	The document doesn't refer to the low numbers coming into Ysgol y Bannau's new year intake	Information about the current number of pupils in each year group at Ysgol y Bannau is provided on page 12 of the consultation document.
19.1.7	The document does not take into consideration that although there will be more Welsh medium opportunities for pupils and access to a wider range of subjects through the medium of Welsh, it will be less available / accessible to the majority of pupils in Welsh-medium education now	<p>On page 15 of the consultation document, the authority identified 'loss of Welsh-medium secondary provision in Brecon' and 'increased travel times for Welsh-medium learners from the Brecon catchment' among the disadvantages of the proposal. This reflects the fact that the provision will be less accessible to pupils.</p> <p>In addition, on page 16 of the consultation document, the authority identified a risk that 'pupils choose to attend English-medium secondary provision instead of continuing to access Welsh-medium provision on transfer to secondary school'. This also reflects the fact that the provision will be less accessible to pupils.</p>
19.1.8	<p>Why was the £110976 current cost of transporting Welsh-medium pupils out of the Brecon catchment and the £47000 cost to make Brecon a 2B Welsh-medium stream not included in the consultation document?</p> <p>The consultation document does not state what it</p>	<p>As stated in the consultation document:</p> <p>'Following previous successful transport appeals, transport is already provided by the authority to Ysgol Gyfun Ystalyfera for Welsh-medium pupils from the Sennybridge area and to Builth Wells High School for Welsh-medium pupils from the Brecon area. As this transport is already provided, implementation of the proposal would not incur any additional transport costs.'</p>

	<p>would cost to bring the school up to 2B status</p>	<p>During the recent consultation period on the proposal to close the Welsh-medium stream at Brecon High School, a county councillor requested details of the additional funding that would be required for the Welsh-medium provision at Brecon High School to meet the definition of a Category 2B school. The figure provided was £47000, which is the additional funding that would be provided to the school through the authority's funding formula to support the provision of Welsh-medium subjects for 80% of curriculum time in years 7 to 11.</p> <p>However, whilst the funding provided to dual stream schools through the authority's funding formula is based on the % of curriculum time where Welsh-medium options are available to pupils, the Welsh Government's definition of a category 2B school is as follows: 'At least 80% of <b>subjects</b> (excluding Welsh and English) are taught through the medium of Welsh but are also taught through the medium of English.'</p> <p>In relation to the funding provided through the formula to support dual stream provision in key stage 4, the authority considers that Welsh-medium curriculum time is available when a minimum of 1 Welsh-medium options subject is available in each options block. For example, a dual stream school offering 1 Welsh-medium subject and 5 English-medium subjects in each options block, as well as all core subjects through the medium of Welsh, would receive the maximum funding available from the authority to support its dual stream provision, and would be providing 80% of curriculum time through the medium of Welsh. However, this school would not necessarily meet the Welsh government definition for a category 2B school, as the school would not be providing 80% of <b>subjects</b> through the medium of Welsh and English.</p> <p>Therefore, whilst the figure of £47000 provided during the consultation is the maximum additional funding that would be provided to support dual stream provision at Brecon High School based on the authority's funding formula, this would not be sufficient to enable the school to provide Welsh-medium provision which would meet the definition for a category 2B school.</p>
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19.1.9	The proposal doesn't give appropriate consideration to the effect travelling to Welsh-medium provision will have on pupils from Brecon	<p>On page 15 of the consultation document, the authority identified 'increased travel times for Welsh-medium learners from the Brecon catchment' as a disadvantage of the proposal.</p> <p>Further to this, on page 17 of the consultation document, the authority identified a risk that 'additional travel has an adverse impact on pupil well-being and attainment'.</p> <p>In addition, consideration is given to the impact of additional travel on the pupils currently attending the Welsh-medium stream at Brecon High School on page 22 of the consultation document, and on pupils attending Welsh-medium primary provision in the catchment on page 23 of the consultation document.</p>
19.1.10	The document doesn't include information about bus journey times to Builth from the many locations Ysgol y Bannau children live	As Ysgol y Bannau serves the catchment areas of Brecon, Gwernyfed and Crickhowell, it is the authority's expectation that some of the pupils would choose to transfer to closer schools in other authorities rather than Builth Wells High School. However it is the authority's expectation that the travel times required would be within the 1 hour maximum travel time to and from school for the vast majority of pupils currently attending Ysgol y Bannau.
19.1.11	The consultation document does not explain the context of the situation	The consultation document provides factual information based on the situation at the time the consultation commenced. Information about the background to the current consultation is provided on pages 7-9 and page 19 of the consultation document.
19.1.12	Request for historical figures to see the impact the consultation has had on pupil numbers in the Welsh stream	Historical figures showing the number of Welsh-medium pupils in years 7-11 at Brecon High School since 2010/11 are provided on page 11 of the consultation document.
19.1.13	We need more data about transport costs over a	The figure of £111,000 provided at the consultation meetings relate to the

	longer period, say 5 years	current costs incurred in transporting children from the Brecon catchment to Builth and Ystalyfera. The vast majority of these costs commenced following the admission appeals in 2015, but a second bus has been provided due to the increased numbers travelling to Builth.
19.1.14	You should have stated at the beginning of the document that the fall in the number of Welsh-medium pupils has had an impact on the school	<p>Information about the background to the current consultation is provided on pages 7-9 and page 19 of the consultation document.</p> <p>On page 13 of the consultation document, the authority states that ‘It is acknowledged that it is likely that the uncertainty caused by the two previous consultation exercises on closure of the Welsh-medium stream at the school has contributed to the decrease in Welsh-medium pupil numbers at Brecon High School’.</p>
19.1.15	Section 9.5 – you have not submitted any data relating to quality of education as you state that as the numbers are small it would not be valid to compare performance, yet in other parts of the document you are using data that goes back to 2010	<p>As stated in section 9.5 on page 35 of the consultation document ‘The information provided in respect of the quality of education at the affected schools is in-line with the requirements of the School Organisation Code’.</p> <p>The authority also states that as ‘the number of Welsh-medium pupils at each school, particularly Brecon High School, is small...it would not be valid to compare the performance of Welsh-medium pupils in these schools.’ This statement is supported by Estyn, who state in their response to the consultation, which is provided on page 13 of this report, that: ‘The proposer has not provided any performance data on standards in the Welsh medium stream in any of the affected schools, but reasonably makes the statement that as numbers are small in Brecon High School, it would not be valid to compare the performance of Welsh-medium pupils in these schools.’</p>
19.1.16	The document is not in line with the school organisation code as the code states that information on quality of education is required – could you please include in the consultation report the section of the School Organisation Code that states that the quality of education data does not need to be included?	<p>The Welsh Government’s School Organisation Code (2013) states that the consultation document must include the following information about Quality and standards in education:</p> <ul style="list-style-type: none"> <li>• ‘The likely impact of the proposals on the quality of the following: <ul style="list-style-type: none"> <li>a. outcomes</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>b. provision</li> <li>c. leadership and management</li> </ul> <ul style="list-style-type: none"> <li>• Information about the most recent Estyn reports for each school likely to be affected;</li> <li>• The likely impact of the proposals on the ability of school or schools which are the subject of the proposals or any other school which is likely to be affected, to deliver the full curriculum at the foundation phase and each key stage of education'</li> </ul> <p>The information provided in the consultation document on pages 25-30 and page 35 meets these requirements.</p> <p>As stated in section 9.5 on page 35 of the consultation document 'The information provided in respect of the quality of education at the affected schools is in-line with the requirements of the School Organisation Code'. The authority also states that as 'the number of Welsh-medium pupils at each school, particularly Brecon High School, is small...it would not be valid to compare the performance of Welsh-medium pupils in these schools.' This statement is supported by Estyn, who state in their response to the consultation, which is provided on page 13 of this report, that: 'The proposer has not provided any performance data on standards in the Welsh medium stream in any of the affected schools, but reasonably makes the statement that as numbers are small in Brecon High School, it would not be valid to compare the performance of Welsh-medium pupils in these schools.'</p>
19.1.17	The consultation document does not mention the number of pupils expected to leave Welsh-medium education in Brecon – what in your opinion is the acceptable number of Ysgol y Bannau pupils leaving Welsh-medium education at key stage 3 if there is no provision available locally?	<p>The consultation document identified on page 16 a risk that should the proposal be implemented, 'Pupils choose to attend English-medium secondary provision instead of continuing to access Welsh-medium provision on transfer to secondary school.'</p> <p>The authority's view is that the Welsh-medium provision currently available at Brecon High School does not provide appropriate linguistic continuity for Welsh-medium pupils, and the aim of the proposal is to provide greater</p>

		<p>equality in terms of the provision available to Welsh-medium pupils. Whilst it is acknowledged that this may lead to a decrease in the proportion of pupils continuing to access Welsh-medium provision in the secondary sector, the authority's view is that pupils would benefit from the increased Welsh-medium opportunities available at the alternative providers.</p> <p>As stated in the consultation document, 'Retaining pupils within the Welsh-medium sector is one of the Welsh Government's priorities'. The authority is required to monitor pupil progression within Welsh-medium education annually, this information is reported annually to Welsh Government in the WESP. The authority does not have a view on the 'acceptable number of Ysgol y Bannau pupils leaving Welsh-medium education at key stage 3', the authority aims for all pupils educated through the medium of Welsh in the primary sector to continue to be educated in Welsh in the secondary sector. However, the authority acknowledges that on some occasions, pupils or their parents may choose to transfer to alternative provision.</p>
19.1.18	The consultation document does not give a true reflection of the current situation and the benefits of having a Welsh stream in Brecon High School	<p>The information contained in the consultation document is in line with the requirements of the School Organisation Code. The authority's view is that it reflects the position at the time of writing, and the document includes factual data which reflects the position at the time of writing. The data included is in line with the requirements of the School Organisation Code.</p> <p>In addition, the document outlines the advantages and disadvantages of the proposal on pages 15 to 16.</p>
19.1.19	It is mentioned that numbers in Ysgol y Bannau have stayed the same for the last few years, but it is not mentioned that across the whole of Wales numbers in Welsh-medium education have declined	<p>In the draft Welsh in Education Strategic Plan (WESP) for 2017-20, the council acknowledges that 'over the period of the authority's previous Welsh in Education Strategic Plan (2014-17), the percentage of pupils assessed in Welsh first language at the end of the Foundation Phase decreased.'</p> <p>However, as stated in the consultation document in respect of the proposal to close the Welsh-medium stream at Brecon High School, 'Whilst Welsh-medium pupil numbers at Sennybridge C.P. School have increased slightly, this has not been the case at Ysgol y Bannau. This is contrast with the two other designated Welsh-medium primary schools in Powys, Ysgol Dafydd</p>

		Llwyd in Newtown and Ysgol Gymraeg Dyffryn y Glowyr in the Ystradgynlais area, where pupil numbers have increase over the same period.'
19.1.20	The document doesn't mention that the percentage of children opting to go to Builth from Ysgol y Bannau is decreasing every year even though there is free transport and more Welsh-medium subjects available	The document provides factual information about the number of pupils attending the Welsh-medium stream at Brecon High School at the time of writing. In addition, on page 13 of the consultation document, information is provided about the number of year 6 Welsh-medium pupils that were attending Ysgol y Bannau and Sennybridge CP School during 2015/16 that transferred to Welsh-medium and English-medium providers in September 2016.
19.1.21	The consultation document doesn't explain how pupils whose mother tongue is Welsh, and pupils who have been educated at Ysgol y Bannau, who choose to attend their local High School will be able to keep up and develop their mother tongue and study literature in their first language, as those whose first language is English do. Is it the proposal that these pupils attend second language Welsh lessons?	<p>Should the Welsh-medium stream at Brecon High School close, the school would be categorised as a 'Predominantly English Medium secondary school'</p> <p>The Welsh Government document 'Defining Schools according to Welsh medium provision' (2007) provides the following definition for the curriculum provision of this type of school: 'Pupils are mainly taught through the medium of English. Welsh is taught as a second language up to KS4. One or two subjects (which would include Welsh first language) may be taught as an option through the medium of Welsh or using both languages.'</p> <p>Whether or not to provide the opportunity for pupils who study Welsh First Language would be a decision for the school. There are examples of 'Predominantly English Medium secondary schools' in Powys that do provide the opportunity for pupils to study Welsh First Language, however no funding is provided by the authority to support this provision.</p>
19.1.22	The consultation document does not explain why Powys tax payers money is being used to transport Powys children to be educated in Neath Port Talbot	The authority receives funding in respect of home to school transport based on the population of children of the relevant age living within the authority and not based on the location of the schools they attend. The authority recognises that some Powys council tax payers money is used to transport pupils to out of county provision.
19.1.23	The document states the savings by moving the Welsh stream to Builth, but does not state the	The authority accepts that if the proposal is implemented and the number of pupils travelling to Builth Wells increase significantly, this may result in an

	cost of bussing these children to Builth should numbers rise	increase in transport costs. This cannot be quantified until the increase in numbers occurs.
19.1.24	Would like to see a proper comparison of what the school transport for Welsh-medium pupils is costing	The authority notes this comment, however it is unclear what comparison is being requested.
19.1.25	There is no evidence that the proposal will create a more educationally viable model	The authority does not agree with this statement. The current number of Welsh-medium pupils at Brecon High School is very small, which makes this provision unviable. The number of Welsh-medium pupils at Builth Wells High School is larger, therefore this provision is more viable.
19.1.26	The document does not refer to the stream of children leaving Welsh-medium education because of the proposed closure of Brecon Welsh stream	The authority has identified on page 16 the potential risk should the proposal be implemented that 'Pupils choose to attend English-medium secondary provision instead of continuing to access Welsh-medium provision on transfer to secondary school'.
<b>19.2 Inaccurate information</b>		
19.2.1	The numbers in the consultation document have been falsified due to the council providing free transport to Builth	The consultation document provides factual information about the number of pupils that were attending the Welsh-medium stream at Brecon High School at the time.
19.2.2	The document is full of inaccuracies  The document has been released with errors and omissions  Do you agree that there is information included in the consultation document which is incorrect?	The authority does not agree with these statements. The consultation document provides factual information about the situation at the time of writing, and the information included is in line with the requirements of the School Organisation Code.
19.2.3	The consultation document says that Welsh-medium provision will continue to be provided to years 11 and 12 – will there be an amendment to the document?	The proposal on page 3 of the consultation document states the following:  'From the 1 <sup>st</sup> September 2017, there would be no Welsh-medium provision in Brecon High School for pupils in years 7, 8, 9 and 10. However, Welsh-



		medium provision would continue to be provided at Brecon High School for those pupils who would be entering year 11 in September 2017. This provision would continue until July 2018....From the 1 <sup>st</sup> September 2018, there would be no Welsh-medium provision at Brecon High School.'
<b>19.3 Language used in the consultation document</b>		
19.3.1	<p>The proposal is biased in its use of language</p> <p>The consultation document is shockingly biased and deliberately overplays the positive and underplays the negative impacts the proposal will have</p> <p>The consultation document is one sided and does not reflect the actual truth – this will lead to an uninformed decision being made</p>	The authority does not agree that the consultation document is biased in its use of language. The document has been produced in line with the requirements of the School Organisation Code and provides factual information about the situation at the time of writing and the authority's view on the impact implementation of the proposal would have.
19.3.2	<p>Benefits are stated as generally affirmed outcomes when in reality most are pure speculation; disadvantages are stated as possibilities when in reality most can be taken as guaranteed outcomes of the proposal</p> <p>Reference to the language used on page 15 – use of 'would' in the advantages and 'may have', 'possible' under disadvantages</p>	The authority disagrees with this. The advantages and disadvantages are presented in a fair and balanced way and are written from the authority's perspective.
19.3.3	Do you agree that the language used is misleading?	The authority does not agree that the language used in the consultation document is misleading.
19.3.4	The wording in the consultation document makes it sound as though it is a 'done deal' and that Welsh-medium pupils will be unable to access the new building in Brecon	It is true that on page 15 of the consultation document, the authority identified as a potential disadvantage of the proposal that 'Welsh-medium pupils will be unable to access the new building in Brecon'. However, this does not mean that it is a 'done deal'. All issues raised during the consultation period will be

		taken into consideration by Cabinet when determining whether or not to proceed with the proposal.
19.3.5	The document is written so that everything is positive for the Welsh-medium going to Builth	The document has been produced in line with the requirements of the School Organisation Code and provides factual information about the situation at the time of writing and the authority's view on the impact implementation of the proposal would have. The reason why the authority is proposing closure of the Welsh-medium stream at Brecon High School is due to the small number of pupils accessing the provision and the need to ensure appropriate curriculum choice for Welsh-medium pupils. The number of pupils currently accessing the Welsh-medium stream at Builth Wells High School is greater than the number of pupils in Brecon, and the school provides more Welsh-medium subjects. However, the authority does acknowledge that there are disadvantages and risks associated with the proposal, these are outlined on pages 15-18.
19.3.6	The risks associated with the proposal are completely underplayed	The risks outlined on pages 16-18 of the consultation document are those identified by the authority prior to the commencement of the consultation period. The authority does not agree that the risks are 'completely underplayed'.
19.3.7	The impact on pupils on page 22 is underplayed with the use of 'could' rather than 'will', which is yet another attempt to underplay the negative impact of this proposal on people	<p>The authority does not agree with this statement. 'Could' is used on page 22 of the consultation document in the following paragraph:</p> <p>'Should the proposal be implemented, it is possible that some pupils would transfer to English-medium provision at Brecon High School rather than transferring to an alternative school to continue to access Welsh-medium provision. Whilst this would mitigate the impact of additional travel and separation from friends, this <i>could</i> have a negative impact on pupils' Welsh language skills.'</p> <p>The impact of transferring to English-medium provision on pupils' Welsh language skills will depend on the pupils' individual circumstances, therefore the authority's view is that the use of 'could' is appropriate in this context.</p>
19.3.8	The document is biased towards Builth Wells	The document provides factual information and provides the most up to date

	being the only option for Welsh-medium education	data that was available at the time of writing. Alternative options are discussed on pages 19-21, however as explained in the document:  'The authority is currently going through the statutory process to close Builth Wells High School and Llandrindod Wells High School and establish a new secondary school across two sites. The proposal is that the new school will be a dual stream school, with the current dual stream provision being retained on the Builth Wells site. Therefore, the only options now available to the authority in relation to the Welsh-medium provision at Brecon High School is whether or not to retain this provision.'
19.3.9	If you are to propose removing Welsh-medium secondary education from Brecon this consultation needs to be run correctly and honestly without contracting information and biased used of language	The consultation has been carried out in line with the requirements of the School Organisation Code.
<b>19.4 Other issues with the consultation documentation</b>		
19.4.1	The consultation document contains inflammatory statements stating that closure of the stream would benefit the English-medium stream, these statements are intended to divide people and students – this can be said about any Welsh-medium provider in Powys  Why would it be beneficial for Brecon to focus solely on English-medium provision but not any other Powys school that teaches Welsh-medium secondary education?	The consultation document considers the impact of the proposal on Brecon High School. It is likely that any consultation document on the closure of either an English-medium or Welsh-medium stream at any Powys school would conclude that closure of one stream would have a positive impact on the other stream.  In their response to the consultation, Estyn states that the authority 'has reasonably identified the overall positive impact that the proposal could have on English-medium education in Brecon High School.'
19.4.2	Disagree with the statement in the document that says that English-medium pupils in Brecon are being disadvantaged by the Welsh stream being in Brecon	The consultation document does not say that English-medium pupils in Brecon are being disadvantaged by the Welsh stream being in Brecon. In fact, the authority acknowledges on page 23 of the consultation document that 'the proposal could have a negative impact on the Welsh language skills

		<p>of English-medium pupils attending Brecon High School’.</p> <p>On pages 25 and 26 of the consultation document, the authority identified that the proposal could have a positive impact on the English-medium provision at the school, however this is not the same as saying that English-medium pupils are being disadvantaged by there being a Welsh-medium stream being at the school.</p>
19.4.3	Paragraph 8.1 and paragraph 8.3 contradict each other	The authority notes this comment. As stated in paragraph 8.1, ‘transport is already provided by the authority to Ysgol Gyfun Ystalyfera for Welsh-medium pupils from the Sennybridge area and to Builth Wells High School for Welsh-medium pupils from the Brecon area. As this transport is already provided, implementation of the proposal would not incur any additional transport costs.’
19.4.4	Can’t compare this situation to Ysgol Dafydd Llwyd and Caereinion – the distance from Ysgol y Bannau to Builth is a further 10 miles, plus many children have an extra journey before that to reach the main bus (YDLI to Caereinion is 11.9 miles, YyB to Builth is 20.5 miles)	The authority’s view is that these two situations can be compared. Whilst it is true that the mileage between Ysgol y Bannau and Builth Wells High School is greater than the mileage between Ysgol Dafydd Llwyd and Caereinion High School, the road between Brecon and Builth Wells is much better, therefore it is likely that the difference in terms of travel time would not be as great.
19.4.5	Disagree with the statement that any reduction in pupil numbers will be reversed in the longer term through development of close links between Ysgol y Bannau and Builth Wells High School	The authority notes this comment.
19.4.6	<p>The statistics in the consultation document are the result of the council’s own failings</p> <p>The consultation document seeks to downplay the enormously adverse effect PCC’s proposal had on the Welsh stream and then attempts to use the consequent reduced numbers as a reason for closing it</p>	<p>The consultation document includes factual data which is the latest data that was available to the council at the time.</p> <p>On page 13 of the consultation document, the authority acknowledges that ‘it is likely that the uncertainty caused by the two previous consultation exercises on closure of the Welsh-medium stream at the school has contributed to the decrease in Welsh-medium pupil numbers at Brecon High School.’</p>



