

## **P-05-1060 Allow supermarkets to sell "non-essential" items during lockdown, Correspondence – Petitioner to Committee, 10.12.20**

Dear Members

I hope that this finds you all well.

Firstly, I must convey a message of thanks to the Senedd for this opportunity to provide a statement in response to the debate on my petition. This petition, which discusses the ban on the sale of non-essential items in supermarkets during the Firebreak Lock-down sent a clear message from the Welsh public to this Chamber and I am glad it was at least heeded in some form. Whilst the response was remarkable, it was no in principle surprising given the nature of the policy and it is important that Members understand the true nature of the feeling behind this campaign. It was never intended to undermine any important public health message and indeed I will argue in the below that the policy itself has possibly contributed to an erosion of trust between the public and the Welsh Government. This is a worrying trend that the Government must seek to reverse quickly.

To start with, we must discuss the motivations driving the creation and promotion of this petition. It has been said in many social media outlets, and even spoken of implicitly in the Chamber that the subject matter was used to promote partisan political views opposed to that of the Government, and that it had been captured by an audience wider than that of the Welsh public. Let me make it abundantly clear – I am not a member of any political party, have no agenda to that effect and this petition was not set up to generate political capital for any one grouping represented here or otherwise. How others chose to use this campaign while it was open and in the public sphere at this time was a matter for them and them only. It was therefore quite disappointing to note that so much time in the petition debate was dedicated to making personal attacks on the conduct of other Members, rather than striving to answer the important questions at hand.

My reasons for starting the petition were borne out of personal circumstance: I am a father to two young sons and have elderly relatives. When the policy was announced – apparently at some speed in the immediate three days prior to the Firebreak my initial response was one of horror and one that was reflected by many who chose to support the cause when promoting the petition on social media. Such questions raised were (paraphrased here):

*“What do I do if my children are in need of emergency uniforms for school?”*

*“What if my elderly grandmother’s kettle breaks – will she be forced to boil a pan on a stove?”*

And so forth. Such rules and controls on the ability of any store to sell goods in such a fashion are unprecedented and always likely to be open to a difference in interpretation and naturally we saw this transpire. Thence, we engender the Sky News quote of the first weekend of the Firebreak – *“I think the Welsh Government has lost the plot”*<sup>1</sup>. This is not a difficult stance to sympathise with when faced with the possibility of not being able to purchase underwear for ones’ children in an emergency due to an ill thought-out set of guidance introduced at speed by Government. Whilst I strongly suspect that the *intention* behind the regulations and associated guidance was not cruel or disproportionate, their *execution* were very much so. One would argue that greater time and care should have been applied, however I would also argue that a display of trust to show self-restraint in the public would have negated the need for the policy altogether.

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1 See: <https://news.sky.com/video/coronavirus-i-think-the-welsh-govt-has-lost-the-plot-12113025>

Let us be clear – it is ordinarily absolutely not the job of the Welsh Government to dictate to the public what it believes to be essential items for purchase, and what is not. Such a decision and circumstance is conditional on so many individual factors – many of which are personal and not the business of those outside one’s personal circle. In a free society such as our own, the government has no right in principle or legality to challenge this. By shifting the burden of “proving essentiality” to supermarket workers in the way it did following the initial “clarification” of rules, the Government committed a subtle act of burden-shifting onto a group of workers who have supported the Welsh public and economy so bravely over the course of 2020. This administration and its supporters across the Senedd owe those workers a sincere apology if it wishes to begin to rebuild trust with the public at large.

Per the debate, we note that the originally-announced intent of the policy was to ensure a “level playing field” for non-essential retailers in the marketplace, given that the Firebreak regulations mandated their closure. In First Minister Mark Drakeford’s own words:

*“The decision is simply based on fair play...it is a straightforward matter of fairness...no organisation or individual is above the effort we all have to make.”*

In the furore that was to soon develop, for many signatories and those interviewed by media outlets over the first weekend of the Lock-down, this is likely to have appeared to be somewhat bizarre reasoning given the following factors:

1. The Welsh Government had – apparently – made available a significant cash injection of c.£300million in addition to what was available from UK government at the time to support business through the Firebreak<sup>2</sup>. Why was this capital not used to compensate those stores asked to close during that period more directly? This will surely be of great importance to the signatories of the petition (it is after all, taxpayer funds that are used in these support measures) and the Government missed an excellent opportunity to explain this in the debate of November 11<sup>th</sup> 2020.
2. Online shopping was encouraged – and for many non-essential retailers, this meant shifting to the so-called *click-and-collect* or *home delivery* method. Of course, one will immediately note that this space in the market is dominated by a small number of large companies for whom 2020 has already been a vastly profitable year. In principle, the policy almost-surely handed those retailers a near-monopoly in so-called non-essential items in Wales during the Firebreak period, mostly due to the maturity of their sales models and ample access to logistics and supply chains. Did the Government not realise the risk that it was actually creating a distorted playing-field at the time? What also of the risks incurred by increased courier footfall moving from house to house over the country? The debate of 11<sup>th</sup> November would have been an ideal opportunity to discuss thinking in further detail, and yet this opportunity was not taken.
3. The Welsh Health Minister, Vaughan Gething MS, made a very targeted attempt in his statement of Monday 26<sup>th</sup> October to shift the narrative of the policy toward “remembering why the Firebreak was introduced: to save lives”<sup>3</sup>. This is, of course, the central point around why this debate has been brought about (and for which we must all – this Senedd included - play our part in supporting in a compassionate and proportionate manner) – however while the Government makes an argument on “level playing field” in one hand, it can appear somewhat politically motivated in the other to shift the reasoning behind the policy directly to a health argument in the following days once criticism is levied against the policy. If any of the apparent “confusion” that a number of Members referenced during

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2 See: <https://www.southwalesargus.co.uk/news/18828497.access-300m-lockdown-support-wales-businesses-today/>

3 See: <https://www.itv.com/news/wales/2020-10-25/welsh-government-to-review-clarity-of-non-essential-item-ban-in-supermarkets>

the debate was to reign on the matter – this is surely one such potential area where it could occur. So we ask: was this a public health control, an economic control, both, or just a confused mess? The public are owed an answer.

- It is worthy of note that the recent English lock-down (despite being based on similar modelling methodologies to that used to justify the Welsh Firebreak<sup>4</sup>) no such policy around supermarket non-essential items was recommended, despite several Members appearing to believe that this was the case. If the models are the same, why do the Welsh Government not believe that Welsh shoppers are capable of showing the same restraint in respect of COVID-19 controls as the UK Government believes is the case for their English counterparts? Again, there was a missed opportunity during the recent debate to explain this thinking.
4. In his interview given to ITV Wales News on Sunday, 25<sup>th</sup> October, Mr Drakeford remarked: *“I won’t need, I don’t think, to buy clothing over this two weeks and I think many, many people in Wales will be in that position too. For me it won’t be essential, but I recognise that there will be some people who for entirely unexpected reasons which they couldn’t have foreseen will need to buy items”*. While the prescient (ahead of the ‘clarification’ of the following Tuesday) wording of the time is notable and should be acknowledged in light of the petition, it will have appeared remarkable to many that the Welsh Government’s test of proportionality in this moment will have *appeared* to be based on the immediate needs of its leader. Whilst this unlikely to have *actually* been the case, the likelihood is that this presented itself to the public as dispassionate and uncaring: after all, the First Minister is known to be remunerated handsomely for his role, and has the capacity to live in a secondary dwelling on his property. His reach, influence and access to resources are far greater than the average person. This was not an ideal piece of PR for the policy and indeed it appears to betray an apparent disconnect with the average Welsh person. Once again, an opportunity to address the point further was sorely missed on November 11<sup>th</sup>.
  5. There are specific points of law that became the subject of debate and circumstance during the Firebreak – and arguably even more so following the clarification of Tuesday 27<sup>th</sup> October. To the understanding of many, the legislation in place at the time did not give the Welsh Government authority to mandate the banning of sale of non-essential items in appropriately licensed premises – which indeed led to rumours on social media of certain retailers ignoring the regulation / guidance completely. This being a legal matter with potential penalties for non-compliance, clarification for the lay audience of what matters are the subject of Welsh law, and which are guidance will have likely been of benefit. This point also carries retrospectively, especially given the likelihood of another Firebreak in future, and yet again it is disappointing that November 11<sup>th</sup> was missed as an opportunity to discuss this further.

Let us all be clear – the Coronavirus Crisis represents a remarkably complex challenge to governments and populations the world over. The sympathies of us all lie with the victims of those who have suffered as a result and for those front line workers who have battled so gallantly to protect and save as