19.4.7	Are you expecting children from the Sennybridge area to travel out of county to Ystalyfera rather than Builth?	As stated in the proposal on page 3 of the consultation document: 'Pupils living in the Sennybridge area would continue to be able to access Welsh-medium provision at Ysgol Gyfun Ystalyfera'.
19.4.8	The consultation document relies heavily on numbers	The consultation document has been written in line with the requirements of the School Organisation Code, which requires the authority to provide a large amount of data.
19.4.9	The consultation document seems to all be based on subjective facts and assumptions – if it were a business case being put forward in the private sector, it would be thrown out at the first hurdle as there are no hard facts or figures	The authority does not agree with this statement. The consultation document has been written in line with the requirements of the School Organisation Code and includes the latest data that was available to the council at the time.
19.4.10	<p>The proposal in its current form cannot be classed as a robust proposal that could be carried to conclusion</p> <p>The council has produced a biased and partial consultation document which does not recognise, and indeed casts aspersions upon, the quality of education through the medium of Welsh currently being provided by Brecon High School</p> <p>The document is not open and truthful about the reality of the Welsh language in the area and seeks to deny parental choice</p>	The authority does not agree with these statements. The consultation document has been written in-line with the requirements of the School Organisation Code. All issues raised during the consultation period will be taken into consideration by the Cabinet when determining how to proceed in relation to this proposal.
19.4.11	The document is misleading as it implies that it is a failing of Brecon High School that the school does not offer A levels through the medium of Welsh, however that is determined by the South Powys Consortium – Welsh-medium pupils can choose to study subject offered at other schools	The authority notes this comment. The south Powys consortium for post-16 education is a collaborative model that has been developed jointly by the authority and schools. For a number of years, since before the establishment of the South Powys Consortium, Builth Wells High School has provided a number of Welsh-medium post-16 courses, however Brecon High School has not provided any Welsh-medium post-16 courses. Whilst it is true that Welsh-

		medium pupils could choose to study Welsh-medium subjects at other schools, no pupils have chosen this option.
19.4.12	Why is there suddenly a desire in Powys County Council for 'more robust progression'?	<p>There is not 'suddenly' a desire for 'more robust progression'. One of the Strategic Aims in the council's Welsh in Education Strategic Plan (WESP) for 2014-17 was 'to provide robust linguistic continuity of Welsh-medium provision across all key phases of education.'</p> <p>This reflects the Welsh Government's Welsh-medium Education Strategy, which states on page 15 that 'Welsh-medium education from the early years, with robust linguistic progression through every phase of education, offers the best conditions for developing young people who are truly bilingual.'</p>
19.4.13	In order to be fair, every time you mention the low numbers in Brecon Welsh stream in any of your documents, you must state that this is mostly due to this being the third consultation to close the Welsh stream. In the impact statement it is not mentioned once that this is the reason for the small numbers	The authority acknowledges on page 13 of the consultation document that 'it is likely that the uncertainty caused by the two previous consultation exercises on closure of the Welsh-medium stream at the school has contributed to the decrease in Welsh-medium pupil numbers at Brecon High School.'
19.4.14	The authority states in the report that the children of Ysgol y Bannau will strengthen the Welsh stream at Builth Wells, but these children should be strengthening the Welsh stream at Brecon High School	The authority notes this comment, however the number of Welsh-medium pupils in Brecon High School is currently small which makes the provision unviable, and the authority's view is that the small class sizes and limited Welsh-medium provision do not provide an appropriate educational experience for pupils. In addition, the authority's view is that the current number of Welsh-medium secondary pupils in south Powys is not sufficient to support two streams
19.4.15	The consultation document states that there is 'medium' likelihood of a 'high' impact on pupil numbers at Ysgol y Bannau – this smacks of short term planning, given the money spent on building Ysgol y Bannau only a few years ago	As stated in this comment, the authority has acknowledged the risk in relation to pupil numbers at Ysgol y Bannau should the proposal be implemented on page 17 of the consultation document. The authority has also included risk management measures, which include working with other organisations to promote the benefits of Welsh-medium education. Whilst the authority acknowledges this risk, the authority is committed to Ysgol y Bannau as a

		provider of Welsh-medium education in Brecon, and would hope that the improved clarity with regard to secondary progression would lead to an increase in pupil numbers at the school in the long term.
19.4.16	The document states that the authority 'would expect pupil numbers to recover and increase' (p.29) however no evidence is given for this claim	The authority notes this comment. The use of 'would expect' in this statement reflects the fact that there is no guarantee that this would happen, therefore the authority's view is that this wording is appropriate.
19.4.17	Consultation document claims that Ysgol y Bannau will be supported and that the impact on pupil numbers may only be short term, however this cannot be known – there is real potential for numbers to continue to fall in Ysgol y Bannau	The authority has identified the risk that 'pupil numbers at Ysgol y Bannau decrease due to the lack of Welsh-medium secondary provision at Brecon' on page 17 of the consultation document. It is true that the impact on pupil numbers at Ysgol y Bannau cannot be known, however whilst there is potential for numbers to continue to fall, there is also potential for numbers to increase, due to the increased clarity in relation to secondary progression.
19.4.18	The proposal offers no clarity, no parity and no choice for Brecon Welsh learners	The current Welsh-medium provision at Brecon High School is very limited, and does not offer clarity, parity or subject choice for Welsh-medium learners. The authority's view is that implementation of the proposal would improve the equality of provision available to Welsh-medium learners, however it is acknowledged that there are a number of disadvantages and risks associated with the proposal, which are outlined in the consultation document.
19.4.19	The reasons for re-consultation were 'to provide a more sustainable, educationally and linguistically viable model of Welsh-medium secondary education' however the proposal does not meet these 3 reasons	The authority's view is that the proposal does meet these 3 reasons.
19.4.20	The consultation document does not reflect the true picture in Brecon	The consultation document provides factual information on the current situation at Brecon High School and other schools at the time of writing.
19.4.21	The arguments in the proposal are weak	The authority does not agree with this comment. The authority's view is that the current Welsh-medium provision at Brecon High School does not provide equality of opportunity for Welsh-medium pupils.

19.4.22	The council sometimes refers to Builth Wells as being in south Powys and sometimes refers to it as Mid Powys – this misleads the reader by implying that Builth Wells and Brecon are both in South Powys. However, Brecon and Builth aren't in the same area. Builth Wells is holding the Urdd Eisteddfod the year that it is the turn of North Wales, this acknowledges that Builth Wells is north and not south – if Brecon held the Eisteddfod it would be the year of the south	<p>The authority notes this point. Builth Wells is part of Brecknockshire, therefore the authority considers that it is part of south Powys. However, the authority has also been reviewing secondary provision in the Builth Wells and Llandrindod Wells area, therefore it is likely that this is the cause of the confusion.</p> <p>It is true that the Urdd Eisteddfod is being held on the Royal Welsh Showground in 2018. The title of this is 'The 2018 Brecon and Radnorshire Urdd National Eisteddfod', which suggests that the Urdd considers Brecon and Builth Wells to be within one area.</p>
19.4.23	So much of the proposal is based on convenient, inaccurate short term judgements and very little vision and optimism	The authority does not agree with this comment.
<b>20. GENERAL CRITICISM OF THE COUNCIL</b>		
<b>20.1 Criticism of the council's treatment of Brecon High School</b>		
20.1.1	<p>In the last consultation the council repeatedly talked of Brecon High School as a failing school</p> <p>The council has repeatedly stated over the last 2 years that Brecon is a 'failing' school – why does the council never state that Builth is a 'failing' school?</p> <p>Now that Brecon is no longer in special measures, request for the council to no longer label Brecon as a failing school</p>	<p>The authority has not described Brecon High School as a 'failing' school. The press release issued by the authority when Brecon High School went into Special Measures is provided below:</p> <div data-bbox="1084 979 1142 1043" data-label="Image"> </div> <p>PR 5977 - Brecon High School.docx</p> <p>The press release does not refer to Brecon High School as a 'failing' school.</p> <p>Whilst the above press release is what was issued by the authority to the media, the authority has no control over the headlines used by the media when reporting on council issues. If the term 'failing' was used for Brecon High School in the media, this would have been the editorial decision of that particular media outlet, not the council.</p>



20.1.2	<p>Why did the portfolio holder show support immediately for Builth Wells High School when it went into Special Measures but did not do this for Brecon and Llandrindod – why is Builth Wells High School favoured so much?</p>	<p>When a school goes into Special Measures, a press release is issued jointly by the authority and the school involved.</p> <p>The press releases issued by the authority when Brecon High School and Builth Wells High School went into Special Measures are provided below:</p> <div style="text-align: center;">   </div> <p>PR 5977 - Brecon High School.docx    PR 7676 - Builth Wells High School.d</p> <p>The authority does not agree that the press release issued in respect of Builth Wells High School shows a greater level of support of this school compared with that shown towards Brecon High School.</p>
20.1.3	<p>The proposal is an insult and shows no compassion or gratitude towards the headteacher and staff of Brecon High School who have made great improvements in order to bring the school out of special measures</p> <p>Why has the council not publicly praised Brecon High School for the work it has done and the improvements it has made to come out of special measures?</p> <p>Still waiting the council's official 'well done' to Brecon High School to be published in the Brecon and Radnor</p>	<p>In the consultation document, the council acknowledges that 'there has been a good improvement trajectory of performance in recent years' at Brecon High School. In addition, officers congratulated the school on the school's improvement at the end of the meeting for parents and the community held at Brecon High School as part of the recent consultation on closure of the Welsh-medium stream.</p> <p>The current proposal is not a reflection on the headteacher and staff of Brecon High School. As stated in the consultation document, the reasons for the proposal are as follows:</p> <ul style="list-style-type: none"> <li>- Low pupil numbers in the Welsh-medium stream at Brecon High School</li> <li>- Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages of education</li> </ul> <p>The authority does not issue a press release when a school is removed from special measures, however schools are able to issue something themselves. However, the Schools Service Management Team will consider whether press</p>

		releases should be issued as a matter of course when schools are removed from the category of special measures.
20.1.4	Feel let down by the council's lack of vision and ambition regarding the provision of Welsh-medium education at Brecon High School	The authority's vision for Welsh-medium education is set out in its Welsh in Education Strategic Plan. The authority has recently carried out consultation on a revised Plan for 2017-20. The draft Plan sets out the authority's aim 'To provide equality of provision for Welsh-medium learners in Powys'. The current provision at Brecon High School does not provide equality of provision for Welsh-medium learners in Powys.
<b>20.2 Issues relating to indecision by the council</b>		
20.2.1	<p>Hope that this process will result in a final resolution to this issue</p> <p>A decision needs to be made ASAP and the programme needs to be moved forward to start to concentrate and focus on providing good Welsh-medium education for our children now</p> <p>Please do not prolong this situation any longer than necessary for fear of losing even more pupils from Welsh-medium education</p>	The authority notes these comments and agrees that a decision needs to be made in order to end the ongoing uncertainty in relation to the future of the Welsh-medium stream at Brecon High School and in order to move forward in relation to the development of Welsh-medium secondary provision in mid and south Powys.
20.2.2	<p>The council has behaved in a shamefully chaotic way with these consultations</p> <p>Exasperated by the council's inability to make a decision on the future of Welsh-medium in south Powys</p> <p>The council's indecision has weakened Welsh-medium altogether and if this continues there will be no children left to make the decision for</p>	The authority acknowledges the impact of the ongoing uncertainty in relation to the future of the Welsh-medium stream at Brecon High School, and is keen to move forward with this process quickly in order to bring an end to this period of uncertainty.

	Anger at lack of decision making by the council	
20.2.3	The council is losing any thread of respect it has left among the community by repeatedly proposing to close the only Welsh stream available to many	The authority has identified a number of disadvantages and risks associated with the proposal, as well as the potential impact on pupils, in the consultation document in respect of this proposal. This includes the additional travel that would be required. These issues, and all other issues raised in the consultation period, will be taken into consideration by the Cabinet when determining how to proceed in relation to this proposal.
<b>20.3 Issues relating to the council's financial situation</b>		
20.3.1	<p>The next time the council tries to cut something like bin collections, we won't believe that you have no money as you seem happy to waste it on transporting children out of their local area</p> <p>The people of Powys who are constantly being told the council has to make cuts will be appalled that the council could even consider wasting such large sums of money</p>	The authority notes this comment.
20.3.2	It seems that the council accepts Westminster's 'austerity' as a matter of course and are willing, without any complaint, to cut anything in public services	The authority notes this comment.
<b>20.4 Other</b>		
20.4.1	The council has failed to effectively communicate a positive vision for Welsh-medium secondary education provision in Brecon over more than a decade, and this failure is now being used to justify removal of Welsh-medium provision completely in Brecon	Since 2014, the authority's vision for Welsh-medium education has been set out in its Welsh in Education Strategic Plan (WESP). Prior to this, it was set out in the Welsh-medium Education Plan. The authority has continued with the current model of delivery of Welsh-medium secondary provision via two Welsh-medium streams, one in Brecon and one in Builth Wells, however this has not led to any growth in Welsh-medium pupil numbers in the Brecon area in particular. Whilst the authority committed in 2011 that all dual stream

		secondary schools would work towards becoming category 2B schools, the challenging financial situation faced by the council meant that no additional financial support could be provided, beyond the additional support provided to dual stream schools via the fair funding formula. The authority now believes that a new approach is needed in order to improve the opportunities available to Welsh-medium pupils area, encourage confidence in the system and lead to an increase in the number of Welsh-medium pupils in the future.
20.4.2	The council is not taking the views of parents on board – you keep putting us through this process and you don't seem to listen at all	The authority is taking the views of parents on board. However, the number of pupils accessing the Welsh-medium stream at Brecon High School is small, and has reduced since the last consultation. This is making the provision increasingly unviable, and the authority's view is that the very small class sizes in the Welsh-medium stream at Brecon High School is not providing an appropriate educational experience for pupils.
20.4.3	Concerned about the Cabinet's blasé, lethargic and tiresomely bureaucratic attitude	The authority notes this comment.
20.4.4	How are Cabinet members qualified to make decisions on education? How many have a background in education?	Cabinet members, and their specific portfolios, are determined by the Leader of the council. All members of the council selected through the democratic process.
20.4.5	Convinced that the council is acting unethically, if not unlawfully	The authority disputes this comment.
<b>21. REFERENCE TO OTHER PROPOSALS</b>		
<b>21.1 Proposals for Builth Wells High School and Llandrindod High School</b>		
21.1.1	Concern that there is uncertainty about the future of Builth Wells High School  How is greater clarity going to be given in relation to the proposal for secondary schools in mid Powys?	As stated on page 3 of the consultation document, 'on the 18 <sup>th</sup> October 2016, Powys County Council published a Statutory Notice proposing the establishment of a new dual-sited dual-stream school that will operate from the current sites of Builth Wells and Llandrindod High Schools from the 1 <sup>st</sup> September 2018.' The Objection Report outlining the issues raised in the objections received was considered by Cabinet on the 28 <sup>th</sup> February 2017,

		when Cabinet approved the proposal.
21.1.2	The council is trying to close Builth school to wipe out the fact that it is in special measures	The proposal to establish a new dual-sited school that will operate from the current sites of Builth Wells and Llandrindod High Schools is intended to deliver a sustainable model of secondary education in the area, which would be able to provide high quality education. The proposed new school would replace two schools that are currently in special measures. The fact that the schools are in special measures is a key reason for the proposal.
21.1.3	<p>Concern about the proposal to close Builth High School and merge with Llandrindod due to the additional distance to Llandrindod</p> <p>Request for reassurance that there will be no uncertainty about Welsh-medium provision being in Builth given the proposal around Llandrindod and Builth High Schools</p> <p>It is not clear where Welsh-medium provision will be located if the mid Powys proposal is approved, although you state that the preference is for Welsh-medium provision to be in the Builth area</p> <p>Will pupils have to move to Llandrindod?</p> <p>Unclear how it can be proposed that Welsh-medium will be provided from Builth when there are also plans to close and co-located Llandrindod and Builth</p>	<p>The proposal is to establish a new dual-sites schools that will operate from the current sites of Builth Wells and Llandrindod High Schools. The authority is proposing that Welsh-medium education remains on the Builth site of the proposed new school, however ultimately, the decision on how to structure the school will be made by the school's governing body and management team. Should the governing body wish to structure the teaching in a different way, which could have an impact on where Welsh-medium provision is provided, the authority would expect the governing body to consider the impact on the well-being of pupils and staff. In addition, there would need to be further discussions with the authority about the transport implications.</p> <p>The consultation document in relation to the proposal for Builth and Llandrindod states that the proposal to establish a new school on the two current sites is the first stage of potential wider plans for secondary education in the area. The second stage, which aims to establish the new school on a single site in the locality of Builth, requires further work to understand the overall capital cost and feasibility, and would be subject to another consultation if Cabinet decided to proceed to the second stage.</p>
21.1.5	Parents are moving their children to Hereford because of the lack of clarity in relation to what is happening to secondary education in Llandrindod	The authority is aware that there are increasing numbers of post-16 pupils who are choosing sixth form provision at Hereford Sixth Form College and other out of county providers. This has been occurring over a number of years and is due in part to the availability of subjects at those providers compared to the current availability within the Powys post-16 partnership. However, it is

		recognised that any school reorganisation process creates a period of uncertainty for pupils and that some pupils are choosing out of county providers for this reason as well.
21.1.6	The Equality Impact Assessment for Builth and Llandrindod assumes that the Brecon Welsh stream is closing – any objections will be based on the assumption that Brecon Welsh stream will be closed – this is predetermination	<p>In accordance with the requirements of the School Organisation Code, the authority published draft impact assessments (equality, community and Welsh language) as part of the formal consultation process that took place between the 6<sup>th</sup> April and 1<sup>st</sup> June 2016. These impact assessments were updated to take account of feedback received during the consultation, and were included in papers for the consideration of Cabinet on the 27<sup>th</sup> September 2016. Cabinet were also considering the outcome of consultation on an associated proposal for Brecon High School and Gwernyfed High School at the same time. Therefore, the Equality Impact Assessment (draft and final) reflected the proposals for all four schools.</p> <p>New draft impact assessments were published as part of the current consultation on closure of the Welsh-medium stream at Brecon High School, which considered the ongoing proposal in relation to Builth and Llandrindod High Schools. These will be updated to take account of feedback received during the consultation, and will be considered by Cabinet when determining how to proceed.</p>
21.1.7	Concern that the proposal for Builth and Llandrindod does not offer long term assurance in terms of Welsh-medium education	The authority's intention is to provide equality of provision. Builth Wells High School currently provides a more equitable distribution of subjects between English-medium and Welsh-medium streams. The authority believes that building a critical mass in one school will enable the development of a vibrant and viable Welsh stream. The improved choice and Welsh-medium experience will enable pupils to become even more confident Welsh speakers. The authority believes that learners will be more attracted to Welsh-medium provision in future if there are clear progression routes, and continuity of provision throughout their educational life. The authority's view is that centralising provision would provide a solid base which could be further developed in the future, through the possible establishment of designated Welsh-medium secondary provision to serve the area.

21.1.8	Should the proposal be implemented, the provision and staffing would depend on decisions made by the school's managers.	The authority acknowledges that the decision on how to structure the school would be made by the school's governing body and management team.
21.1.9	Many staff would have to work on two sites – Welsh-medium staff won't always be on the Builth site, so won't be there to answer questions or contribute to a Welsh ethos and activities.	The decision on how to structure the school would be made by the school's governing body and management team. As the sole provider of Welsh-medium secondary provision in mid and south Powys the authority would expect the new school to ensure that the provision was structured in order to enhance the Welsh-medium provision available.
<b>21.2 Reference to previous proposals</b>		
21.2.1	What were the critical elements which meant that the proposal to close the Welsh-medium stream in Brecon High School wasn't abandoned like the other proposals?	On the 27 <sup>th</sup> September 2016, Cabinet considered the consultation report in relation to the proposals related to Brecon and Gwernyfed High Schools. On the basis of the issues raised during the consultation period, Cabinet approved a recommendation to reconsult on element c of the original proposal, i.e. closure of the Welsh-medium stream at Brecon High School. The reasons are outlined on pages 4 and 5 of the cabinet report considered on the 27 <sup>th</sup> September 2016. The reason for the recommendation was 'To provide a more sustainable educationally and linguistically viable model of Welsh-medium secondary education'.
21.2.2	Of the 4 public consultation meetings held in 2016, Brecon was the only one where Welsh was used	This comment is noted.
21.2.3	Responses to many comments/criticisms in previous consultation reports are 'the authority notes this point' – is this because you have no answers or because the answers undermine your arguments?	The authority acknowledges that there are disadvantages and risks associated with every proposal. Whilst the authority endeavours to mitigate these, there are some issues which cannot be totally eradicated. In these cases, the only response available to the authority is to 'note' the point made. These issues, along with all other issues raised during the consultation, will be taken into consideration by Cabinet when determining how to proceed.
21.2.4	In previous consultation report you 'accept and acknowledge' comments/criticisms on four	The authority has not carried out any further risk assessments or mitigating action plans in relation to issues raised in previous consultation reports related

	<p>occasions – have you carried out any risk assessments to measure the impact of these and can you provide details of these together with any subsequent mitigating action plans</p> <p>On many occasions you 'accept and acknowledge' comments/criticisms and put the onus on the school to work with pupils and parents to 'find a solution'. What risk assessments/action plans have been identified for implementation?</p>	<p>to the closure of the Welsh-medium stream at Brecon High School as no decision has yet been made to proceed with the closure of the stream.</p>
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## **Appendix C – Minutes of meetings with School Councils, Staff, Governors and Parents / Community**

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## 1. Notes of meetings with the School Councils

### 1.1 Meeting with pupils from the Welsh-medium Stream at Brecon High School

What do you think of the proposal?

- It's worrying, it's a big thing to happen and lots of our friends have already moved to Builth Wells High School
- Work is a lot harder without Welsh, the work is harder in English
- If there was no Welsh Stream here I would move
- If the Welsh Stream closes next year, will I still be able to do subjects in Welsh until I finish school?
- Pupils have gone to Ystalyfera because Builth Wells High School is in special measures
- Speaking Welsh is harder and have difficulty remembering words because of the lack of lessons through the medium of Welsh

Pupils were asked whether they would stay at Brecon High School if the Welsh-medium stream was removed or if they would transfer to alternative schools.

- Around half of the group said they would stay in Brecon High School and go to the English Stream

What is it like in the Welsh Stream here?

- Everyone is like a community, we are the only ones who speak Welsh in Brecon High School
- If it closes it will affect the numbers going to Ysgol Y Bannau
- We're like one family
- If one goes then everyone goes like sheep, that's why the numbers decreased
- Lots of year 6 pupils from Ysgol Y Bannau are coming here if the stream stays

What's the effect this will have on you?

- If the stream closes then we would have to choose between staying with our friends or keeping the Welsh language
- It would be more difficult to attend appointments and we would have to miss more school when we have them
- If we moved to the English Stream then we would have to do Welsh Second Language
- The stream is important to the country, we should have the chance to speak and learn in Welsh
- This is happening because of money
- We would miss out on education because of the travelling
- It would be easier to close Builth Wells Welsh stream because there isn't a Welsh medium school there like there is here in Brecon
- The area is very anglicised, there's no future for Welsh here if the stream closes
- If the stream moves to Builth would we have to go to Llandrindod as well?
- Builth is in special measures and Brecon is improving

New build?

- In the booklet it suggests that the Welsh Stream won't be in the new building – it's as though you have already made the decision
- You are splitting friendships
- The ethos of the school will change
- If there isn't a Welsh stream here, then parents won't choose Welsh for their children
- What will happen to the teachers who only teach subjects through the medium of Welsh?

- How much money are you spending on transport to Builth?
- If you hadn't made it so obvious that you were going to close the Welsh stream here then parents wouldn't have moved their children

What about the effect on after school clubs?

- There are lots of revision classes after school, which would be hard to go to if we moved to Builth Wells
- It will affect our extra-curricular activities
- Would have to stop going to clubs

Anything else you would like to add?

- Apart from the size of the Welsh Stream, what is the actual problem with the stream here?
- In year 7 we had lots of lessons in Welsh but now there are only 2
- Teachers have moved because of the consultation
- Have you been to Ysgol Y Bannau to speak with them?

## 1.2 Meeting with English-medium pupils at Brecon High School

Is there anything you would like to say or ask us?

- We want to keep the Welsh Stream open, we need to keep the Welsh language local, it's important for Brecon town
- It would have a massive impact on the school if the Welsh Stream was closed. Everyone is Welsh here and Ysgol y Bannau is here
- If pupils missed the bus to Builth then their parents would have to pay for them to get there
- When Powys started these consultations the numbers in the Welsh Stream started to decrease

What will the impact be if the Welsh stream was closed?

- It would be a big impact. We have Welsh events here, like the Eisteddfod and if there was no Welsh stream then there would be less Welsh events and it would have an impact on the cultural side of the school
- Lots of Welsh stream pupils have left already, if the Welsh stream stays then we would have enough pupils for sports teams.
- If it stayed then more people would come here
- We should be able to have a choice of school
- If more Welsh students came here then they would have more choice
- You are restricting their choice

What impact would there be on pupils that had to move schools?

- They wouldn't have many friends
- It would be harder because they would have to travel and that would affect their learning

What would the impact of travel be on the pupils?

- They would have to leave early and will be tired which will affect their learning
- Some may suffer from travel sickness
- They won't have time to do after school activities
- Parents will have to pay for travel to after school clubs
- Having more subjects in Welsh won't be as good if the travelling affects their learning and study
- If the Welsh Stream goes, will Welshness go as well?

How do you feel about the New Build?

- A Welsh Stream would enhance the new build
- If the Welsh stream have to move to Builth Wells then it's like saying "You can't come here"
- All schools in Wales should have a Welsh Stream or have the opportunity to have a Welsh Stream
- If the Welsh Stream closed no one would send their children to Ysgol Y Bannau
- If the Welsh Stream remained in the new build then the Welsh Stream would appeal to more parents
- If parents wanted their children to go to Builth Wells High School then they would have sent their children to primary school in Builth Wells to start with

What do you think would happen to the pupils in the Welsh Stream now?

- They would go to a different school
- Some Welsh pupils may be forced to go into the English Stream
- They would have to choose between losing friends and losing their Welsh
- They should be able to choose between going to Brecon High School or Builth Wells High School
- It would be a big impact on our year
- If Builth Wells can have a Welsh Stream and more subjects, why can't we?
- If we get a new school, would we get new/additional teachers?
- When you learn 2 languages, it improves productivity and moving from lessons in Welsh and lessons in English helps

### **1.3 Meeting with pupils from Ysgol y Bannau**

Do you have any questions or anything you want to say about what's happening?

- You are spending millions on a new school but you are not letting Welsh come into it.
- If people play instruments, then there won't be any time for us to have lessons before going to school if we have to go to another school
- What will happen to Ysgol y Bannau? If the Welsh goes from the high school, parents will think what's the point in sending their children to Welsh education and the numbers will go down

What do you like about there being a Welsh Stream at Brecon High School?

- It's good but if it moves then we won't have Welsh next door
- People here want to still speak Welsh, they feel more clever because they are bilingual
- The teachers like the children from Ysgol y Bannau

What don't you like about there being a Welsh Stream at Brecon High School?

- Only some of the classes are in Welsh
- That there is going to be a new school but no Welsh Stream will be there
- Going into an English Stream after going to a Welsh school
- Less people in the community will speak Welsh if there's no Welsh stream at the high school
- Wouldn't like to be in a small class of 2 or 3

What would the effects be, if the Welsh Stream was to close?

- You won't hear Welsh in the corridor

Would you still go to Brecon if there was no Welsh Stream?

- One person said no, the rest said they would still go there and join the English stream
- More pupils from Ysgol y Bannau are going to Brecon High School this year

Do you worry about being split from friends?

- We grew up together and then we won't get to see each other
- It would be different
- Different because they wouldn't know the school because it would be a new place and new people
- If you are ill in school, it is really far for parents to come and get them
- Maybe parents don't want their children to travel

Do any of you go to any clubs outside of school? What time are they?

- The clubs attended are at the sports centre which are at 4:30/5 or at 7
- Year 5 and 6 went to Brecon High School to play games
- Pupils in Brecon High School go to the Welsh Stream but they have some lessons with the English Stream

How would the closure of the Welsh Stream effect you?

- We would have to get used to having lessons in English

What about if you had to go to another school?

- It would be hard to go from a Welsh school to having some lessons in English and then move to a Welsh school again

What do you think of the idea of a Welsh-medium secondary school instead of a dual stream secondary school?

- I like the Welsh model like Ystalyfera and prefer it to a dual stream school
- In a Welsh-medium school you can speak Welsh and everyone understands you, if you go to a dual stream school not everyone speaks Welsh so you have to speak English
- In a dual stream school you can help others to speak Welsh

Anything you would like to say or ask?

- Think about all the fumes because of the extra buses, in school we say "Think Global, Think Local"
- Worrying about the numbers that will attend Ysgol Y Bannau
- The consultations are making parents send their children elsewhere
- Family member has gone through Welsh education and it upsets her that she may not get to
- The number of pupils is decreasing and teachers are losing their jobs.
- Worried that Ysgol Y Bannau will have to move as well.

#### **1.4 Meeting with pupils from Sennybridge**

What is good about there being a Welsh Stream at Brecon High School?

- If you're in the English Stream then pupils in the Welsh Stream can teach you Welsh
- People can speak Welsh in school
- You can learn in 2 languages
- Speak in Welsh about the work
- Carry your education on in Welsh
- It's local, Welsh is staying local

- If you're friends with people in the English Stream in primary school then you can stay together in High School
- People in Brecon can decide to go to either stream
- If Welsh Stream closes then will probably go to the English Stream
- There will be less people speaking Welsh if the Welsh stream closes

Is there anything you don't like about there being a Welsh Stream in Brecon High School?

- There aren't many pupils in the Welsh stream
- It's a waste of classes because there are only 19 pupils there
- It's a waste of teachers and money because they are teaching small classes

If the Welsh Stream were to close, how would it affect you?

- The travelling is inconvenient to parents
- You won't hear much Welsh around Brecon
- The numbers in Welsh will go down
- It will affect the language

Would anything be better if there wasn't a Welsh Stream at Brecon High School?

- We would have more Welsh speaking friends in a Welsh school
- They would save money because there would be more students in a class
- There are more people in Builth so you would hear more Welsh
- It would boost the Welsh language in Builth Wells and Ystalyfera but there would be a negative effect on Brecon

What would be worse if there wasn't a Welsh Stream at Brecon High School?

- You would have to travel more
- May not make it back in time for extra-curricular activities
- You have to make new friends
- Friends would live miles away

Do you worry about splitting up from your friends?

- Yes but it may boost your confidence because you will have more friends
- Won't affect us because we don't learn in Welsh so our friends will be with us

How do you think it will affect pupils with disabilities?

- They will be used to one teacher and if they move then they won't have that teacher any more
- They may be happier in smaller classes like in Brecon High School
- If someone is in a wheelchair then they may find it easier to move around a smaller school

Do you have any questions or anything you want to tell us?

- What if parents can't travel to Builth or Ystalyfera?
- It will affect the language because you can't really speak Welsh in Brecknockshire so closing the Welsh stream will have an effect on the language
- If the Welsh Stream closes then the English Stream pupils won't have the opportunity to learn and practice their Welsh

## 2. Minutes of meeting with Staff

**Minutes of a consultation meeting with staff of Brecon High School, held on Tuesday, 29<sup>th</sup> November, 2016, at Brecon High School, in relation to a proposal to close the Welsh medium stream at the school from 31<sup>st</sup> August, 2017, with Brecon High School becoming an English-medium school from 1<sup>st</sup> September, 2017**

### Present

Marianne Evans, School Transformation Manager  
Jane Thomas, Professional Lead Finance  
Gareth Jones, Senior Manager, School Central Support Service  
Rachael Lingard, HR Business Partner

### Brecon High School staff

R. Broadbridge	R. Carpenter
Linda Jones	Rhian Owen
Anna Stephens	Niall Bell
Tracey Gibbs	Geraint ?
Jane MacLennan	Richard Wyatt
Donna Watson	H East
Nia Williams-Price	J Hosking
M. Humphries	Gareth Gillard
Jenny Bentley	H Davies
Alex Griffiths	L Cross
J Bryant	A Morgan
M Hirst	

Marianne Evans informed staff that consultation on the proposal to close the Welsh stream at the school from 31<sup>st</sup> August, 2017, began on 21<sup>st</sup> November, 2016, and closes on 9<sup>th</sup> January, 2017. She explained why this was the third consultation on the proposal. When the report on the first consultation on the proposal to close the Welsh stream was considered by Cabinet in September 2015 Members decided that Welsh-medium education should be included in the wider review of secondary schools. Consultation on the wider proposal was carried out in April, 2016, and a report was considered by the Cabinet in September 2016, when Cabinet members decided to abandon the proposal consulted on. As the proposal to remove the Welsh medium stream from Brecon High School was part of a wider proposal, legal advice was that there should be re-consultation on the proposal to close the Welsh stream. Cabinet therefore directed officers to start a fresh consultation on removal of the Welsh stream. Legally, this is a new consultation.

Marianne Evans explained the two reasons for the proposal:

- The low number of pupils in the stream;
- the need to ensure linguistic progression for Welsh medium learners through to the end of KS4 and into KS5.

The following comments/questions were received from staff:

#### **1. How long ago was Ysgol y Bannau built?**

#### Response

About 20 years ago.

2. **At the time Ysgol y Bannau was built there was a lot of talk about Welsh medium primary pupils being able to choose Welsh medium provision at this school but there has been a change of view.**
3. **I have a niece who attended the Welsh stream in Sennybridge CP School and then the Welsh stream at this school. She is now employed as a Welsh speaker and she could not have done that had she not attended the Welsh stream here. The culture and ethos of Brecon High School has been strengthened by the Welsh medium learners here. The Authority has impacted on our numbers by awarding home to school transport to other schools.**

Response

In terms of home to school transport, the Authority has a duty to provide transport to the closest school to the learner's home address, which provides education through the language of choice. Transport is currently provided to Ysgol Ystalyfera following a transport appeal.

4. **By providing transport to out of county you have undercut the Welsh medium provision at this school.**

Response

The precedent was set as a result of a transport appeal.

5. **So you are expecting children from the Sennybridge area to travel out of county to Ystalyfera rather than to Builth?**

Response

We will be discussing with Neath Port Talbot Council whether they will extend the catchment area of Ysgol Ystalyfera to include Sennybridge, if this proposal goes through.

6. **So Powys County Council's solution is to transport Welsh medium pupils from the Sennybridge area out of county for Welsh medium education?**

Response

There are not enough Welsh medium learners to allow a viable Welsh medium stream at Brecon High School. Numbers of Welsh medium learners have not grown significantly since Ysgol y Bannau was established 20 years ago.

Does it matter whether a parent chooses an out of county provider or not as long as the child gets appropriate provision?

7. **The nearest Welsh medium provision to Sennybridge is at this school.**
8. **The fact that the state of the school buildings here has not been addressed is part of the problem. I can understand why parents opt for other Secondary schools when they see the state of the school buildings here. Parents want their children to be taught in a nice environment.**

Response

The state of the school buildings at Ysgol Ystalyfera is quite tired and we understand that Neath Port Talbot Council are planning a capital investment to remodel the school. As an Authority we recognise



Brecon High School is the only secondary school in Powys that is in a very bad condition - condition D. Gwernyfed High School has a mixture of school buildings in different states of condition.

9. **Historically, the numbers in the Welsh medium stream at this school have always been high. I have been teaching here in the Welsh stream in classes of 25- 30. 20 years ago my classes always had around 24 pupils. Last year, all of a sudden, my class went to around 3-4 within 6-8 weeks because of the uncertainty about the Welsh stream. You are talking about the numbers in the Welsh stream decreasing but they have not dipped historically as they are doing now. That document is biased and does not reflect the true picture.**

Response

Welsh Government require us to provide data for 5 years within the consultation document.

10. **The context of the situation is missing. You need to explain that the Welsh stream at Brecon High School was viable until everyone panicked and there was a domino effect once it was suggested that the Welsh stream was under threat. The consultation had a massive effect on pupil numbers in the Welsh stream.**
11. **You talk about building capacity at Builth, but you fail to understand that many parents of pupils at Ysgol y Bannau are non-Welsh speakers who take a “leap of faith” when they choose Welsh medium education for their children. We are a truly bilingual school. Those parents will not take that “leap of faith” to send their children across the county for Welsh medium education. You will be losing students to Welsh medium education at a time when Welsh Government is trying increase Welsh medium provision. You seem to be listening to Rhag which is led by parents who want their children to be taught in designated Welsh medium schools. Students here benefit hugely from 1<sup>st</sup> language Welsh students being on this campus. By putting Welsh medium learners in a designated Welsh medium school you “ghetto” the language. We successfully integrate the Nepalese community and students from Eastern Europe but now you want to take the Welsh medium voice out of Brecon High School.**
12. **Rhag is a vocal group but it doesn’t necessarily represent all the Welsh speaking community.**
13. **You don’t want to listen to us. We want the best for our children but you are not listening to the views of the majority of parents.**

Response

We recognise if the proposal goes forward there may be an impact on the numbers in Welsh medium provision in the first few years but Welsh medium provision has grown in Newtown and a new Welsh medium primary school has been built. The pupils who transfer to Secondary education from the Welsh medium primary school in Newtown don’t access Secondary Welsh medium education in Newtown, they travel to Llanfair Caereinion High School for Welsh medium education.

14. **We had a meeting last night with parents of pupils at Ysgol y Bannau and most said they would not transfer their children to Builth for Welsh medium education. They want them to be educated here.**

Response

Rhag is a national organisation with local branches. Rhag is a consultee of this consultation. I would suggest, without putting words in Rhag’s mouth that their view is to support designated Welsh

medium schools. I think they would probably not support this proposal as it does not propose to replace the current provision with a designated Welsh medium school. At the end of the day, the Cabinet has to listen to what has been said and no decision has yet been made.

**15. Powys is such an enormous county. I don't think it is helpful to compare this area to Montgomeryshire. When you did earlier consultation you hoped you would create a critical mass by moving Welsh medium learners to Builth. You do not have that critical mass. Not all Welsh medium learners have transferred from this school to Builth. It has had the opposite effect because you have split the Welsh medium group. You have taken away a thriving Welsh medium provision at Brecon High School. A lot of parents are not going to move their children to Builth. It is not what they want.**

**16. When my child was in Ysgol y Bannau all her cohort transferred to Welsh medium provision at Brecon High School but, last year, the children transferred to 6 different schools**

**17. Parents of pupils in Ysgol y Bannau don't want their children to travel to Builth so they are sending their children to Gwernyfed or to Crickhowell. There is also leakage out of county and into English medium education.**

**18. I don't speak Welsh. I can't understand it. We are a school now which is on the way up. Spiritually, and linguistically, the feeling of being Welsh only happens if you are surrounded by people who speak Welsh. Brecon has always had a strong Welsh speaking community. We offer opportunities for Welsh speakers at this school. We are having new buildings here. How was it ever considered to take Welsh provision out of this school? You should be supporting us to provide for Welsh medium learners.**

**19. How central will Welsh medium provision be? What is the most southerly Welsh medium primary school?**

Response

Ysgol Dyffryn y Glowyr, which is one of the new primary schools in Ystradynlais.

**20. Where will the most southerly dedicated Welsh medium stream secondary school be?**

Response

In Powys, Builth

**21. Brecon has good links to the southern part of the county.**

**22. I attended this school and many of my friends were Welsh medium pupils. I would be devastated if those friends had gone to different schools and if there had been separate schools for English and Welsh speaking students.**

Response

If this school became an English medium school you could still deliver some subjects through the medium of Welsh. In a category 4 school it would be expected that the school promotes Welsh culture and language as it does currently.

Response

I would expect that when the new school is built the pupil retention rate will be higher than it currently is.

**23. You will have a Welsh medium primary school directly opposite a new building and you will be saying that those pupils will not be coming to Brecon High when the school has a Welsh ethos. Brecon High School is improving. Your proposal is financially, not educationally, driven.**

Response

The points you are making are valid. The school is in an improving situation and there will be a new school building. The school is in a different position to where it was in April and that will have to be reflected in the Cabinet report.

**24. In the light of an improving situation I know that parents of Welsh medium pupils in Sennybridge CP School will be moving their children to Brecon High School when the new school building is opened. The numbers in the Welsh stream at Sennybridge School are very buoyant. Are you saying that those parents can only choose a single language secondary school? There is an opportunity to extend and improve Welsh medium provision at this school.**

**25. I am not a Welsh speaker but my father was a Welsh speaker and was head of Welsh in a Swansea school. My father did not teach me Welsh. If I had been here and there had not been an opportunity to speak Welsh, I would have been disappointed. Your proposal is retrograde step which goes against Welsh Government policy of trying to promote Welsh.**

**26. The wording in the document makes it sound as if it is a “done deal” and that Welsh medium pupils will be unable to access the new building.**

**27. You said that a Category 4 school can still have some Welsh medium lessons. How does that work?**

Response

In a category 4 school pupils will be taught mainly through English but it is possible to provide one or more subjects through the medium of Welsh, which can include Welsh first language.

Response

Newtown and Welshpool High Schools deliver 1<sup>st</sup> language Welsh to a number of pupils.

**26. There are Welsh language pupils who do not want to travel. Can our Welsh language pupils still continue to do Welsh first language? They clearly could not choose Welsh second language.**

**27. What about those pupils who have completed Key Stage 3 as Welsh first language. What is going to happen to those children in year 9 who do not want to go to Builth High School because they cannot do Welsh 2<sup>nd</sup> language? You say you are going to allow pupils entering Year 11 to do Welsh first language.**

Response

If those students stay at the school we would need to look at funding the school for a first language Welsh course for 2 years to allow them to complete the GCSE.

**28. About 20 years ago when I was appointed as a head of PE, one of criteria when making appointments was to appoint a Welsh speaker. If a Welsh speaking applicant and an English**

applicant had the same qualifications and experience, priority would have been given to the Welsh speaker. When there was a change of Headteacher that policy changed and it hasn't been supported over the years. It is a self-fulfilling prophecy. If there are no teachers to deliver subjects through the medium of Welsh then Welsh provision will decrease. That should not have been allowed. There has to be a positive drive to promote Welsh medium education, led and supported by the Authority. There has to be consistency. I am concerned about the amount of support for Welsh medium provision at Brecon High School. Welsh medium provision has not been fully supported and has been undercut repeatedly and consistently. The Welsh medium stream is an essential part of this school. 20 years ago I heard children speaking Welsh at this school. It is more than just the language that is in jeopardy when you lose the Welsh medium provision.

29. In the consultation document, it says Welsh medium provision will continue to be provided to years 11 and 12. Can you confirm there will be an amendment to this document? It needs to be clarified in the document. You have to make this document clear for parents and it is not.

30. There are parents of pupils in Ysgol y Bannau who want to bring their children to this school. How many it will take for you to listen and do what they want? Is there are number?

Response

There isn't a number. This is a stand-alone consultation which will run its course and a decision will be taken by the Cabinet. You have seen, over the last 6 months that Cabinet members have listened and changed their minds on a number of consultations. That it is the nature of the consultation process.

31. This document does rely heavily on numbers. You have to state a viable number for the Welsh medium provision to continue.

32. The numbers in Welsh medium are low because of the consultation. We are still in that situation because of the uncertainty. Parents would still be prepared to take that "leap of faith" and opt for Welsh medium education if the Welsh stream was retained at Brecon High School. People in Brecon want to keep the Welsh medium provision at this school.

33. This school is "on the up". Why would parents want their children to go to a school that is failing and is 20 miles away?

34. Have you considered how much more it is going to cost the Authority in transport costs by transporting the pupils? It is not just from one area. It will be from multiple areas and you may end up with minibuses with one pupil in. That will increase costs. What is the financial burden you will incur?

35. The reliance on home to school transport will make it more difficult for children to take part in extra-curricular activities. You will need to provide more transport for Welsh medium pupils to take part in extra-curricular activities.

Response

The Authority does not provide transport for extra-curricular activities but how Welsh medium pupils from the Brecon area would be able to access extra-curricular activities, if the stream closes, along with other pupils who are transported into the school, is a real issue that needs to be recognised. In terms of the cost of transport, free transport arrangements are already in place to transport Welsh

medium learners to Ystalyfera and there is already transport going to Builth High School and therefore the additional impact of this proposal is minimal.

**36. Some parents may be able to provide transport for their children to attend extra-curricular activities but some may not. Those pupils will be disadvantaged.**

**37. It is hard for parents to get their children to extra-curricular activities even when it is just a short journey. When are the children expected to do their homework with all the extra travelling?**

**38. There is a socio-economic aspect to this. There are quite a lot of pupils attending Ysgol y Bannau now who are from fairly deprived backgrounds and whose families may not have the means to provide transport to and from after school activities.**

Response

Those are key factors which will be highlighted.

**39. If implemented, the proposal will have a huge impact on pupils.**

**40. There is a bus already going to Builth. That extra bus is as a result of the last consultation when pupils transferred to Welsh medium provision in Builth. The earlier consultation has undermined the Welsh medium provision at this school.**

**41. I was at Builth High School, at the time Welsh medium pupils transferred from this school, and it was difficult to accommodate all the Welsh medium learners. There is such a rich tapestry here. Pupils from the Nepalese community hear incidental Welsh. Now they have an opportunity to integrate with children who speak Welsh as a first language. That opportunity will be taken from them.**

**42. Powys County Council was supposed to support Brecon High School to get to category 2b status and you did not support us but you say on page 9 of the consultation document that the Authority is committed to promoting the benefit of Welsh medium education.**

Response

All schools were given the same level of support in 2011 to become category 2b schools. We worked hard with those schools and other organisations as well. In 2015, the Cabinet decided to start a new consultation and recognised that the category 2b target may not be achieved.

**43. We have been financially held back and that has been used against us.**

Response

The problem with the challenge to all schools to be category 2 b schools, at that time, was that you need the staff to teach through the medium of Welsh and how to build that capacity when facing financial pressures.

**44. We showed commitment to employ Welsh speaking staff but, as a result of the consultation, pupils in the Welsh stream “jumped ship” and we had to shelve our commitment to take on Welsh medium staff. We were “stabbed in the back” by the consultation process. When pupils left the school it compounded the problem because there were financial implications.**

**45. How is greater clarity going to be given in relation to the proposal for Secondary schools in mid Powys?**

Response

The proposal for Builth and Llandrindod High Schools is currently in an objection period, i.e. a statutory notice has been published for closure of both schools and to open a new school on the two sites from September 2018. .

**46. I know parents who are moving their children to Hereford because of lack of clarity in relation to what is happening to Secondary education in Llandrindod.**

Response

I understand that uncertainty has an impact and that uncertainty has had an impact on numbers in the Welsh stream in Brecon High School.

Response

The proposal is that the Key Stage 3 and the Key Stage 4 curriculum will be delivered on both sites (in Builth and in Llandrindod) but it will be down to the governing body of the new school to decide from which site Post 16 provision will be delivered. The Key Stage 3 and Key Stage 4 curriculum will be delivered from both sites and the proposal is for Welsh medium education to be provided from the Builth site.

**47. I have been fascinated by listening to our staff speak with such passion. I am aghast as to why the proposal to remove Welsh medium education from Brecon High School is even being considered. People have expressed themselves with such eloquence and passion.**

**48. You can't use the same model for Brecon as that used for other areas. The geographical make-up of Brecon is different. Brecon is unique. It has employment. It has a Welsh medium primary school and good communication. It seems unbelievable that a brand new school without Welsh medium provision is being considered.**

**49. Look at the pupils who have gone through Brecon High School. The majority of the high fliers who are getting "A\*s" and "A" grades are coming from the Welsh stream. You cannot say that removal of the Welsh stream will not have an impact on the school.**

**50. Pupils in the Welsh stream are completely immersed in the life of the school. They are involved in the sports and musical life of the school.**

**51. Rob Broadbridge:**

**I wonder why there is no councillor representative here today because they were here last time. It is striking. What value is being placed on this consultation? This is the third time there has been consultation on this proposal and staff have invested in this again.**

Response

Councillor Arwel Jones was unable to attend this meeting but will be at the meeting with governors and the parents and community.

**52. Rob Broadbridge**

**The timing of this consultation is going to have an impact on our ability to design a curriculum for the next academic year. What curriculum do I put together? How can the curriculum be planned when it is not known whether or not there will be a Welsh stream**

next year? March is far too late for staff to put a curriculum together. There are some staff here who will be affected by that decision. How do I employ those staff if there is no Welsh curriculum? There is uncertainty for staff. The timing of the consultation does not help year 6/7 transition. Last year we had to extend the deadline for applications from Welsh medium pupils to July. You are talking about numbers increasing again but we don't know what our pupil numbers will be? There could be an impact on funding. £3k per pupil means "a big hit" for us.

What has the impact of creating the critical mass been? What difference has it made for Builth High School? What difference has it made post 16? The South Powys Consortium was set up so that Welsh medium "A" levels could be delivered from Builth. What difference is it going to make in terms of increasing Welsh medium provision at post 16? What difference will it make to those learners? We can see what the difference will be here.

**53. Rob Broadbridge**

**Transport costs are going to increase.**

Response

We recognise that additional costs have been incurred for school transport.

Response

There is no best timing for any school consultation and reorganisation. We know that the current timescale does not help you. This consultation finishes on 9<sup>th</sup> January. Should Cabinet give approval to proceed to a statutory notice, the notice would be published for one month. A final decision could be expected by mid-April. There is no quick way to complete the statutory process.

**54. Rob Broadbridge**

**We understand that but consultation is about understanding the impact. I could have some key members of staff choosing to leave because of this consultation.**

**51. This school has been under pressure for so many years. Yet the same staff are still here. This shows the commitment of the school's staff to keep the Welsh stream open. We will keep fighting this battle.**

**55. There is going to be more of a fight than councillors realise.**

Response

If the proposal is taken forward, discussion will be needed around timing and financial and funding matters. The minutes of this meeting will be shared with the school but they won't pick up the emotion expressed by staff.

Response

I can assure you that finance is not the main driver for the proposal. The savings from the first proposal were far more than for this proposal. Finance is a consideration but it is not the main driver.

**53. My children attended the Welsh stream in this school and they were both in small cohorts. They both live in England now but they still use the Welsh language. They did not have every subject taught through the medium of Welsh. I am proud of what they achieved thanks to this school.**

### 3. Minutes of meeting with Governors

**Minutes of a consultation meeting with governors of Brecon High School held on Tuesday, 29<sup>th</sup> November, 2016, at Brecon High School, in relation to a proposal to close the Welsh medium stream at the school from 31<sup>st</sup> August, 2017, with Brecon High School becoming an English-medium school from 1<sup>st</sup> September, 2017**

#### Present

Cllr Arwel Jones, Portfolio Holder for Education  
Ian Roberts, Head of Schools Service  
Marianne Evans, Senior Manager, School Transformation  
Gareth Jones, Senior Manager, School Central Support Service  
Jane Thomas, Acting Head of Financial Services  
Rachael Lingard, HR Business Partner

#### Brecon High School governors

E T Morgan N Maughan Sean O'Connor Martha Rees Helen East Jane Mackenna	Sian Drinan Gareth Gillard Alan Canning Alison Phillips David Meredith Peter Rowlands
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Cllr Arwel Jones welcomed governors to the meeting. Governors were reminded that the consultation period runs from 21<sup>st</sup> November, 2016, to 9<sup>th</sup> January, 2017, and meetings with staff, governors and parents were being held as part of the consultation process. Cllr Arwel Jones reminded governors of the proposal under consultation, which is:

***To close the Welsh-medium stream at Brecon High School from the 31<sup>st</sup> August, 2017, with Brecon High School becoming an English-medium school from 1<sup>st</sup> September, 2017.***

The following comments/questions were received from governors:

- 1. It is a shame that the Portfolio Holder and Head of Schools Service were not present at the consultation meeting with staff to see the passion shown by members of staff on behalf of the Welsh stream. We seriously want to keep the Welsh stream open.**

#### Response

Please accept my apologies. Unfortunately I had another commitment which meant I could not attend the meeting with staff.

- 2. Are the pupils being consulted and when?**

#### Response

Yes, a meeting has been arranged to hear the pupils' views.

- 3. In the consultation document you say that 19 Welsh medium pupils is insufficient for a viable Welsh medium stream. What would be sufficient pupil numbers to keep the Welsh stream open?**



#### Response

In terms of funding, there are 2 elements – one element is pupil-led. The school also receives a dual stream uplift if the school is delivering 100% curriculum through Welsh and English medium which is equivalent to 2.5 FTE teachers, half a teacher per year group. To be viable a school would need a minimum of 12-15 Welsh medium learners per year. This would only fund a single teaching group per year.

#### Response

In terms of curriculum provision at Key Stage 4, the number of Welsh medium pupils at this school would mean it is difficult to provide breadth of choice. If there were 19 Welsh medium pupils in every year group it would be different, but there are only 19 Welsh medium pupils from Years 7-11 in the school. Viability is driven by finances and the number of pupils, and this will dictate the curriculum offer.

#### Response

You would need a year group of 35-40 pupils at Key Stage 3 and Key Stage 4 to make the Welsh stream financially viable and allow the school to offer 2 teaching groups per year.

I think Builth High School, in two of the Key Stage 3 year groups, has 2 Welsh medium teaching groups but we can check that information.

- 4. Can we have historical figures to see the impact this consultation has had on pupil numbers in the Welsh stream? If you look at the table which shows historical data, we had a huge drop in numbers due to pupils leaving this school to go to Builth High School because of the uncertainty over the future of the Welsh stream here.**

#### Response

The consultation report that goes to Cabinet will make it clear that the uncertainty about the future of the Welsh stream, over the last 3 years, has had a negative impact on the number of pupils in the Welsh stream at Brecon High School and has resulted in an increase in the number of Welsh medium pupils at Builth High School.

#### Response

At the staff consultation meeting, it was strongly emphasised that the consultation process has had a strong impact on pupil numbers. Another point made by staff was that the consultation document was restricted to 5 years of data but a more historical context needs to be provided.

- 5. My daughter left Brecon High School 3 years ago, and, at that time, there was uncertainty. Uncertainty has had a detrimental effect in sustaining pupil numbers in the Welsh stream because people are not sure what it is happening. In 2014, there were 19 in my daughter's Welsh medium class and by the next year it had dropped off to 13 due to uncertainty about the future of the Welsh stream. This is not just short-term. The uncertainty has been going on for a long time.**

#### Response

It is important that you respond to the consultation in writing to that effect. If you have the evidence of uncertainty beyond the consultation period, please put that into writing.

6. **If you are aiming for two classes in each cohort we would dispute that. We have not had that situation in Brecon High School. We just had one class and it provided an excellent education. We have Welsh medium pupils in classes of 2 and 3 but it is more important to them to have their education here than to have to travel to Builth. We firmly believe Welsh medium provision should be here in the community where there is a Welsh presence.**
7. **There is quite a groundswell of demand from parents of current year 6 pupils in Ysgol y Bannau who fully intend to send their children to this school for Welsh medium education when the children transfer to Secondary school. If there was no Welsh medium stream in Brecon High School, they would start taking their children out of Welsh medium completely. We know some students in the Welsh stream here who would have opted for English medium education rather than travel to Builth if there had been no Welsh stream in Brecon High School.**
8. **I would dispute the statement that, over a number of years, some pupils in Sennybridge have transferred to Welsh medium provision in Ystalyfera due to parental preference. It is because of the uncertainty about the future of the Welsh medium stream in Brecon High School that those parents chose to send their children to Ystalyfera when they would have preferred to send them to this school.**

Response

The uncertainty about the future of Welsh medium provision at Brecon High School, over last 3 years, has affected pupil numbers in the Welsh stream. I cannot deny that. It has had an impact. I accept what you say.

9. **The uncertainty about the future of the Welsh stream in Brecon High School is also affecting pupil numbers in Ysgol y Bannau. Some parents have chosen English medium over Welsh medium because of the uncertainty.**
10. **Numbers in the 3-year-old setting at Ysgol y Bannau have significantly decreased over the last two years. Before the uncertainty parents who did not speak Welsh themselves were “taking a leap of faith” and were choosing Welsh medium education for their children. English parents will take the step to send their children to Welsh medium provision if they know their children can have continuity of provision locally. A lot of the parents of pupils at Ysgol y Bannau weren’t Welsh speaking but there was a significant drop in the number of parents opting for Welsh medium education because of uncertainty about continuity of provision.**
11. **What happens to the Welsh stream at Brecon High School may have a significant impact on Ysgol y Bannau. Has there been any engagement with parents of pupils at Ysgol y Bannau?**

Response

Yes, that will be part of the consultation process.

Response

I would expect parents of pupils at Ysgol y Bannau to attend the public meeting. It is an open meeting and parents of Ysgol y Bannau and other primary schools have received information about the consultation.

Response

We are also meeting with pupils in the school.

- 12. Can we be reassured that if Welsh medium provision does not remain in Brecon High School that there will be no uncertainty about Welsh medium provision being in Builth, given the proposal to close Llandrindod and Builth High Schools and to open a new school?**

Response

A report on the outcome of the statutory notice in relation to the proposal for Llandrindod and Builth High Schools will be considered by the Cabinet. It is likely to be February or March before Cabinet takes the final decision on the proposal for Llandrindod and Builth High Schools. It would have been wrong for Cabinet to take a decision on the Welsh medium aspect as part of the Gwernyfed/Brecon proposal. The consultation on the proposal to remove the Welsh stream from Brecon High School is a totally separate consultation. This is a totally separate consultation and subject to a separate Cabinet decision.

Response

I know there has been a period of uncertainty. There is always a period of uncertainty with any school proposal. Could you envisage that, in 5 years' time when things are settled, there will be a strong relationship between Ysgol y Bannau and the school in Builth?

- 13. It does not make sense.**

Response

There is evidence in some areas of Powys, where there is breadth of curriculum offered through Welsh medium parents have taken that "leap of faith" to opt for Welsh medium education for their children. In some areas of Powys, we now have Welsh medium schools where over 50% of pupils are from non-Welsh speaking homes.

- 14. I think there are a lot of people in Brecon who would not want their children educated other than in Brecon.**
- 15. We have spoken about a more optimistic vision for Brecon, especially with the new school build. If you are a pupil in Ysgol y Bannau and you see a brand new secondary school across road and know that if you speak Welsh you have to go to a school 20 miles away, what message does that send in relation to diversity and inclusion?**
- 16. Removal of the Welsh stream at this school will mean that those parents who are quite confident in their Welsh language skills will send their children to Ysgol y Bannau and then on to Builth High School but English speaking parents will not opt for Welsh medium education for their children. You will not be growing or building Welsh medium any more. I don't think that is what we want for the Welsh language. I would have never been able to choose Welsh medium education for my children if it had been in Builth because I don't drive. The people it is going to affect are those families who do not run two cars or children with learning difficulties and medical problems. Welsh medium education is not going to be an option for them. In terms of equal opportunities, the proposal is not a good idea.**

Response

I understand there is an issue with travelling distance but there is evidence to indicate that parents will opt for Welsh medium education if they want continuity and breadth of curriculum and many

parents who opt for Welsh medium education do not necessarily have cars. It is down to parental choice. I understand the point you made about pupils in Ysgol y Bannau looking across the road at a 21<sup>st</sup> Century school which may only provide for English medium pupils.

- 17. My son has gone out of county to Merthyr College to study. My son has to travel and he is very tired by end of the week. I have a friend whose children started off going to Builth and they got too tired so came back to Brecon. Taking the Welsh medium provision from Brecon High School will also mean splitting children from their friendship groups. If children have to attend doctors or dental appointments in Brecon during the school day, it will mean taking a lot more time out of school if they are studying in Builth.**
- 18. Hopefully, on Thursday, there will be parents of pupils in Ysgol y Bannau who will say they would be prepared to accept a not so broad curriculum providing it is local. You say that the Authority is committed to increasing the number of Welsh medium pupils so why can't support be there for pupils to come to Brecon High School?**
- 19. Why are we sending pupils to Builth High School for Welsh medium education? The distance those pupils have to travel has an impact on their ability to take part in extra-curricular activities such as sporting events, revision classes after school, drama and musical events. Those pupils will be prevented from taking part in extra-curricular activities in Builth. Some of our best rugby players at this school were in the Welsh medium stream.**
- 20. No mention has been made of Welsh medium pupils from Sennybridge. It concerns me that there are over 30 children travelling daily to Ystalyfera. What is it costing the County Council education budget to educate those children in Ystalyfera? Last year, between 4 and 6 Year 6 pupils from the Welsh medium stream in Sennybridge CP School transferred to the Secondary school in Ystalyfera and 2 came out of Welsh medium education to come to the English medium stream at this school. What is it costing to transport those children to Ystalyfera day in day out? New parents feel there has been little dialogue with them and they have had little choice. If it was decided to retain Welsh medium provision in this school, parents of those pupils in Sennybridge who opted for Welsh medium education in Ystalyfera would probably decide to transfer their children to Brecon High School**
- 21. Numbers in the Welsh stream classes lower down the school at Sennybridge are buoyant.**

Response

Yes, numbers in the Welsh medium stream at Sennybridge CP School are increasing. The Cylch Meithrin Early Years setting is having a positive impact on the Welsh stream at the school. The number of pupils between the English and Welsh stream at Sennybridge CP School is now more balanced.

- 22. Can you look at the potential number of pupils going out of county or waiting to come to Welsh provision at Brecon High School if it was available?**

Response

Transport is currently provided for Welsh medium pupils to the school in Ystalyfera as a result of a successful transport appeal by parents.

There is also school transport running from the Sennybridge area into Builth.

**23. How is Brecon High School categorised according to the National Model for Categorisation of schools?**

Response

The categorisation won't be published until end of December but we will ensure documentation that goes to cabinet reflects any change of categorisation.

**24. This documentation is biased. When a former pupil of Brecon High School read the consultation document they were appalled. This document is a damning indictment on the Authority. I have never understood why this school was not supported by the Authority to become a Category 2b school. It costs the Authority £110K to transport Welsh medium pupils to Ysgol Ystalyfera and Builth High School. What would it cost to bring this school up to at 2b status? The school currently gets £58K to deliver Welsh medium education. To bring the school up to 2b status would cost £47K. It is costing the Authority a lot of money to transport Welsh medium pupils to other schools, more than it would cost to bring Brecon High School up to 2b status. Who was responsible for not supporting the school to come up to 2b standard? The Authority is throwing away £50K because of the decision to grant transport to Builth High School for Welsh medium pupils. Why are people making those decisions? The decision not to bring this school up to a 2b standard should be subject to scrutiny. Someone within the Authority has to be responsible for that decision. Parents of pupils in Ysgol y Bannau are very passionate as to why they don't want to send their children to Builth High School. Why was the decision taken to pay for transport to Builth High School? How can you justify spending that amount of extra money to transport children to Builth after all you have heard tonight?**

Response

Cllr Meredith is asking for the reason why transport was granted. Are we able to provide that information?

Response

The first appeal was held around school transport provision to Ysgol Gyfun Ystalyfera. That was heard by the sub-committee of the Board which included the then portfolio holder Cllr David Jones. The parents were successful in their appeal and pupils were awarded transport. When Welsh medium pupils from Brecon High School transferred to Builth High School last year, free home-to-school transport was initially refused by the authority. Parents then appealed that decision, and won their appeal. The figures you quoted are in line with the figures taken to Scrutiny around the transport costs to Builth from Brecon.

**25. The decision was taken because Builth High School is a Category 2b school. If it had been stated that the finance would be provided to bring Brecon High School up to 2b status then those pupils would have stayed. Why was that decision taken when it has cost authority a lot of money?**

Response

In 2011, the Cabinet decided to give all secondary schools with Welsh streams the challenge of getting up to 2b status. All schools were at different levels at that time in terms of their Welsh-medium provision. That was the decision taken by Cabinet following the informal consultation in relation to secondary schools in 2011. In terms of support to schools - no school received a financial incentive, other than support by officers, to achieve Category 2b status. In January, 2015, the Cabinet recognised that insufficient progress had been made and decided to start a new review of secondary schools, which included a proposal to close the Welsh-medium provision in Brecon. It is

still the Council's policy to aim for Secondary Schools to be Category 2b until the current Welsh in Education Strategic Plan runs out in March. Every school was given same target challenge. Brecon High School grasped the challenge. Looking back, I question whether it was the right strategy because, in order to expand the level of provision offered through the medium of Welsh, there needed to be investment to provide teachers who could teach subjects through the medium of Welsh, and this was at a time when the authority and schools started to face the financial challenges that are now upon them.

**26. We have had taken decisions that have had a huge impact financially. We have chosen to continue with Welsh medium provision but there has been a huge exodus of Welsh medium pupils and that trend will continue. A Welsh-speaking Maths teacher left and it was not possible to replace him. We won't have the funding for the teachers so then we will have a financial deficit. If we can't employ the Welsh speaking staff because we can't afford to, it is not possible to provide breadth of curriculum for Welsh medium pupils. If we do employ the staff then it is seen as mismanaging our budget. There is a huge burden on both sides. Whatever decision we make we are damned. Fund us properly so we can provide local medium provision and the Welsh medium pupils are not transported elsewhere because they speak Welsh.**

**27. We could not provide 2b status on the current budget but now the Authority is spending £50K more to transport Welsh medium pupils to Builth than what it would have cost to bring this school up to 2b status. How can you justify spending an extra 50K transporting children? How can you justify that to the public? It is appalling.**

**28. I notice that there is going to be change at Ysgol Ystalyfera. There is going to be a new campus in Neath Port Talbot. How well known is that?**

Response

Neath Port Talbot CBC is planning to have a split-site school run from Ysgol Ystalyfera, with another site in the south of the borough in or close to Port Talbot.

**29. Are parents in this area aware of that proposal?**

Response

I believe the formal consultation process took place in 2015. In terms of parents from Powys. It is my understanding that the proposal will not have an impact on pupils. Key Stage 3, 4 and 5 Welsh medium provision will continue on the current Ysgol Gyfun site in Ystalyfera.

**30. When will you know what the intake from Ysgol y Bannau to Brecon High School in 2017/18 academic year will be?**

Response

The School Admissions Team is currently going through the process to allocate places.

**31. Do the projected figures have any bearing on this document? They should influence a decision about the future of the Welsh language in this school.**

Response

We can include projected numbers of Welsh medium pupils transferring from Ysgol y Bannau to Brecon High School in the consultation report that goes back to Cabinet, but we need to be aware that parents can change their minds up to the time pupils are admitted.

We can include early data that we have.

**32. Does everyone who wants to go to Builth High School have to apply for school transport?**

Response

As the officer with responsibility for entitlement to transport, I would review the level of Welsh medium provision available in the local school. There would have to be a significant change in the level of provision, either a decrease in Welsh medium provision in Builth or an increase in Brecon High School to justify a different decision.

If Brecon became a 2b school from next September then the decision would be different.

**33. I am concerned that on page 31 of the consultation document, final sentence of 8.1, it says that the saving if the proposal was implemented would be £58,475. Those figures are inaccurate. I think this consultation document should be withdrawn because the document is misleading.**

Response

Currently, there would be no additional transport cost as that transport is already in place.

**34. The consultation document is not an honest document. It is biased.**

**35. I would like to make a point about quality of provision. There has been a lot of talk about breadth of curriculum. We are forgetting about quality of provision. We are an improving school. We have committed staff. Welsh medium staff are some of the top teachers in the school. We are looking at the Welsh medium provision being transferred to a school that has just gone into "special measures".**

Response

We have to be careful how we compare the progress Builth High School may be making. It is inappropriate to bring Builth High School into the debate at this time.

Response

Estyn is a consultee and will take a view on the proposal.

**36. I would like to see data for transporting pupils from different areas. We would like to see a proper comparison of what the school transport for Welsh medium pupils is costing. We need more data about transport costs for a longer period, say 5 years.**

Response

In terms of any costs, they will increase. When we provide figures it is based on the current level of cost.

**37. We need data that will reflect the shift in parental decision of where their children are educated.**

Response

There are currently 2 school transport routes going to Builth High School from the Brecon area and these cost £91K per annum. One route starts in the Sennybridge area and the other comes from Bwlch. We are also transporting some primary aged children to Builth CP School.

- 38. There has been an increase of more than £50K in a year because of the decision taken to transport Welsh medium pupils from the Brecon area to Bwlch High School.**

Response

I would expect that transport cost to increase.

- 39. Would it not be best to invest that money into teachers rather than in school transport?**
- 40. We need information which would help us in our response. The number of buses and the number of pupils.**
- 41. We need to know where these children are coming from. Did you not mention some learners are coming from the Crickhowell area?**

Response

One route starts in Bwlch.

- 42. These are all costs to the authority. The consultation document does not state what it would cost to bring this school up to a 2b status.**
- 43. It is not just about the costs; it is also about the work life balance for the children. We are paying no attention to that for our children.**
- 44. Pupils are under increasing pressure to achieve more and more and we are asking them to do more with less time.**
- 45. I don't know how you can promote that as an ideal for everyone. You are meant to be investing in the future for the children. Your money is going on the roads of Powys. How can you promote that?**
- 46. The reference to post 16 education in the consultation document implies that it is a failing of Brecon High School that it has not offered post 16 subjects through the medium of Welsh but Brecon High school is part of the South Powys Consortium and Welsh medium pupils can choose to study Welsh medium subjects at post 16 which are offered at other schools in the Consortium. The document is misleading in that it implies that it is a failing that Brecon High School does not offer "A" levels through the medium of Welsh.**

Response

I am not sure when Brecon High School last offered "A" levels through the medium of Welsh and whether that was before collaboration.

- 47. The way the Consortium runs is that there is a quota of subjects per school. Subjects not offered in one school can be accessed via another school in the Consortium**

Response

A Welsh medium uplift has been allocated to the four Powys Secondary schools offering "A" levels through the medium of Welsh.

- 48. There are a number of subjects that could be offered through the medium of Welsh at Brecon High School, which have not been included in the table on page 14 of the**



consultation document. If there was sufficient student demand, there are a number of other subjects which could be offered through the medium of Welsh.

49. We have capacity to offer “A” level history through the medium of Welsh.
50. It would be a fairer document if it showed the capacity of the school to offer Welsh medium “A” levels.
51. My son wanted to do history through the medium of Welsh but because of budgetary restrictions, “A” level history could not be offered through the medium of Welsh.
52. Most other schools have not had the same drain of pupils while still trying to offer the same level of curriculum. The drop in the number of Welsh medium pupils at the school has had an impact on the school’s ability to offer a wider curriculum and employ more staff.  
In previous years we have offered history “A” level through the medium of Welsh. We have tried to keep as many Welsh medium pupils as possible but we are unique in that the uncertainty has led to a decrease in the number of Welsh medium pupils at the school.

Response

It is acknowledged that uncertainty has had an impact. I am not going to deny that.

**53. The decrease in the number of Welsh medium pupils has had an impact on the school finances and there has been a ripple effect across the school.**

Response

So you think it should be made clear in the document that pupils wishing to access Welsh medium subjects can do so via the Consortium?

54. Yes, context is important.
55. It should be stated at the beginning of the document that the fall in the number of Welsh medium pupils has had an impact. Contextual information should be included. It is not just a factual document.
56. When we have a new school there will be changes in what curriculum can be provided.

Response

Allocation of funding will be determined by pupil numbers. The Secondary school in Powys which offers the most subjects at Post 16 is Crickhowell High School and that school has a 6<sup>th</sup> form of around 200 pupils.

**57. Change is happening. When the new school is built, we could be looking at 150 in the 6<sup>th</sup> form and this could have a massive impact on the curriculum offer at Post 16. We could offer more Welsh medium classes at that point in time. It is important to state that things can change.**

Response

When the brand new building is ready in 3 years' time, we would expect numbers in Brecon High School to increase and we would expect the 6<sup>th</sup> form to be bigger than it is now as it is hoped that the transfer rates from feeder primary schools will increase in September, 2017, and future years.

Response

How would you define a bilingual school?

**58. A school with a Welsh medium stream. I think there should be a Welsh stream in every school because that is the way the Welsh language will be promoted. It will become the norm and be accepted rather viewed as separate. In Powys we could do something that would be a forward step in promoting the Welsh language. Why not show the way? Why not have the vision?**

**59. Part of ethos of Brecon High School is that it is more inclusive than some other schools. We support students across the board. We have students from Eastern Europe and Nepal at this school. Getting rid of the Welsh stream here, when Welsh is the native language would be a "crying shame".**

**60. Losing the Welsh stream would have a big impact on Brecon High School. The cultural element would be lost and that is very important to the school. A lot of the English medium children are very proud of the Welsh medium stream in this school.**

**61. When is the report on the outcome of consultation likely to be considered by the Cabinet?**

Response

The earliest date the report is likely to be considered by the Cabinet is in February.

**62. Could there be a new Cabinet considering the final report?**

Response

The consultation period ends on 9<sup>th</sup> January. We would expect the report on the outcome of consultation to be considered by Cabinet on either 7<sup>th</sup> or 28<sup>th</sup> February. If Cabinet decides to proceed with the proposal, a statutory notice will be published for a period of 28 days. Potentially the final decision on the proposal could be taken by a different Cabinet.

Response

Staff raised concerns about the timing of the consultation and its impact on the ability of school to plan the curriculum. We will do our best to get an earlier resolution if we can but it is out of our hands. Timing of the final outcome will depend on the number of responses received and the Cabinet decision.

Cllr Arwel Jones thanked governors for attending. He reminded governors that the consultation period ends on 9<sup>th</sup> January, 2017. Governors were told that every issue raised during the consultation period would be responded to within the Cabinet report.

#### 4. Minutes of meeting with Parents / Community

**Minutes of a consultation meeting with parents and community of Brecon High School, held on Thursday, 1<sup>st</sup> December, 2016, at Brecon High School, in relation to a proposal to close the Welsh medium stream at the school from 31<sup>st</sup> August, 2017, with Brecon High School becoming an English-medium school from 1<sup>st</sup> September, 2017**

##### **Present**

Cllr Barry Thomas, Leader of the Council  
Cllr Arwel Jones, Portfolio Holder for Education  
Marianne Evans, Senior Manager, School Transformation  
Gareth Jones, Senior Manager, School Central Support Service  
Jane Thomas, Acting Head of Financial Services

##### Parents and Community Members of Brecon High School

Attendance list attached below:



Attendance list  
public consultation

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Cllr Arwel Jones welcomed parents and members of Brecon community to the meeting. He conveyed apologies from Ian Roberts, Head of Schools Service, who was unable to attend due to a family commitment. Panel members introduced themselves.

Marianne Evans provided a brief presentation attached below.



Brecon  
Consultation Meetir

Marianne Evans explained the context leading up to the present consultation. It was noted that consultation had taken place in June 2015. When the report on the first consultation on the proposal to close the Welsh stream was considered by Cabinet in September 2015, members decided that Welsh-medium education should be included in the wider review of secondary schools. Consultation on the wider proposal was carried out in April, 2016. When the consultation report was considered by Cabinet in September, 2016, members took the decision to abandon the proposals for Brecon and Gwernyfed High School and it was Cabinet's wish that consultation should take place again around the future of Welsh medium provision in Brecon High School. Because the proposal to remove the Welsh medium stream from Brecon High School was part of that wider proposal, legal advice was that there should be re-consultation on the proposal to close the Welsh stream. Legally, this is now a new consultation.

Attendees were reminded of the proposal which is:

***To close the Welsh-medium stream at Brecon High School from the 31st August 2017, with Brecon High School becoming an English-medium school from the 1st September 2017.***

It was noted that those GCSE students taking courses through the medium of Welsh would be allowed to complete their courses but from 1<sup>st</sup> September 2018, it is proposed that there will be no Welsh medium provision at Brecon High School and that for those students wishing to study through the medium of Welsh transport will be offered to the nearest Welsh medium provider. Reasons for the proposal are: concerns about the future viability of the Welsh stream due to low pupil numbers and the Council's aspiration to ensure that pupils entering Welsh medium have access to a broad curriculum at each stage of their education. Those present were informed that consultation meetings with governors and staff of Brecon High School had taken place on Tuesday afternoon and evening, 29<sup>th</sup> November, when it had been acknowledged that student numbers in the Welsh stream had decreased in the last two years due, in part, to the uncertainty of ongoing consultation.

Those present were reminded that the consultation runs from 21<sup>st</sup> November, 2016, to 9th January, 2017, and that at the end of the consultation, all responses to the consultation would be collated and a report would be presented to Cabinet who will take a decision as to the next steps. Attendees were informed that the purpose of the consultation meeting was to hear their views on the proposal.

**The following Questions/comments on the proposal were received from parents and community members:**

**Parent of 3 children in Welsh medium provision at Ysgol y Bannau and Brecon High School**

**1. My children have had fantastic education in the Welsh stream at Ysgol y Bannau and Brecon High School. Has Powys County Council actually asked parents what we really want? I have never been asked. What would make the Welsh stream in Brecon High School viable? We must keep the Welsh stream in Brecon to ensure everyone has access to Welsh medium education. Are you happy with student numbers in the cohort in Builth High School now? The majority of parents of year 6 pupils in Ysgol y Bannau wish their children to transfer to Brecon High School in September 17. If the Welsh stream closes parents will still send their children here. Parents are being forced to make a choice about Welsh medium education. If the Welsh stream here closes my children will have to come out of Welsh medium education. For them to travel to Builth High School is a 51 round mile trip. There would be a cost to family of the children having to travel to Builth for schooling. They would miss out on extra-curricular activities. I would have a logistical nightmare because I would have children in schools 20 miles apart. The consultation document does not reflect the true picture in Brecon. The timing of the consultation, over the Christmas period, is at a hard time and there is insufficient time to respond. For the consultation to finish on 9<sup>th</sup> January is not acceptable and we should ask for an extension of the consultation period. Everyone must write all their letters again even if they have already responded to the previous consultation. I request you to send a letter to every parent stressing that they need to write in again to respond to this consultation.**

Response

We are required to consult for 6 weeks, or 42 days. We have already extended this consultation to seven weeks, to take account of the Christmas period. It is a balance between concluding the consultation period in order for Cabinet to take its decision so there is certainty for all, but also providing enough time for responses to be submitted, recognising that this is a particularly busy period. We will write to parents to remind them of the timescale and the fact that this is a new consultation, and they should send in new responses or resubmit the previous responses, if they so wished. This consultation is a stand-alone consultation. It does not take account of views gathered in previous consultations but this does not mean we have not recognised views expressed in the previous consultation.

You asked about the viability of the Welsh medium stream in Builth High School. For a Welsh stream to be viable you are looking at a school with two teaching classes per year group. I believe Builth High School currently has 2 year groups in years 7, 8 and 9 – a total of 150 pupils.

There are single teaching groups in Key Stage 4 and two teaching groups in years 9 & 10.

**1. Is the Welsh medium stream currently viable?**

Response

In relation to Brecon, the current number of pupils in the stream and the current funding, the stream at the school is not sustainable. In relation to Builth, the funding provided allows the stream to be viable.

In terms of Ysgol y Bannau – we are aware of the choices parents have made to date based on the current configuration and more than half of parents of Year 6 children transferring to Secondary school have chosen Brecon High School.

**2. Why don't you put that in the consultation document?**

Response

The admissions process has not yet been finalised. Places are currently being allocated. We need to reflect that in the report that goes back to cabinet.

Response

The numbers will be noted in consultation report that goes back to cabinet.

Response

We acknowledge that the travel to Builth can impact on the wellbeing of families. That is a huge issue and we can't take away from the fact that, for some learners, it will be a long journey, in terms of miles and distance, in order to access Welsh medium education.

**3. The consultation document does not reflect the true situation we have here in Brecon.**

Response

We acknowledge there are historical issues

**4. Comment from one of the founders of Welsh medium education in Brecon in 1970s - We fought "tooth and nail" to set up some form of Welsh education in Brecon and it is going "to be washed away" by Powys County Council in one jolt. We started off in the 1970s with 6 pupils, then numbers grew so we pushed for two rooms and eventually we had two subjects taught in Welsh at Brecon High School. How many subjects are going to be taught through the medium of Welsh in Brecon and in Builth? Have you consulted the pupils? How are you going to achieve the Assembly's target of £1m Welsh speakers by 2025 if the Welsh stream is closed? Are we going backwards or forwards?**

Response

Currently 6 subjects are taught through the medium of Welsh at Brecon High School at Key Stage 3. We want more options to be offered through the medium of Welsh at the end of Key Stage 3. In terms of categorisation of schools - Builth High School is a Category 2c and Brecon High School is a Category 3. In terms of post 16 provision only 2 or 3 Welsh-medium subjects are offered at Builth High School via collaboration.

Builth High School offers 12 subjects at Key Stage 3 and 9 subjects at Key Stage 4. The proposal aims to provide the choice of subjects to which Welsh medium learners are entitled. .

**5. Governor for secondary school in Brecon and parent of pupil at Ysgol y Bannau. You have spoken about numbers and critical mass. With regards to numbers what have you done to increase the number of Welsh medium learners coming into Brecon High School?**

**6. The numbers in the Welsh stream in Brecon High School have decreased and there are not enough numbers of Welsh medium learners coming to Brecon High School so what have you done, as an Authority, to increase the numbers?**

Response

It is recognised the Authority could have done more to increase the number of Welsh medium students but there has been significant growth in the number of Welsh medium learners in the primary sector in mid and north Powys but, if you refer to page 12 of the consultation document you will note that the number of Welsh medium learners in the primary sector in Brecon and Sennybridge have remained fairly constant in the last five years.

**7. With regard to the numbers in this consultation document, have you considered them and why not?**

Response

There was a Welsh medium workstream established as part of the Gwernyfed Area Review that was carried out a few years ago, which concluded that there should not be any demand for Welsh-medium primary provision in that area, although this could be reconsidered in future.

**8. We haven't got the choice here today. If Welsh medium education was compulsory in primary schools then we would increase the numbers. Have you considered the wellbeing of future generations in this consultation? By closing the Welsh stream in Brecon High School there will be increased transport on the roads? Has that been considered? If you took the pupils who currently travel to Builth and Ystalyfera for Welsh medium and you increased provision at Brecon High School the stream would be viable.**

Response

The consultation takes into account all the provision of the Wellbeing Act.

Response

What support we have given to schools here to grow Welsh medium provision? In 2011 when the Council challenged all schools to increase Welsh medium provision, the authority established a learning partnership which included all Welsh-medium providers in South and Mid Powys, Clwstwr y Ffynnon, but unfortunately that did not continue.

Response

You made the point that Welsh medium education should be compulsory, but already it is mandatory for all learners to study Welsh as a second language up to Year 11. In terms of the number of Welsh medium learners travelling to Ystalyfera, I would estimate this to be over 100 including those from the Ystradgynlais area.

**9. What is the cost to the Authority of transporting Welsh medium students to Ystalyfera? £450 pounds a day? The bus service to Ystalyfera is paid out of recharge to the Schools Service.**

**10. I would like to say due to increase in the number of children in Cylch Meithrin we have had to increase the opening hours. There is quite a high demand for Welsh language but parents do not currently have a choice. In Brecon there are 3 English medium primary schools and only one Welsh medium primary school so parents do not currently have a choice.**

Response

There is a level of surplus places in Ysgol y Bannau but your point is noted.

Response

A point was made at the consultation meeting with governors that if there was no follow-on Welsh medium provision at Brecon High School that parents would not take the “leap of faith” at the outset to opt for Welsh medium education for their children but if this proposal is approved people would see progression of Welsh medium education to Builth Wells or to another school.

**11. No. We are not willing to take chance.**

**12. Comment from Governor of Brecon High School and retired teacher**

**I have read all the documentation and attended all the meetings. We don't argue with the numbers. We know the impact of the uncertainty on the Welsh stream at Brecon High School. What I would like the cabinet to consider is the following: I would like the Welsh stream in Brecon High School to continue. I would like the teachers to teach in both schools. In that way you would increase Welsh in both schools. Also, you would not incur the extra transport costs. Teachers could go to Builth one day and Brecon another. I would like to propose that Powys County Council stops paying for transport to out of county schools. We know why parents have been moving elsewhere. We need a positive route. Councils should encourage Schools Service Senior Management to promote Brecon High School in the community as a bilingual school. There must be a more positive approach to promoting a bilingual school in the community. We have a lot of talent in the community. Why not use that talent and expertise? You have a bilingual school to be proud of.**

**13. I live at Llangorse and commute to Builth High School and back with my children. That is completely unacceptable.**

**14. Cllr Liam Fitzpatrick**

**My question is directed to the portfolio holder. Why hasn't the Council assisted Brecon High School to maintain numbers in the Welsh stream? This consultation is not a level playing field. There wasn't any assistance given to Brecon High School to maintain the numbers in the Welsh stream and I find that quite astonishing. It is unfair that other secondary schools were able to go ahead with increasing Welsh medium provision. Would you agree with me that the most sensible thing a parents can do is get children to a school where there is no threat?**

Response

This is the third consultation on the Welsh medium stream at Brecon High School. We appreciate the uncertainty will affect numbers in the Welsh stream at Brecon High School and appreciate that the numbers have decreased. Secondary schools were encouraged to achieve 2b status but that wasn't taken up.

Response

18 months ago a number of parents decided to move their children to another school for Welsh medium education. As an admission authority we cannot refuse those children a place if there are places available in the chosen school. When parents applied to Builth High School there were available

places so we could not reject their applications. In relation to the transport process, when applications were received for school transport to Ystalyfera and to Builth, they were initially refused at Stage 1 & 2. Following this the applications for transport were taken to appeal and the appeal panel took the decision to award transport.

**15. I have two children in the Welsh medium stream at Brecon High School. I think Powys County Council has behaved in a shamefully chaotic way with these consultations. My eldest son started at Brecon High School with 19 pupils in class and now there are only 3. The Welsh stream at Brecon High School has always been well regarded. Pupils have gone on to fantastic achievements Powys has really let us down. By sending my children to the Welsh stream here I saw it as supporting Welsh culture. I don't speak Welsh but my two children are competent Welsh speakers. I can't cope with all this chaos. I need security for my children's' education. You need to reassure us about the quality of education. I have a child with additional needs who does not travel well. You haven't said how you can support my child with additional needs. My child gets car sick so travelling to Builth is not going to make him a happy pupil.**

Response

There has been 2 years of discussion around this proposal and I understand the difficulty for yourselves and the school. We want to get all views and issues through the consultation. It is important for the Cabinet members to hear the views of everyone who responds to the consultation. We don't want ongoing uncertainty for years.

**16. This is a rural community and you have to be more creative in delivering services. We have four buses a day if that. The best thing about rural communities is if you treat them they will treat you. If you keep the Welsh stream here you will grow Welsh in this part of Wales.**

Response

Part of the consultation is to hear other options and Cabinet members will need to consider any other options put forward as part of the consultation.

**17. The idea of teachers travelling between schools was mentioned in previous consultations. It seems you are not taking our views on board. You keep putting us through this process and you don't seem to listen at all.**

**18. Former pupil of Ysgol y Bannau and form head boy at Brecon High School. Page 15 of the consultation document lists the advantages and disadvantages of the proposal. I would like to point out the difference in the language used to describe the advantages and disadvantages. Under advantages it says the proposal "would enable Brecon High School to run more efficiently as a single stream school" Under disadvantages it says the proposal "may have a negative impact on pupils numbers at Ysgol y Bannau" "Possible reduction in transfer rates from Welsh medium primary provision to Welsh medium secondary provision for pupils from Brecon catchment in the short term." Very vague language used when listing the disadvantages.**

**1<sup>st</sup> language Welsh students at Brecon High School contribute to the development of the Welsh language in the school and in Brecon as a community. How could they contribute without a Welsh stream in the High School?**

Response

The language skills those students would acquire as part of larger setting would benefit them.



*The respondent quoted comments from a number of former students of the Welsh stream at Brecon High School. These comments included:*

- **Is the Council proud of the Welsh language? When I was a student at Brecon High School I only heard Welsh spoken at school**
- **Fewer people choosing Welsh will mean the Welsh language will not grow in Brecon. People will not speak Welsh other than in school. Removal of the Welsh stream from Brecon High School will not encourage the Welsh language to grow.**
- **Now, more than ever, Powys should be investing in the Welsh language when it failed previously to do so.**

**My second question is about extra-curricular activities which are just as important as the curriculum. If it was not for the wider opportunities offered to me at Brecon High School, I would not have graduated from the Welsh College of Music and Drama.**

**Additional travel will mean that fewer Welsh medium learners are able to take part in extra-curricular activities. Travelling will take at least 2 hours. There will be less time spent in school and those students having to travel will have a lower attention span because they will be tired. How can you guarantee that Welsh language students will not be at a disadvantage in taking part in extra-curricular activities because of the travel implications?**

#### Response

It is a fact that pupils living further away from a school means it is more difficult for them to take part in extra-curricular activities. All our high schools are in rural areas and transport is ongoing issue. All we can do is to support schools in helping students to access extra-curricular activities.

#### **19. Schools may provide extra-curricular activities but can students access them?**

#### Response

Activities can be held during lunchtimes as an alternative.

#### **20. Additional comments received from former Welsh stream students were read out as follows:**

- **Students want to socialise at lunchtimes and lunchtimes are too short for extra-curricular activities.**
- **There are implications for 2<sup>nd</sup> language Welsh students at Brecon High School if the Welsh medium stream is removed. 2<sup>nd</sup> Welsh language students improve their language skills by speaking to 1<sup>st</sup> language students.**
- **The Welsh language environment is strengthened by the 1<sup>st</sup> language Welsh medium students.**

#### **21. What opportunities would you expect Brecon High School to provide to second language students to use the Welsh language if 1<sup>st</sup> language Welsh speakers were removed from the school?**

#### Response

Yes there would be an impact if 1<sup>st</sup> language Welsh speakers were removed from Brecon High School.

#### **22. Why did not you say in the consultation document that there “would” rather than there “could” be an impact?**

23. The Local Authority has failed people in not providing an environment for the Welsh language to grow. The Authority's indecision has provided a situation where people are losing faith. Brecon is a proud town steeped in Welsh culture. Will your proposal secure the future of the Welsh language in Brecon? No it won't. It denies it completely.

24. I have 3 sons - two in Ysgol y Bannau and my eldest son has been at Builth High School for a year. The guiding principles of the Welsh language standards are that the Welsh language should be treated no less favourably than English. People in Wales should be able to live their lives through the medium of Welsh if they choose to do so. This proposal is flying in face of the Welsh Language standards. There are no Welsh speaking members in the Court of Appeal. There are not enough Welsh speakers to translate the statutes of Wales into Welsh. This policy is an erosion of the language and I don't understand it. The whole point of the Welsh Language Measure is to have roles fulfilled by Welsh speakers. I went to a Welsh speaking school and we were taught in Welsh. Powys County Council is ignoring the Welsh Language Measure. If you go ahead with this proposal, I will challenge you. I will ask the Welsh Language Commissioner to get involved in this consultation. How dare you spend millions of pounds on a new Brecon High School and disenfranchise Welsh speakers! Speaking the Welsh language has never been about money. That is a fundamental error. Being able to be taught through the medium of Welsh is a statutory right for my children. You are bound in statute regardless of cost. Your desire to eradicate the Welsh language from Brecon High School is a false economy. The cost of transporting Welsh medium learners to alternative schools is astronomical. A lot has been spoken about parents moving children to Builth. In June 2015, when the stress of consultation forced my child to have a day of school, I met with the head of Brecon High School. I didn't feel there was not the quality of provision I wanted for my child. It is vital to ensure the new school maintains a Welsh medium stream for our children. You need to ensure that it is not only fit for purpose but it is the best it can possibly be and then I will move my child back to Brecon High School. I will fight every step of the way to ensure that provision and to ensure that the Welsh speaking community will continue to grow and strengthen. If we succeed in persuading you in your consultation response and report to Cabinet, I urge you to deal with the point that teachers travel between sites. There has been a personal cost to my 11 year old son. He was so stressed about the proposal to remove the Welsh medium stream from Brecon High School, he was sick. His move to Builth High School has meant a huge cost to my family. My son taking part in extra-curricular activities in Builth has meant I have been driving to Builth every night after a full day's work. Some parents will not do that. My son is getting a quality education and he is very happy at Builth High School but he is missing out due to the travelling. I implore you to work with us. We are here to strengthen the Welsh stream at Brecon High School if you allow it. Let your legacy be next Welsh speaking Lord Chief Justice and not the annihilation of the Welsh speaking community in Brecon.

25. I have been educated in the Welsh stream at Brecon High School. We are here to work with you and not fight against you. I don't feel as if you thought about our emotional feelings as well. I felt very unhappy about the pressure of moving. We go to Welsh youth club which you are about to close and that is the only place we can go to speak Welsh. If I had the opportunity to come back to Brecon High School with a strong Welsh stream, I would, because I was really happy here.

Response

There will be further consultation with pupils.

Response

In relation to the finance aspect – in terms of funding the school, we fund schools based on current pupil numbers. We do not fund schools ahead on projected numbers. We do not provide funding to

Neath Port Talbot for the Powys pupils attending Ysgol Ystalyfera unless the learner has a Statement of Special Educational Needs but we do fund the transport for qualifying pupils.

**26. 70 Welsh medium students from Powys are attending Ysgol Ystalyfera and Neath Port Talbot is getting that money when it could be here.**

Response

No the only circumstance that Powys would pay another local authority for education provision for a Powys pupil is where a pupil with special educational needs and a statement is in a specialist placement in another local authority area. Then Powys would pay to support that placement.

**27. If you take the decision to close the Welsh stream our child will be forced to go to Ystalyfera to continue with Welsh medium education. Children who are currently travelling from Sennybridge to Ystalyfera for Welsh medium education are traveling on a public service bus. The bus travels at fast speeds in the winter. If the Welsh stream at Brecon High School closes, we want to be assured that there will be a designated bus for those learners and that seat belts will be provided. We would prefer our child to come to Brecon High School. It is impossible for Powys children attending school in Ystalyfera to maintain social friendships with children from Swansea and Neath who attend that school. There are advantages of a bilingual school. In Sennybridge School, the standard of Welsh of the children in the English stream is at an extremely high level when they transfer to Secondary school. Being in a bilingual school is a huge advantage for them. It would be a disadvantage for the English medium pupils here if they lose Welsh stream in Brecon High School.**

Response

I cannot give you an assurance that there will be dedicated transport for Powys pupils travelling to Ysgol Ystalyfera because the Authority has to make the most efficient transport provision and does use public service buses where available.

**28. I have heard that there have been occasions when there has been insufficient space on the bus for all the children to have a seat and they have had to stand all the way from Sennybridge to Ystalyfera.**

**29. The children are not supervised on the public service bus. It not a safe way for them to travel.**

**30. There may be members of the public on the bus who don't want to be sharing the bus with school children.**

**31. I am a parent of children in Ysgol y Bannau and Brecon High School. I would like to revisit the question raised at the last consultation. Don't you consider that paying for transport to other schools is predetermination? How is paying for transport provision to other schools before the outcome of consultation is known not predetermination?**

Response

It is not predetermination. We did not automatically offer those parents transport. It was the decision of the Transport Appeal process to award transport. I was not prepared for other officers or myself to take a decision which would have impact on the numbers in the school so the decision was referred to the Appeals Committee. We needed to follow the process.

**32. Someone in the Council had a role in taking that decision.**

**33. You are not supporting our local area by doing that.**

**34. Are you still funding transport for new pupils to Ysgol Ystalyfera?**

Response

Appeals have been refused on the basis that there is closer provision in Builth. Appeals heard last year were for learners living in the Sennybridge area. The previous transport appeal were heard a number of years ago.

**35. So the Authority is no longer supporting transport of pupils to Ystalyfera from the Brecon area?**

**36. The Authority turned down funding for transport to Ystalyfera on the grounds that there was closer Welsh medium provision in Builth but the closest Welsh medium provision for Welsh medium learners in Sennybridge is Brecon High School.**

**37. That decision is an example of predetermination.**

**38. What were the critical elements which meant that the proposal to close the Welsh stream in Brecon High School wasn't abandoned like the other proposals?**

Response

The low numbers in the Welsh stream and lack of continuity.

**39. Can you state how you will meet Welsh Government targets of 25% of the Welsh population being Welsh speakers by 2050?**

Response

We look forward to having a strong progression so pupils can see where they can go from early years to primary, to Secondary and then to post 16 through the medium of Welsh. We feel pupils will choose to study through the medium of Welsh if they can see that progression and that numbers of Welsh medium learners will increase but we understand that that is not the view in this community.

**40. You are going to see the detriment of this decision for longer than 3 years.**

**41. You postponed consideration of the Welsh medium element because you wanted to consider it at same time as the mid Powys proposal. It is not clear where Welsh medium provision will be sited if the mid Powys proposal is approved although you state that the preference is for Welsh medium provision to be in the Builth area.**

Response

The proposal for Llandrindod and Builth is for a dual-sited Secondary school with Welsh medium provision being delivered from the site in Builth.

**42. But there are no guarantees?**

Response

The statutory objection period in respect of the proposal for Llandrindod and Builth finishes a week today. Following the end of the objection period an objection report will be submitted to the Council's Cabinet for a final decision. When Cabinet consider the objection report will depend on the number of objections received but we expect Cabinet to consider the report sometime early in the New Year.

#### **43. Cllr Gillian Thomas**

There has always been a thriving Welsh medium cohort in Brecon High School. This is the third consultation in relation to the proposal for the Welsh medium stream. You have said that the proposal is to remove the Welsh medium stream from Brecon High School and to centre Welsh medium provision in Builth but Powys County Council has a responsibility under the Welsh Language Measure to provide services through the language of choice. It has a responsibility to provide Welsh medium schooling if that is what parents want. Does it meet those requirements if you add travel time for Welsh medium learners? It is 18 miles from Sennybridge to Brecon and a further 20 miles to Builth. That is not meeting our responsibility under the Measure. We are failing the people of Brecon in providing Welsh medium education to the people of Brecon. It is the uncertainty that has created the drift of Welsh medium learners away from Brecon High School. If you don't do the consultations properly that is the problem. You need to get consultation right in the first place.

#### **44. Question from pupil**

I am dyslexic and attend extra classes after school. How could I do that if I have to rely on school transport to and from Builth? Also what would you do about wheelchair access on school transport?

#### Response

In terms of school transport the needs of individual learners will be taken into account. If there was a learner who needs specific transport arrangements, those would be made.

#### Response

It would be difficult to provide additional support after school if parents are not able to provide transport but we would expect the school to provide you with the support you need.

**45. In the consultation document it says from 1<sup>st</sup> September, 2017, there will be no Welsh medium provision for pupils in years 7, 8, 9 and 10 and that consideration will be given for Welsh medium provision for learners in Year 11 to September, 2018. When the children arrive at end of Key Stage 3 in Welsh 1<sup>st</sup> language, they are assessed and given a grade. What will happen to those children this year who get that grade? Will they have to do 2<sup>nd</sup> language Welsh?**

#### Response

As an Authority we need to ensure those pupils in year 9 can study 1<sup>st</sup> language Welsh.

#### **46. How will you deal with the next two years in years 10 and 11?**

#### Response

We will make the commitment that those learners starting in year 9 who have taken that assessment will be allowed to study Welsh first language in key stage 4 at the school.

**47. Why weren't facilitators used for this consultation as for the previous consultation on the Gwernyfed/Brecon High School proposal?**

#### Response

Minutes are being taken of tonight's meeting. We did hire facilitators last time as we were carrying out a large scale consultation that included four high schools, plus a number of primary schools. The facilitators were brought in to carry out the task of analysing responses. That is not to say that this consultation is any way less important than that consultation. ORS was brought in to support the authority in analysing the responses to the previous consultation. We were expecting a large number of responses and officers only had 13 weeks to bring back a consultation report to Cabinet but this consultation is exactly the same status as the previous consultation.

**48. When you submitted the business case for funding for the new school to Welsh Government were they aware of your proposal to remove Welsh medium provision from this site?**

Response

Welsh Government are aware that this was the proposal we were going out to consult upon.

**49. You have already decided to raise the school admission age. I cannot guarantee that Ysgol y Bannau will make the changes.**

**50. The wheel keeps turning and nothing gets done. Why aren't we more forward- thinking? Where are you going to get the Welsh teachers from? You need to have peripatetic teachers. Is it necessary to be bussing children when there could be a hub in Brecon which could be a centre of excellence? If the hub was in Brecon use could be made of modern technology to present lessons to students.**

**51. International learning is taking place. The woman who lives next door to me teaches students in Saudi Arabia and USA and has no trouble whatsoever. You are misusing the English language in saying this is a consultation.**

**52. This is a presentation and not consultation. It is a publicity stunt. You are taking Welsh medium education away from Brecon - the second biggest town in Powys. Who dreamt up this proposal? Where is the sympathy, respect and tolerance for a language that has been in existence for 2000 years? It is being treated like a football! The problem is money. What is the total budget for education in Powys?**

Response

Approximately £100m

**53. How much goes on administration? £30m at least! You should be ashamed of yourselves supporting this proposal! The people here care about the language. It is official Welsh policy and all you are trying to do is cultural cleansing in this part of Powys!**

**54. Parent of pupil in Brecon High School and governor of Ysgol y Bannau**

I think in all the talk about linguistic continuity and pupil numbers it has been forgotten that a school is part of its community. That is something which should not be forgotten. Brecon High School is an important part of community. It is the life blood of community. The Welsh stream is an important part of the Brecon High school community and is the life blood of the school. You are forgetting community. By taking Welsh stream away from the school, you don't just remove it from school, you remove it from the community. It will mean a death blow to Welsh in the community. What I am saying is we, as a Welsh community, who want to see the Welsh language survive in this community, would like you to listen to us. Please would you listen to us this time?

Response

The support for the Welsh language in Brecon has come through in these meetings.

**55. As Chair of the governing body at Brecon High School, I want it to remain a bilingual school in future when have new school. In November 2011, Powys County Council mooted the idea of the school becoming 2b status but there was no financial help. How can you expect the school to come up to 2b status without financial support? The cost of transporting Welsh medium learners to Ystalyfera and Builth is £100K. Brecon High School currently receives £58K to deliver Welsh medium education. To bring the school up to 2b status would cost £47K. It is costing the Authority more to**

transport pupils to Builth and Ystalyfera than to bring this school up to 2b status. If you gave us the funding that the Welsh stream requires then we wouldn't be here today. It is a damning indictment on the Authority as a whole. We don't want Welsh medium learners to have to travel. We want them to receive Welsh medium education here. On page 31, paragraph 8.1, it says that implementation of the proposal would save the Authority £58,475. Is this actually correct? Should you be able to do this consultation if the facts and figures in the consultation document are not right? We are going to fight to retain Welsh medium education in this school.

Response

The figures are accurate. In terms of 2b funding we don't have a formula for this. We don't provide funding ahead of provision. If the Welsh stream was moved from Brecon High School it would save £58K.

Response

The consultation report going to cabinet will include the cost of school transport including the cost of provision already being provided.

**56. It is ridiculous to expect the school to get up to 2b status without having the money to do so. It does not add up. Unless the school has the money to bring in staff to deliver the Welsh medium education we cannot bring the school up to 2b status. We needed that money to enable the school to employ teachers to bring the school up to 2b status. How did you expect us to do this? This is why Powys County Council is in a mess because of ideas like this.**

**57. Why do you budget forward the transport costs but not the education costs?**

Response

Once a decision has been made, we have to put that funding provision in place.

Response

Schools have always been funded school based on numbers prior to the start of the financial year using January PLASC data for funding. That is process that has been followed since Local Management of Schools.

**58. Rob Broadbridge – Headteacher**

- **My thanks for the commitment of parents and pupils who are still in the Welsh medium stream and who are helping to make sure it still has a future. We are trying to do as much as we can with that Welsh medium provision.**
- **One thing done in previous consultations was to criticise the school on the basis of standards. Standards are now one of the best in the whole of the county and that is down to the commitment of staff and partly due to the commitment to the Welsh medium stream.**
- **Welsh 2<sup>nd</sup> language standards have increased due to the contribution of the Welsh 1<sup>st</sup> language stream.**
- **Little has been said about Ysgol y Bannau but I am very worried about the future of Ysgol y Bannau if this proposal goes through. If the decision is taken to remove the Welsh medium stream from Brecon High School, it is one-way decision and the Welsh stream would never be reinstated.**
- **We are already talking about the new school building and we don't know if it is going to have a Welsh stream or not. How can I be expected to make a commitment to plans when we don't know whether there will be Welsh medium provision? The decision should have been made ages ago.**

- **At a meeting with parents of pupils at Ysgol y Bannau a year ago, I made a commitment to increase Welsh medium curriculum provision. The money was found to increase Welsh medium provision for that year. I hope that is an indication of my commitment to Welsh medium provision. I want you to understand the impact this whole process has had on this community, on me, and on staff, pupils, and parents. You have to make the right decision and it is clear the right decision is to continue with Welsh medium provision. Fund it so that it is viable make it and so that I can provide the curriculum, recruit staff and support their professional development. Next week, I hope to have positive news about this school and I hope to build on that. All of this is making it very hard for me to achieve the very best education and high standards so that our current students get the same opportunities in future.**
- **You have got to create an opportunity for the Welsh stream in Brecon High School to be viable in terms of numbers. How can we get the learner numbers we need to ensure viability of the Welsh stream? I would question the response you gave in relation to the minimum number of learners needed to make the Welsh stream viable.**
- **We have been criticised about breadth of Welsh medium curriculum provision as compared to Builth High School. Builth provides 12 subjects through the medium of Welsh at Key Stage 3, whereas Brecon High School provides 6. The reason Brecon High School only offers 6 subjects is down to learner numbers. I can't justify having full breadth of provision because of the number of Welsh medium learners. Give us the numbers and we will ensure the breadth of Welsh medium provision. Thank you to everyone tonight for their contributions.**

#### Response

On behalf of Ian Roberts, who cannot be here tonight, I applaud the school on its improvement journey which we all hope will continue. I think there is a slightly different context compared to previous consultations. A new school build is on its way and standards at the school are improving and this needs to be taken into account when Cabinet members taken their decision.

59. I would like to finish on a positive note. I am Chair of the Governing Body at Ysgol y Bannau. We want to work with you and we have options to offer you. We have able people in this room. We are here and ready to give of our time to keep the Welsh medium stream here and to expand Welsh medium provision here and in Builth High School. We need investment or we will be back to Ysgol y Bannau being just in one room. On behalf of Ysgol y Bannau, you haven't contacted us about the Welsh stream in in this school. There has been a decrease in the number of Welsh medium learners and we want to work with you to increase the number so please speak to us. Hopefully, a decision will be taken to retain the Welsh stream in this school. As Chair of Governors, I would like a copy of the minutes to be sent to me.

*Cllr Arwel Jones thanked all present for attending the meeting.*



# **Proposal to close the Welsh-medium stream at Brecon High School**

## **Appendix D – Impact Assessments**

### **Updated following consultation**

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**Impact Assessment (IA)**

*The integrated approach to support effective decision making*

**1. Integrated Impact Assessment**

This **Impact Assessment (IA)** toolkit incorporating Welsh Language, Equalities, Well-being of Future Generations Act, Sustainable Development Principles, Communication and Engagement, Safeguarding, Corporate Parenting, Community Cohesion and Risk Management supporting effective decision making and ensuring compliance with respective legislation.

<b>Service Area</b>	Schools Service	<b>Head of Service</b>	Ian Roberts	<b>Strategic Director</b>	Jeremy Patterson	<b>Portfolio Holder</b>	Cllr Arwel Jones
<b>Policy / Change Objective / Budget Saving</b>	School Transformation Policy						
<b>Outline Summary</b>							
This Impact Assessment relates to a proposal to close the Welsh-medium stream at Brecon High School.							

1. Version Control (services should consider the impact assessment early in the development process and continually evaluate)

Version	Author	Job Title	Date
1	Sarah Astley	Project Manager, Schools Transformation	10/11/16
2	Sarah Astley	Project Manager, Schools Transformation	27/02/17

2. How does your policy / change objective / budget saving impact on the council’s strategic vision?

Council Priority	How does the policy / change objective impact on this priority?	<u>Inherent Judgement</u> Please select from drop down box below	What will be done to better contribute to positive or mitigate any negative impacts?	<u>Residual Judgement</u> Please select from drop down box below	Source of Outline Evidence to support judgement

Tudalen 982

Tudalen 983

<p><b>Supporting people in the community to live fulfilled lives</b></p>	<p>Implementation of the proposal would mean that no secondary Welsh-medium provision would be provided in Brecon, therefore additional travel would be required for pupils in order to attend Welsh-medium provision. This could impact on the ability of pupils to access extra-curricular activities, particularly where these take place after school. In addition, the additional travel could impact on pupils' ability to take part in other activities in the community when they return from school.</p> <p>Whilst home to school transport would be provided to pupils in accordance with the council's policy, it is acknowledged that there would be additional travel and time pressures on parents to collect children from activities or to attend meetings and other activities at the school.</p>	<p>Poor</p>	<p>The alternative schools pupils would be expected to attend should the proposal be implemented already serve large catchment areas and are experienced in meeting the needs of pupils who are reliant on home to school transport.</p> <p>Should the proposal be implemented, the authority would work with the alternative schools to ensure that pupils reliant on home to school transport are not disadvantaged compared with other pupils at the school, and that an appropriate range of extra-curricular activities is available to them. This could mean providing access to activities during lunchtime instead of after school. However it is acknowledged that it would not be possible to totally mitigate the impact on pupils and their families.</p>	<p>Poor</p>	<p>Consultation Document / Consultation Report</p>
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Tudalen 984

<p><b>Developing the economy</b></p>	<p>During the consultation period, concern was expressed that implementation of the proposal would lead to a reduction in Welsh speakers locally and would make it more difficult for employers such as the Brecon Beacons National Park to recruit Welsh speakers.</p>	<p>Neutral</p>	<p>Should the proposal be implemented, Welsh-medium pupils would attend alternative provision where they would be part of a larger cohort of Welsh-medium learners, and would receive an increased level of subject provision through the medium of Welsh. This would enable them to continue to develop their Welsh language skills through their time in secondary school, and are better equipped to use Welsh in the workplace when they leave education.</p> <p>Should the proposal be implemented, the authority would work with organisations such as Menter Brycheiniog a Maesyfed and Mudiad Meithrin to promote Welsh-medium education in the Brecon area, to ensure that pupils in the Brecon area continue to access Welsh-medium education to ensure that local employers can recruit Welsh speaking employees in the future.</p>	<p>Good</p>	<p>Consultation Document / Consultation report</p>
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Tudalen 985

<p><b>Improving learner outcomes for all, minimising disadvantage</b></p>	<p>The proposal aims to provide access to improved Welsh-medium secondary provision in mid and south Powys.</p> <p>Since the start of the consultation period, Brecon High School has been removed from Special Measures. However, the number of pupils accessing the stream remains very small. Builth Wells High School remains in Special Measures, however it is showing signs of improvement. Estyn’s response to the consultation document concluded: ‘the proposer appears to have suitably demonstrated that, given the small numbers of pupils in the Welsh medium stream, that overall the proposal is likely to at least maintain the current standards of education in the area.’</p> <p>Concern was expressed during the consultation period that pupils from low income families would be disadvantaged and would be unable to continue to access Welsh-medium provision should the proposal be implemented. Whilst home to school transport would be provided to all eligible pupils, concern was expressed about the impact on families and the additional travel costs required in order to attend activities at the alternative schools.</p>	<p>Neutral</p>		<p>Neutral</p>	<p>Consultation Document / Consultation Report</p>
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*The integrated approach to support effective decision making*

Tudalen 986

<p><b>Remodelling council services to respond to reduced funding</b></p>	<p>The proposal will provide better value for money for the council in the long term, by ensuring more equitable distribution of funding.</p> <p>The current number of pupils attending the Welsh-medium stream at Brecon High School is small. Closure of the stream and centralising provision for mid and south Powys in Builth Wells would ensure that provision was delivered in a more cost effective manner.</p>	<p>Good</p>		<p>Good</p>	<p>Consultation Document / Consultation Report</p>
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3. How does your policy / change objective / budget saving impact on the Welsh Assembly’s well-being goals?

<p><b>Well-being Goal</b></p>	<p><b>How does the policy / change objective contribute this goal?</b></p>	<p><b><u>Inherent Judgement</u></b> Please select from drop down box below</p>	<p><b>What will be done to better contribute to positive or mitigate any negative impacts?</b></p>	<p><b><u>Residual Judgement</u></b> Please select from drop down box below</p>	<p><b>Source of Outline Evidence to support judgement</b></p>
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Tudalen 987

<p><b>A prosperous Wales:</b></p> <p>An innovative, productive and low carbon society which recognises the limits of the global environment and therefore uses resources efficiently and proportionately (including acting on climate change); and which develops a skilled and well-educated population in an economy which generates wealth and provides employment opportunities, allowing people to take advantage of the wealth generated through securing decent work.</p>	<p>The proposal will provide better value for money for the council in the long term, by ensuring more equitable distribution of funding.</p> <p>During the consultation period, concern was expressed that implementation of the proposal would lead to a reduction in Welsh speakers locally and would make it more difficult for employers such as the Brecon Beacons National Park to recruit Welsh speakers.</p> <p>In addition, concern has been expressed about the environmental impact of increased reliance on home to school transport.</p>	<p>Neutral</p>	<p>Should the proposal be implemented, WM pupils would attend alternative provision where they would be part of a larger cohort of WM learners, and would receive an increased level of subject provision through the medium of Welsh. This would enable them to continue to develop their Welsh language skills through their time in secondary school, and are better equipped to use Welsh in the workplace when they leave education.</p> <p>The authority would work with organisations such as Menter Brycheiniog a Maesyfed and Mudiad Meithrin to promote WM education in the Brecon area, to ensure that pupils in the area continue to access WM education to ensure that local employers can recruit Welsh speaking employees in the future.</p> <p>It is acknowledged that additional travel would have an environmental impact. However transport to alternative providers is already provided, therefore the additional transport that would be required would be minimal.</p>	<p>Good</p>	<p>Consultation document / Consultation report</p>
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Tudalen 988

<p><b>A resilient Wales:</b></p> <p>A nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change).</p>	<p>Concern has been expressed about the environmental impact of increased reliance on home to school transport, and the potential impact of increases in Welsh-medium pupil numbers in the future.</p>	<p>Poor</p>	<p>A large number of secondary Welsh-medium pupils from the Brecon catchment area are already travelling to alternative schools due to parental choice, and transport is provided by the authority, therefore the additional transport that would be required would be minimal. However, it is acknowledged that the transport required could increase in the future should there be an increase in Welsh-medium pupil numbers from the Brecon area.</p>	<p>Neutral</p>	<p>Consultation document / Consultation report</p>
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Tudalen 989

<p><b>A healthier Wales:</b></p> <p>A society in which people’s physical and mental well-being is maximised and in which choices and behaviours that benefit future health are understood.</p>	<p>Implementation of the proposal would involve additional travel for Welsh-medium pupils, which could have a negative impact on their well-being.</p> <p>In addition, reliance on home to school transport could impact on pupils’ ability to take part in sports activities in the community outside school.</p>	<p>Poor</p>	<p>A large number of pupils from the Brecon catchment have already chosen to travel to alternative provision instead of attending the Welsh-medium stream at Brecon High School. The number of pupils accessing the Welsh-medium stream at Brecon High School is very small, and the authority’s view is that the very small class sizes are not providing an appropriate educational experience for pupils.</p> <p>Should the proposal be implemented, the authority would work with the alternative schools to ensure that pupils reliant on home to school transport are not disadvantaged compared with other pupils at the school, and that an appropriate range of extra-curricular activities is available to them. This could mean providing access to activities during lunchtime instead of after school. However it is acknowledged that it would not be possible to totally mitigate the impact on pupils.</p>	<p>Neutral</p>	<p>Consultation document / Consultation report</p>
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Tudalen 990

<p><b>A Wales of cohesive communities:</b></p> <p>Attractive, viable, safe and well-connected Communities.</p>	<p>Implementation of the proposal would mean that no secondary Welsh-medium provision would be provided in Brecon, therefore there would be additional travel required for pupils in order to attend Welsh-medium provision. This could impact on the ability of pupils to access extra-curricular activities, particularly where these take place after school. In addition, the additional travel could impact on pupils' ability to take part in other activities in the community when they return from school.</p> <p>Concern has also been expressed that pupils living in the Brecon community but attending school elsewhere would be less integrated into the Brecon community by not attending school in Brecon.</p>	<p>Poor</p>	<p>The alternative schools pupils would be expected to transfer to already serve large catchments and are experienced in meeting the needs of pupils who are reliant on home to school transport.</p> <p>Should the proposal be implemented, the authority would work with the schools to ensure that pupils reliant on home to school transport are not disadvantaged compared with other pupils at the school, and that an appropriate range of activities is available to them. This could mean providing activities during lunchtime instead of after school. However it is acknowledged that it would not be possible to totally mitigate the impact on pupils and their families.</p> <p>BW High School already serves a large catchment area, and has links with town and villages across the area. Should the proposal be implemented, the school / the new Mid Powys Secondary School would aim to establish links within the Brecon community, initially by strengthening links with Ysgol y Bannau.</p>	<p>Neutral</p>	<p>Consultation document / consultation report</p>
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**Impact Assessment (IA)**

*The integrated approach to support effective decision making*

Tudalen 991

<p><b>A globally responsible Wales:</b></p> <p>A nation which, when doing anything to improve the economic, social, environmental and cultural well-being of Wales, takes account of whether doing such a thing may make a positive contribution to global well-being.</p>	<p>The authority’s view is that the proposal seeks to improve the opportunities available for Welsh-medium learners in mid and south Powys, and that the proposal has the best interests of the child at heart. However, concern has been expressed about the proposal’s impact on pupil well-being due to the additional travel that would be required and the impact on the ability of pupils to access after-school activities.</p> <p>The authority met with pupils during the consultation period, and Cabinet will give full consideration to their views when determining how to proceed.</p>	<p>Good</p>		<p>Good</p>	<p>Consultation document / consultation report</p>
<p><b>A Wales of vibrant culture and thriving Welsh language:</b> A society that promotes and protects culture, heritage and the Welsh language, and which encourages people to participate in the arts, and sports and recreation.</p>					

Tudalen 992

<p><i>Opportunities for persons to use the Welsh language</i></p>	<p>The number of pupils accessing the Welsh-medium stream at Brecon High School is very small, which limits the Welsh-medium opportunities the school can provide for these pupils. Implementation of the proposal would mean that pupils would be able to access greater level of Welsh-medium provision, would be part of a larger group of Welsh-medium learners and would benefit from increased opportunities to use Welsh.</p> <p>Brecon High School would continue to teach Welsh as a Second Language and would be expected to provide appropriate opportunities for pupils to use their Welsh outside the classroom.</p> <p>Concern has been expressed that closure of the stream would lead to a reduction in the number of pupils accessing Welsh-medium provision in the Brecon area. The following risks are also identified by the authority in the consultation document:</p> <ul style="list-style-type: none"> <li>i) Pupils choose to attend English-medium secondary provision instead of continuing to access Welsh-medium provision on transfer to secondary school</li> <li>ii) Pupil numbers at Ysgol y Bannau decrease due to the lack of Welsh-medium secondary provision at Brecon.</li> </ul>	<p>Good</p>	<p>The authority has provided risk management measures in respect of the risks outlined in the consultation document. These are as follows:</p> <ul style="list-style-type: none"> <li>i) Retaining pupils within the Welsh-medium sector is one of the Welsh Government’s priorities, and the authority will work with the primary schools concerned to establish transition links with the alternative providers with the aim of reversing any reduction in transfer rates into KS3 in the longer term</li> <li>ii) Work with Ysgol y Bannau, Menter Brycheiniog and other organisations to promote the benefits of Welsh-medium primary education in the Brecon area.</li> </ul>	<p>Good</p>	<p>Consultation document / consultation report</p>
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**Impact Assessment (IA)**

*The integrated approach to support effective decision making*

Tudalen 993

<p><i>Treating the Welsh language no less favourable than the English language</i></p>	<p>Should the proposal be implemented, there would no Welsh-medium secondary provision in Brecon – pupils wishing to access Welsh-medium secondary provision would need to travel to access provision elsewhere.</p> <p>Concern has been expressed during the consultation period that the council is treating the Welsh language less favourably than the English language, and that the proposal is discriminating against the Welsh language.</p> <p>However, the number of pupils accessing the Welsh-medium stream at Brecon High School has decreased in recent years as parents have chosen for their children to attend alternative provision. As a result, the level of Welsh-medium provision available at Brecon High School has decreased, and the Welsh-medium provision currently provided is limited. The authority’s view is that the current situation does not provide equality for Welsh-medium pupils, and does in fact treat the Welsh language and Welsh-medium education less favourably than the English language / English-medium education</p>	<p>Good</p>	<p>N/A</p>	<p>Good</p>	<p>Consultation document / consultation report</p>
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Tudalen 994

<p><i>Opportunities to promote the Welsh language</i></p>	<p>Should the proposal be implemented, there would be no Welsh-medium secondary provision in Brecon. However Ysgol y Bannau would continue to provide primary Welsh-medium provision in the town.</p> <p>In contrast to other Welsh-medium schools in Powys, pupil numbers at Ysgol y Bannau have remained fairly stagnant over recent years. It is hoped that greater clarity and a greater level of Welsh-medium provision in the secondary provision will provide a new opportunity to promote Welsh-medium education in the area, and the authority will work in partnership with organisations such as Menter Brycheiniog a Maesyfed to do this.</p>	<p>Good</p>	<p>N/A</p>	<p>Good</p>	<p>Consultation document / consultation report</p>
<p><i>Welsh Language impact on staff</i></p>	<p>It is acknowledged that the proposal could impact on staff currently teaching through the medium of Welsh at Brecon High School.</p>	<p>Poor</p>	<p>If a decision is made to proceed with the proposal, any implications for changes to staff employment will be taken forward by the school in accordance with the authority's Management of Change procedures.</p>	<p>Poor</p>	<p>Consultation document / consultation report</p>

Tudalen 995

<p><i>People are encouraged to do sport, art and recreation.</i></p>	<p>Implementation of the proposal would involve additional travel for Welsh-medium pupils via home to school transport, which could impact on their ability to take part in extra-curricular activities, especially where these take place after school. In addition, the reliance on home to school transport could impact on pupils' ability to take part in sport, art and recreation outside school.</p>	<p>Poor</p>	<p>The alternative schools pupils would be expected to transfer to already serve large catchments and are experienced in meeting the needs of pupils who are reliant on home to school transport.</p> <p>Should the proposal be implemented, the authority would work with the schools to ensure that pupils reliant on home to school transport are not disadvantaged compared with other pupils at the school, and that an appropriate range of activities is available to them. This could mean providing activities during lunchtime instead of after school. However it is acknowledged that it would not be possible to totally mitigate the impact on pupils and their families.</p>	<p>Poor</p>	<p>Consultation document / consultation report</p>
<p><b>A more equal Wales:</b> A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio economic background and circumstances).</p>					
<p><i>Age</i></p>	<p>Please see separate Equality Impact Assessment</p>	<p>Choose an item.</p>		<p>Choose an item.</p>	
<p><i>Disability</i></p>	<p>As above</p>	<p>Choose an item.</p>		<p>Choose an item.</p>	
<p><i>Gender reassignment</i></p>	<p>As above</p>	<p>Choose an item.</p>		<p>Choose an item.</p>	

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Tudalen 996

<i>Marriage or civil partnership</i>	As above	Choose an item.		Choose an item.	
<i>Race</i>	As above	Choose an item.		Choose an item.	
<i>Religion or belief</i>	As above	Choose an item.		Choose an item.	
<i>Sex</i>	As above	Choose an item.		Choose an item.	
<i>Sexual Orientation</i>	As above	Choose an item.		Choose an item.	
<i>Pregnancy and Maternity</i>	As above	Choose an item.		Choose an item.	
<i>Equality Impact on PCC Staff</i>	As above	Choose an item.		Choose an item.	

4. How does your policy / change objective / budget saving impact on the council’s other key guiding principles?

<b>Principle</b>	<b>How does the policy / change objective impact on this principle?</b>	<b><u>Inherent Judgement</u></b> Please select from drop down box below	<b>What will be done to better contribute to positive or mitigate any negative impacts?</b>	<b><u>Residual Judgement</u></b> Please select from drop down box below	<b>Source of Outline Evidence to support judgement</b>
<b>Sustainable Development Principle</b>					



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Tudalen 997

<p><b>Long Term:</b> <i>The importance of balancing short-term needs with the need to safeguard the ability to also meet long-term needs.</i></p>	<p>This proposal will provide better value for money for the council in the long term, by ensuring more equitable distribution of funding.</p> <p>Pupils will be able to access Welsh-medium provision in alternative schools which offer more Welsh language provision for pupils, and Brecon High School would be able to run more efficiently as a single stream school.</p>	<p>Good</p>		<p>Good</p>	
<p><b>Collaboration:</b> <i>Acting in collaboration with any other person (or different parts of the body itself) that could help the body to meet its well-being objectives.</i></p>	<p>Should the proposal be implemented, Ysgol y Bannau would become a feeder school for Builth Wells High School / the new Mid Powys Secondary School. Strong links would be established between the two schools, to ensure effective transition arrangements for pupils and to ensure the well-being of all pupils.</p>	<p>Neutral</p>		<p>Neutral</p>	
<p><b>Involvement:</b> <i>The importance of involving people with an interest in achieving the well-being goals, and ensuring that those people reflect the diversity of the area which the body serves.</i></p> <p><b>Communication and Engagement</b></p>	<p>Full consultation on the proposal has taken place in accordance with the School Organisation Code which has given all interested parties the opportunity to submit their views on the proposal. All views expressed during the consultation period will be taken into consideration by Cabinet when determining how to proceed in relation to the proposal.</p>	<p>Neutral</p>		<p>Neutral</p>	

**Impact Assessment (IA)**

*The integrated approach to support effective decision making*

Tudalen 998

<p><b>Prevention:</b> <i>How acting to prevent problems occurring or getting worse may help public bodies meet their objectives.</i></p>	<p>The number of pupils currently accessing the Welsh-medium stream at Brecon High School is small. As a result the Welsh-medium opportunities available to pupils are limited, and do not meet the aspirations of the council's Welsh in Education Strategic Plan (WESP).</p> <p>Should the proposal be implemented, pupils would be able to access a greater level of Welsh-medium provision in alternative schools, and Brecon High School would be able to run more efficiently as a single stream school.</p>	<p>Good</p>		<p>Good</p>	
<p><b>Integration:</b> <i>Considering how the public body's well-being objectives may impact upon each of the well-being goals, on their other objectives, or on the objectives of other public bodies.</i></p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	

Tudalen 999

<p><b>Preventing Poverty:</b></p> <p>Prevention, including helping people into work and mitigating the impact of poverty.</p>	<p>Free transport will be provided to all qualifying pupils to their closest alternative provider.</p> <p>However, concern has been expressed that implementation of the proposal would mean that it would be more difficult for pupils from lower income backgrounds to access Welsh-medium education due to the additional travel that would be required of parents in order to attend activities at the school, or to collect pupils from after school activities.</p>	<p>Poor</p>	<p>Should the proposal be implemented, free home to school transport would be provided to all eligible pupils, regardless of their socio-economic background.</p> <p>The schools pupils would be expected to transfer to serve large catchment areas and are experienced in meeting the needs of pupils and families from a range of backgrounds.</p> <p>Should the proposal be implemented, the authority would work with the Headteacher and Governing Body of the named receiving school and other schools pupils may wish to transfer to, to ensure that participation in all school activity is maximised for all learners and their families. However, it is acknowledged that it would not be possible to totally mitigate the impact on pupils and their families.</p>	<p>Neutral</p>	
<p><b>Safeguarding:</b></p> <p>Preventing and responding to abuse and neglect of children, young people and adults with health and social care needs who can't protect themselves.</p>	<p>Safeguarding is of the utmost importance and safeguarding measures are in place in any other school pupils may wish to transfer to.</p>	<p>Neutral</p>		<p>Neutral</p>	

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Tudalen 1000

<p><b>Corporate Parenting:</b> Enabling our looked after children to fulfil their potential.</p>	<p>The authority has no concerns about looked after children moving to any of the other schools they may wish to transfer to.</p>	<p>Neutral</p>		<p>Neutral</p>	
<p><b>Impact on Workforce</b></p>	<p>Staff at Brecon High School may be adversely affected by the proposal. In addition, it is possible that the proposal would have an adverse impact on staff at Ysgol y Bannau, should pupil numbers reduce significantly as a result of the proposal.</p>	<p>Poor</p>	<p>Staff with 2 years or more continuous service would be entitled to a redundancy payment. The authority will also attempt to identify alternative employment for staff through the redeployment process.</p>	<p>Neutral</p>	

5. Achievability of Policy / Change Objective / Budget Saving?

Impact on Service / Council	Deliverability of Policy / Change Objective / Budget Saving	Inherent Risk
<p>Low</p>	<p>Low</p>	<p>Low</p>

6. What are the risks to service delivery or the council following implementation of this Policy / Change Objective / Budget Saving?

Description of risks
<p>Risks associated with this proposal are outlined in the consultation document, along with risk management measures. The risks that have been identified in relation to this proposal are:</p> <ol style="list-style-type: none"> <li>1 Pupils choose to attend English-medium secondary provision instead of continuing to access Welsh-medium provision on transfer to secondary school</li> <li>2 Pupil numbers at Ysgol y Bannau decrease due to the lack of Welsh-medium secondary provision at Brecon</li> <li>3 The alternative schools are unable to accommodate additional pupils</li> </ol>

**Impact Assessment (IA)**

*The integrated approach to support effective decision making*

4 Additional travel has an adverse impact on pupil well-being and attainment			
<b>Judgement (to be included in service risk register)</b>			
<b>Very High Risk</b>	<b>High Risk</b>	<b>Medium Risk</b>	<b>Low Risk</b>
			X
<b>Mitigating Actions</b>			<b>Residual Risk</b>
Risk management measures in respect of each individual risk are provided in the consultation document.			Choose an item.
			Choose an item.
			Choose an item.
<b>Does the Policy / Change Objective / Budget Saving have potential to impact on another service area?</b>			
No			

Tudalen 1001

7. Overall Summary and Judgement of this Impact Assessment?

<b>Outline Assessment (to be inserted in cabinet report)</b>	<b>Cabinet Report Reference:</b>	
The proposal aims to provide improved Welsh-medium provision for pupils living in mid and south Powys, and aims to establish a sustainable provision which can be further developed in the future. The negative impact of the proposal is related to additional travel requirements for learners and potential difficulties with accessing after school activities.		

8. Is there additional evidence to support the Impact Assessment (IA)?

<b>What additional evidence and data has informed the development of your proposal?</b>
Consultation document, consultation report

9. On-going monitoring arrangements?

<b>What arrangements will be put in place to monitor the impact over time?</b>
<p>The School Transformation Programme Board is responsible for overseeing the strategic direction of the modernisation agenda: setting direction, implementing change, monitoring and reporting to the Cabinet of the Council.</p> <p>Equality monitoring will form an integral part of the County Council’s arrangements for any school reorganisation and will be undertaken where a significant or material change in provision is proposed.</p> <p>The Head of Schools Service will be responsible for on-going monitoring.</p>
<b>Please state when this Impact Assessment will be reviewed.</b>
<p>If it is decided to proceed with the publication of Statutory Notices in respect of closure of the Welsh-medium stream at Brecon High School, the Impact Assessment will be reviewed if required to take account of any additional issues raised during the Objection Period.</p>

10. Sign Off

Position	Name	Signature	Date
<b>Service Manager:</b>	Marianne Evans	Marianne Evans	28/02/17
<b>Head of Service:</b>	Ian Roberts	Ian Roberts	01/03/17
<b>Strategic Director:</b>	Jeremy Patterson	Jeremy Patterson	
<b>Portfolio Holder:</b>	Arwel Jones	Arwel Jones	

### 3. Equalities Impact Assessment



#### /Equality Impact Assessment (EqIA) – Decision Assessment reporting template

This EqIA reporting template is designed to assist in the analysis of gathered data and evidence, to determine the equality impact of a proposal to change existing practices of a Council service. Once complete, the template should be made fully accessible to the public e.g. inclusion with publicly available Cabinet reports and/or publication on the Powys County Council website. For confidential matters, this should be made available once a decision has been taken.

***N.B. Please contact the Council's Organisational Development Officer (Equalities) early on in the process if you require advice to conduct an assessment.***

<b>Proposal</b>	To close the Welsh-medium stream at Brecon High School from the 31 <sup>st</sup> August 2017	<b>Lead Person undertaking the assessment</b>	Sarah Astley
<b>Service Area</b>	Schools Service	<b>Relevant Head of Service who has agreed this assessment</b>	Ian Roberts Head of Schools
<b>Date of Assessment</b>	November 2016 Updated 27 <sup>th</sup> February 2017		

The Equality Act 2010, requires that public sector organisations in the exercise of their functions, pay due regard to the following 'general duty':

- (a) Eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;**
- (b) Advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;**
- (c) Fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.**

*The protected characteristics include: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, marriage and civil partnership, sex and sexual orientation. This assessment also includes a consideration of impact upon people and communities whose language of choice is Welsh.*

The specific regulations for Wales [Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011] require public sector bodies to monitor relevant policy and practises and then assess and report on the impact based upon an analysis of relevant data and evidence.

Tudalen 1003

<b>1. AIM or PURPOSE</b>	
Briefly describe the aim or purpose of the change proposal being assessed.	<p>Powys County Council recently carried out consultation on the following:</p> <ul style="list-style-type: none"> <li>- To close the Welsh-medium stream at Brecon High School from the 31<sup>st</sup> August 2017, with Brecon High School becoming an English-medium school from the 1<sup>st</sup> September 2017.</li> </ul> <p>Should the Welsh-medium stream at Brecon High School close, Welsh-medium secondary provision for pupils who live in the catchment area currently served by the Welsh-medium stream of Brecon High School would be able to attend Builth Wells High School or their closest secondary Welsh-medium provision.</p> <p>From the 1<sup>st</sup> September 2018, all pupils wishing to access Welsh-medium secondary provision who live in the catchment area currently served by the Welsh-medium stream of Brecon High School would be able to access provision at the Builth Wells site of the New Mid Powys Secondary School or their closest Welsh-medium provision.</p>
<b>2. OBJECTIVES</b>	
Please state the current business objectives of the change proposal.	<p>The reasons why the authority is proposing to close the Welsh-medium stream at Brecon High School are:</p> <ul style="list-style-type: none"> <li>- Low pupil numbers in the Welsh-medium stream at Brecon High School</li> <li>- Need to ensure robust linguistic progression and appropriate curriculum choice for Welsh-medium pupils throughout all key stages</li> </ul>
<b>3. BENEFITS and OUTCOMES</b>	
i) What are the intended benefits or outcomes from the change proposal?	<p>The benefits of the proposal, as outlined in the consultation document, are:</p> <ul style="list-style-type: none"> <li>- Creation of a critical mass of Welsh-medium secondary learners in Mid / South Powys</li> <li>- Additional Welsh-medium opportunities to be provided to Welsh-medium pupils from Brecon through access to a wider range of Welsh-medium subjects</li> <li>- Would enable the development of increased Welsh-medium provision at post-16</li> <li>- A larger group of Welsh-medium pupils will enable Builth Wells High School to build on the progress already made in relation to developing Welsh-medium provision</li> <li>- An increased number of Welsh-medium pupils would enable Builth Wells High School to further develop its Welsh</li> </ul>



	<p>ethos</p> <ul style="list-style-type: none"> <li>- Social and emotional benefits to Welsh-medium pupils from being part of a larger group of Welsh-medium pupils</li> <li>- More opportunity for pupils to take part in extra-curricular activities through the medium of Welsh</li> <li>- More financially efficient model of delivery for secondary Welsh-medium provision in Mid and South Powys</li> <li>- Would enable Brecon High School to run more efficiently as a single stream school</li> <li>- Welsh-medium pupil numbers could grow to a point where a Welsh-medium secondary school could be considered viable</li> </ul>	
<b>4. CORPORATE RELEVANCE</b>		
How does this change proposal relate to the Powys Change Plan and/or Powys One Plan?	<p>The proposal supports Powys County Council's vision for education, which is outlined within the One Powys Plan for 2014-17. 'Transforming Learning and Skills' is one of the priorities within this plan, and the authority's aim is to ensure that 'All children and young people are supported to achieve their full potential.'</p> <p>Within this priority, the Plan states that</p> <p><i>'We need to re-organise schools (primary, secondary and post 16) to ensure affordability, sustainability and appropriate leadership capacity'</i></p> <p>In addition, the proposal supports the strategic aim stated in the council's Welsh in Education Strategic Plan (WESP) for 2014-17 to 'Provide more robust linguistic progression for Welsh-medium learners'</p>	
<b>5. DATA USED</b>		
<b>5.1. What data has been used to conduct this assessment?</b>  <b>Tick/shade boxes as appropriate.</b>	Profiling of service users, providing a breakdown of who uses the service by the protected characteristics.	✓
	Service user satisfaction rates, broken down by the protected characteristics.	
	Qualitative data (analysed against the protected characteristics) which provides evidence about current services users experience accessing the service.	

	Qualitative data gathered from those that are not currently using the service.	
	Complaints monitoring against the protected characteristics	
	Wider research reports and findings.	
	Relevant service based Equality Impact Assessment	
<b>5.2. Are there any gaps in the data?</b>	<b>Yes</b> <input type="checkbox"/> <b>✓</b> Please state the gaps: N/A How will the gaps be addressed going forward? N/A	<b>No</b> <input type="checkbox"/> <b>✓</b>
<b>6. DATA ANALYSIS</b>		
<b><u>6.1 Quantitative</u></b> <b>Summarise the key quantitative data analysis results, providing key headline statistics.</b> Include data that relates to existing provision and also data relating to proposal. E.g. statistics generated from a consultation questionnaire.  <b>Key questions:</b> i) Are certain groups currently underrepresented in service user figures? Will a change affect this? ii) How do satisfaction levels compare	<u>Brecon High School Welsh Stream</u> At the time of the consultation period, there were 19 pupils in the Welsh stream at Brecon High School. The following pupils belonged to the protected characteristic groups: <ul style="list-style-type: none"> <li>- Free school meals: 5% of pupils in the Welsh-medium stream receives free school meals</li> <li>- SEN: 21% of pupils have special educational needs. 0% of pupils have statements, 10.5% of pupils are on School Action and 10.5% of pupils are on School Action Plus</li> <li>- English as an Additional Language – Welsh or English is the first language of all pupils in the Welsh stream</li> <li>- Ethnicity: The ethnic group of 95% of pupils in the Welsh stream is White British. 5% of pupils have an ethnic group other than White British</li> </ul> The number of pupils currently accessing the Welsh-medium stream at Brecon High School is very small, therefore the number of pupils belonging to the protected characteristic groups that would be affected by the proposals is very small.	

across the protected characteristic groups? How will a change affect this?

#### Ysgol y Bannau

The following shows the profile of pupils attending Ysgol y Bannau according to PLASC information provided in January 2016 for 142 pupils in total, which includes 108 pupils aged 5 and over:

- Free school meals: 6% of pupils are eligible for free school meals
- SEN: 1% of pupils have a Statement of Special Educational Needs. 8% of pupils are on School Action
- English as an Additional Language: English or Welsh is the first language of all children
- Ethnicity: PLASC only provides information about the ethnic group of the 108 pupils aged 5 and over. The ethnic group of 98% of pupils is White British. The ethnic group of the remaining pupils is as follows: Other mixed background – 1%, White other – 1%

#### Sennybridge CP School

At the time of the consultation period, there were a total of 45 pupils in the Welsh-medium stream at Sennybridge CP School. The following pupils belonged to the protected characteristic groups:

- Free school meals: 2 pupils in the Welsh stream receive free school meals
- SEN: 2 pupil has special educational needs. Of these, 0 pupils have a statement, 1 pupils are on School Action and 1 pupil is on School Action Plus
- English as an Additional Language – Welsh or English is the first language of all pupils in the Welsh stream
- Ethnicity: The ethnic group of 100% of pupils in the Welsh-medium stream is White British. The ethnic group of the remaining 2% of pupils is White Asian

This information shows that the number of pupils that will be affected by this proposal that belong to the protected characteristic groups is small. A number of pupils that have additional learning needs will be affected by the proposal, and a number of pupils who are in receipt of free school meals will be affected by the proposal.

As the proposal relates to changing Welsh medium secondary provision in Brecon, all of the pupils affected are fluent Welsh speakers, who are educated through the medium of Welsh, therefore Welsh speakers are

	the key group that will be affected by this proposal.
<p><b><u>6.2 Qualitative</u></b></p> <p><b>Summarise the key qualitative data analysis, providing key themes or patterns.</b></p> <p>Include data that relates to existing provision and also data relating to proposal. E.g. protected characteristics focus group on the proposal.</p> <p><b>Key questions:</b></p> <p><b>i)</b> Do certain groups have a different service user experience? How will a change affect this?</p> <p><b>ii)</b> Have any areas for improvement been communicated by particular groups? Will a change have an impact upon these views?</p> <p><b>iii)</b> What are the reasons behind some groups not using the service? How will a change affect this position?</p> <p><b>iv)</b> What has consultation on your proposals revealed about impact on the protected characteristics?</p>	<p>Consultation on the closure of the Welsh-medium stream was carried out in accordance with the requirements of the School Organisation Code (2013), and included meetings with pupils at the affected schools. This provided qualitative data in respect of the proposal, and the impact on pupils that belong to the protected characteristic groups.</p> <p>The following issues were raised in relation to the proposal’s impact on those in the protected characteristic groups:</p> <p><b><u>Impact on pupils with additional needs</u></b></p> <ul style="list-style-type: none"> <li>- The proposal will affect children with learning difficulties and medical problems</li> <li>- Concern about how the council will support pupils with additional needs</li> <li>- Concern about pupils with additional needs who don’t travel well</li> <li>- Concern about the impact of additional travel on pupils with learning difficulties</li> <li>- Concern that pupils with special needs will be unable to carry on in Welsh-medium education</li> <li>- Concern about the impact on dyslexic pupils who attend extra classes after school – they wouldn’t be able to do so if they were reliant on school transport</li> <li>- There is inadequate provision for pupils with additional learning needs – a school day is already tiring for pupils on the Autistic Spectrum, added travel either side on a noisy crowded bus will mean that the school day will become overwhelming and they will be unable to meet their potential in school or at home</li> <li>- Some pupils with additional needs might be happier in a smaller class, as they are in the Welsh stream at Brecon High School</li> <li>- Concern about wheelchair access on school transport for wheelchair users</li> </ul>
<p><b>7. EqIA RESULT</b></p>	

Based on an analysis of the available qualitative and quantitative data, please tick/shade the appropriate box opposite to provide the EqIA assessment result.	<b>The proposal does not present any adverse impact on equality.</b> [Proceed to question 10]	
	<b>The proposal presents some adverse impact on equality.</b> [Proceed to question 8]	✓
	<b>The proposal presents significant impact on equality</b> [Proceed to question 8]	
<b>8. AREAS for IMPROVEMENT</b>		
<p><b>Please provide detail of weak or sensitive areas of the proposal identified by the assessment.</b></p> <p>i) Which protected characteristic groups are particularly affected?  ii) Will people on low incomes be affected?  iii) Will Welsh speakers be affected?</p>	<p>i) The protected characteristic group that will be mostly affected by the proposal is those with disabilities / additional learning needs</p> <p>ii) Some people on low incomes will be affected. Whilst free home to school transport would be provided to alternative provision, it is likely that the greater distance to travel to the school for other activities would have a greater impact on people on low incomes</p> <p>iii) As this proposal is to close the Welsh-medium stream at Brecon High School, the proposal will impact on Welsh speakers. This aspect is considered in the Integrated Impact Assessment and in the Welsh Language Impact Assessment</p>	
<b>9. EQUALITY IMPROVEMENT</b>		
<p><b>9.1 Having identified problematic aspects to the proposal, how will this now be addressed?</b></p> <p><i>i.e. Are you able to involve (in some capacity) people from protected characteristic groups, Welsh Speakers, people on low incomes, to assist you in this process?</i></p>	<p>The consultation paper related to this proposal sets out how the authority will provide alternative provision that meets the needs of pupils that would have accessed the Welsh-medium stream at Brecon High School:</p> <p>‘From the 1<sup>st</sup> September 2017, there would be no Welsh-medium provision in Brecon High School for pupils in years 7, 8, 9 and 10. However, Welsh-medium provision would continue to be</p>	

<p>i) Can the impact be mitigated, and how will this be done?</p> <p>ii) Does the proposal require modification to reduce or remove this impact?</p> <p>iii) Should the proposal be considered for removal, owing to the degree of impact it is likely to have?</p>	<p>provided at Brecon High School for those pupils who would be entering year 11 in September 2017. This provision would continue until July 2018.</p> <p>From the 1<sup>st</sup> September 2017, pupils in years 7, 8, 9 and 10 wishing to access Welsh-medium secondary provision who live in the catchment area currently served by the Welsh-medium stream of Brecon High School would be able to attend Builth Wells High School or their closest secondary Welsh-medium provision.</p> <p>From the 1<sup>st</sup> September 2018 all pupils wishing to access Welsh-medium secondary provision who live in the catchment area currently served by the Welsh-medium stream of Brecon High school would be able to access provision at the Builth Wells site of the new dual-sited secondary school in Mid Powys (“the New Mid Powys Secondary School”) or their closest secondary Welsh-medium provision.</p> <p>From the 1<sup>st</sup> September 2018, there would be no Welsh-medium provision at Brecon High School.</p> <p>Pupils living in the Sennybridge area would continue to be able to access Welsh-medium provision at Ysgol Gyfun Ystalyfera.</p> <p>Pupils living in other parts of the catchment area currently served by the Welsh-medium stream at Brecon High School that live closer to alternative Welsh-medium secondary provision outside Powys would have the opportunity to transfer to these schools.’</p> <p><u>Disability</u> – the authority is confident that any of the other schools pupils may access should the proposal be implemented can meet the needs of all pupils currently receiving Welsh-medium education in the Brecon area, including those with additional learning needs. Any pupil with a disability is assessed on an individual basis and relevant modifications, adaptations or reasonable adjustments are made where applicable. The authority’s specific responses to the individual issues raised during the consultation period relating to the proposal’s impact on pupils with additional needs are provided in the consultation report in respect of the proposal.</p> <p><u>Free School Meals</u> – Free home to school transport will be provided to the alternative provision for qualifying pupils, this will ensure that the proposal does not have an adverse impact on pupils from lower income families. The alternative schools pupils would transfer to in order to access Welsh-</p>
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	<p>medium secondary provision serve large catchment areas, and are experienced in meeting the needs of pupils who are reliant on home to school transport and pupils and families from a range of socio-economic backgrounds. Should the proposal be implemented, the authority would work with the alternative schools to ensure that families from lower income backgrounds are not disadvantaged compared with other pupils at the school, and that an appropriate range of extra-curricular activities is available to them. However it is acknowledged that it would not be possible to totally mitigate the impact on pupils and their families.</p> <p><u>Welsh language</u> – the number of pupils currently accessing the Welsh-medium stream at Brecon High School is very small, which limits the Welsh-medium provision the school can offer. The Welsh-medium provision available at the alternative providers would be greater than the provision that is currently available at Brecon High School. The authority is confident that all pupils, including those in the protected characteristic groups, would benefit from the enhanced level of provision available.</p>	
<p><b>9.2 Will the management of the impact as outlined in 9.1, be included in the Service Improvement Plan?</b></p>	<p>Yes <input type="checkbox"/></p> <p>Date added.....</p> <p>Reference.....</p>	<p>No <input checked="" type="checkbox"/></p> <p>If no, please explain why not:</p> <p><b>Need was not identified at time of writing Service Strategy</b></p>
<p><b>10. ONGOING MONITORING</b></p>		
<p><b>How will the decision now be monitored on an ongoing basis to consider its impact over time?</b></p>		<p><b>Please tick/shade</b></p>
	<p>Equality monitoring of uptake of the service within which the decision was made</p>	
	<p>Satisfaction monitoring of service users (broken down by protected characteristic)</p>	
	<p>Recording and analysing complaints/requests/compliments</p>	

	Targeted periodic focus groups/service user interviews/feedback sessions	
	Other (please specify)	
<b>Monitoring arrangements</b>		
<p>The Learning in the Community Programme Board is responsible for overseeing the strategic direction of the modernisation agenda: setting direction, implementing change, monitoring and reporting to the Cabinet of the Council.</p> <p>Equality monitoring will form an integral part of the County Council's arrangements for any school reorganisation and will be undertaken where a significant or material change in provision is proposed.</p> <p>The Head of Schools Service will be responsible for on-going monitoring.</p>		
<b>Publication of results of the impact assessment</b>		
The results of the impact assessment will be published on the Council's website		
<b>Equality Impact Assessment Action Plan</b>		
Any actions identified as a result of this impact assessment will be taken forward for inclusion in the Schools Service Business Plan.		



## **4. Community Impact Assessment – Final**

### **Background**

A draft Community Impact Assessment was published as part of the Formal Consultation on the following proposal:

To close the Welsh-medium stream at Brecon High School from the 31<sup>st</sup> August 2017, with Brecon High School becoming an English-medium school from the 1<sup>st</sup> September 2017.

The consultation was held between the 21<sup>st</sup> November 2016 and the 9<sup>th</sup> January 2017.

This community impact assessment has been updated where appropriate to take account of any issues or information raised during consultation about the impact on the community.

#### **4.1 Current use of Brecon High School buildings as a community resource**

The facilities of Brecon High School are hired out by a number of organisations, including the South Powys Youth Orchestra, Brecon Athletic Club and Brecon Basketball Club. The facilities have also been made available for Road Safety events, and are let for use by Caravan Clubs based in Gwent. NPTC Group of Colleges also have two rooms based on the school site.

#### **4.2 Other facilities provided by Brecon High School**

A number of extra-curricular activities are organised by teaching staff at different points during the year. These include the following:

Music activities: Ensembles, Performance opportunities, School Musical

Sports activities: Rugby, Netball, Basketball, Athletics, Hockey, Cricket, Football, Swimming

Other clubs: Domino Club, Revision Club, Additional Maths Club

In addition, the school's facilities are used for different events such as the cross country championships and events such as 'Race to the Sun'.

#### **4.3 Information/issues raised during consultation**

A number of concerns in relation to the proposal's impact on the community were raised during the consultation period on this proposal. These included the following:

- The proposal would have a negative impact on the community
- The impact on organisations in the community such as Brecon Swimming Club
- Impact on the economy of the community
- Impact on Welsh culture, tourism and attraction to foreign visitors
- Issues relating to the rural nature of the area

A number of concerns were also raised relating to the proposal's impact on the ability of pupils to access extra-curricular activities. These included the following:

- Children will miss out on being able to attend after school activities due to the additional travel
- Pupils will be forced out of Welsh-medium education because they don't want to give up activities out of school
- Pupils travelling to school will miss out on being able to attend clubs in Brecon

In addition, issues were raised in relation to the impact of additional travel for pupils. These included the following:

- Concern about the additional travel time that would be required, and that this would be a waste of pupil's time
- Concern that the additional travel would put pupils at a disadvantage compared to other students
- Concern that pupils would be tired due to the additional travel that would be required
- Concern about the impact of the additional travel on the health and well-being of pupils

These issues, along with the local authority's response to these issues, are listed in the consultation report in respect of this proposal. Issues relating to the impact on the community are listed in section 14 of the list of issues, issues relating to the ability of pupils to access extra-curricular activities are listed in section 1.2 of the list of issues raised, and issues relating to the impact of additional travel on pupils are listed in section 1.3.

#### **4.4 Conclusion**

Following the consultation period, the authority's view on the impact of the proposal on the community remains the same.

The number of pupils currently attending the Welsh-medium stream at Brecon High School is small. As the proposal does not involve closure of Brecon High School, it is not anticipated that the proposal will have an adverse impact on the facilities available to the community.

It is acknowledged that implementation of the proposal would lead to additional travel for Welsh-medium pupils from the Brecon catchment, however a significant proportion of pupils are already travelling out of Brecon to access Welsh-medium secondary provision elsewhere. It is acknowledged that this additional travel could have an impact on pupils' ability to access extra-curricular activities, particularly those that take place after school, however should the proposal be implemented, the council would work with the schools pupils might choose to transfer to in order to ensure that an appropriate range of extra-curricular activities are available to all pupils. All schools pupils might choose to transfer to instead of Brecon already serve large catchment areas, and are experienced in meeting the needs of pupils who are reliant on home to school transport, including in terms of ensuring access to an appropriate range of extra-curricular activities.

Should the proposal be implemented, pupils could either transfer to alternative Welsh-medium provision at other schools or they could access English-medium provision at Brecon High School. The authority acknowledges that should the proposal be implemented, pupils and their parents would need to make difficult decisions with regard to pupils' future education, taking the additional travel into consideration.

## 5. Welsh Language Impact Assessment

### Background

A draft Welsh Language Assessment was published as part of the Formal Consultation on the following proposal:

To close the Welsh-medium stream at Brecon High School from the 31<sup>st</sup> August 2017, with Brecon High School becoming an English-medium school from the 1<sup>st</sup> September 2017.

The consultation was held between the 21<sup>st</sup> November 2016 and the 9<sup>th</sup> January 2017.

This Welsh language impact assessment has been updated where appropriate to take account of any issues or information raised during consultation about the impact on the Welsh language.

This Welsh Language Impact Assessment should be read in conjunction with the Integrated Impact Assessment and Equality Impact Assessment earlier on in this document.

### 5.1 Standards in Welsh

The following tables provide information about Standards in Welsh First Language at Brecon High School and the schools the alternative schools pupils would be expected to transfer to should the proposal be implemented for the last 3 years.

Whilst this is useful as background information, the relatively small number of pupils in each year group at each school mean that it is difficult to draw any firm conclusions from this information with regard to standards in Welsh at the two schools.

#### i) End of Key Stage 3

##### Brecon High School

	2012	2013	2014	2015	2016
Total number of Year 9 pupils assessed in Welsh First Language	19	13	8	10	4

Number of pupils that achieved Level 5+	19	10	8	10	4
% of pupils that achieved Level 5+	100%	76.9%	100%	100%	100%

### **Builth Wells High School**

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Total number of Year 9 pupils assessed in Welsh First Language	17	17	22	26	30
Number of pupils that achieved Level 5+	15	16	20	23	28
% of pupils that achieved Level 5+	88.2%	94.1%	90.9%	88.5%	93.3%

### **Ysgol Gyfun Ystalyfera**

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Total number of Year 9 pupils assessed in Welsh First Language	173	159	150	173	191
Number of pupils that achieved Level 5+	139	136	129	147	176
% of pupils that achieved Level 5+	80.3%	85.5%	86.0%	85.0%	92.1%

5+

ii) End of Key Stage 4

**Brecon High School**

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b> (Provisional)
Total number of GCSE Welsh First Language entries	18	12	18	12	8
Number of pupils that achieved grades A* - C	7	6	14	9	8
% of pupils that achieved grades A* - C	38.9%	50%	77.8%	75%	100%

**Builth Wells High School**

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b> (Provisional)
Total number of GCSE Welsh First Language entries	13	22	17	16	19
Number of pupils that achieved grades A* - C	10	13	13	11	11
% of pupils that achieved grades A* - C	76.9%	59.1%	76.5%	68.8%	57.9%

**Ysgol Gyfun Ystalyfera**

<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
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(Provisional)					
Total number of GCSE Welsh First Language entries	142	156	170	145	143
Number of pupils that achieved grades A* - C	99	112	135	100	97
% of pupils that achieved grades A* - C	69.7%	71.7%	79.4%	69.4%	67.8%

## 5.2 Welsh language activities provided by the schools

### Brecon High School

The majority of extra-curricular activities at Brecon High School are carried out through the medium of English, however some activities take place in Welsh or bilingually, depending on which member of staff is responsible and which pupils are taking part. The impact of the previous Welsh Medium consultations on the certainty of future provision, had led to an impact on the overall number of Welsh-medium pupils at the school. This has limited the provision that could be offered. The Welsh Department has developed links with the Urdd to offer opportunities such as camping events, as part of their wider provision.

The south Powys Urdd Eisteddfod is held in Brecon High School each year.

### Builth Wells High School

A number of the school's extra-curricular activities and clubs are Welsh or bilingual, depending on which member of staff is responsible and which pupils are taking part.

In addition, the school provides a range of additional opportunities for pupils to use Welsh outside the classroom. The school choir takes part in Urdd competitions, and pupils also take part in written competitions. Workshops are arranged with Welsh speakers from speciality areas, as well as workshops with Welsh poets and Welsh bands. The school holds an annual Eisteddfod, which gives additional opportunities for pupils to use their Welsh. The school puts on a musical every two years, and this is always bilingual, with some of the songs being in Welsh.

The school also supports the local 'papur bro', 'Y Fan a'r Lle', by submitting information to be included in the paper, and also supports the local Eisteddfod held annually in Llanwrtyd Wells.

Welsh for Adults lessons are held at the school on a weekly basis.

### **Ysgol Gyfun Ystalyfera**

Ysgol Gyfun Ystalyfera is a Welsh-medium school, therefore all extra-curricular activities provided by the school take place through the medium of Welsh. These activities include the following:

- Activities provided by Urdd Gobaith Cymru,
- Music and drama activities, including whole school productions, drama productions, religious services both within the school and the community, school choirs, school orchestra and various ensembles
- Sports activities
- Duke of Edinburgh award
- Other clubs, including Reading Club, Handwriting Club, Chess Club, Art Club, Numeracy Club
- Fundraising activities

### **5.3 Information/issues raised during consultation**

A number of concerns in relation to the proposal's impact on the Welsh language were raised during the consultation period on this proposal. These included the following:

- Concern about the impact on pupils' Welsh language skills if they transfer to English-medium provision
- Concern about the impact on the Welsh language skills of English-medium pupils
- The proposal is discriminating against the Welsh language
- Concern about Welsh-medium pupil numbers
- Concern that the proposal is limiting access to Welsh-medium provision
- Concern that the proposal would have a detrimental impact on the Welsh language / Welsh language organisations and activities in the Brecon area
- Criticism of the council's treatment of the Welsh language
- Impact on the ability of employers in the local area to employ Welsh speakers
- The proposal goes against various policies and strategies relating to the Welsh language, e.g. the Welsh in Education Strategic Plan, A Million Welsh Speakers by 2050, the Welsh-medium Education



## Strategy, the Welsh Language (Wales) Measure 2011, the Welsh Language Standards

These issues, along with the local authority's response to these issues, are listed in the consultation report in respect of this proposal.

### **5.4 Conclusion**

Following the consultation period, the authority's view on the impact of the proposal on the Welsh language remains the same.

It is acknowledged that implementation of the proposal would mean that Welsh-medium secondary provision would not be available in the town of Brecon. This could be perceived to be detrimental to the Welsh language in the area. However, provision would continue to be provided to pupils living in the current catchment area of the Welsh-medium stream of Brecon High School through the provision of home to school transport to alternative providers. The continued presence of Ysgol y Bannau in Brecon, along with the Welsh-medium stream at Sennybridge C.P. School, will continue to provide local access to Welsh-medium primary provision in the Brecon area. Should the proposal be implemented, these schools would establish transition links with the alternative secondary providers to ensure a clear pathway for Welsh-medium pupils.

Whilst Welsh-medium pupils would be leaving Brecon to access Welsh-medium secondary provision, they would continue to live in the town and surrounding areas, and will continue to be able to participate in Welsh language activities in the local community. The authority's view is that the increased level of Welsh-medium provision available to them will enable all Welsh-medium pupils to become more confident Welsh speakers, who will be able to play a greater role in terms of the Welsh language in the community.

The authority's view is that the proposal will provide positive benefits for the Welsh language and Welsh-medium education through improved linguistic progression and through providing additional opportunities for Welsh-medium pupils to use their Welsh through all key stages of education. The Welsh-medium subject provision at the alternative schools which pupils are likely to attend to continue to access Welsh-medium secondary provision should the proposal be implemented is greater than that at Brecon High School, and the Authority's view is that accessing a greater level of subjects through the medium of Welsh will enable the learners to become more confident Welsh speakers.

In addition, pupils would be part of a larger group of Welsh-medium pupils at the alternative schools, which would ensure that there would be more opportunities for pupils to use their Welsh outside the classroom, further

strengthening their confidence in using the language. However, the authority accepts that it might be more difficult for pupils from the Brecon area to access after school activities at the alternative schools, due to their reliance on home to school transport.

As with all proposals, it is acknowledged that there are risks associated with this proposal. Risks relating to the proposal's impact on Welsh-medium pupil numbers were identified on pages 16 and 17 of the consultation document, along with proposed risk management measures.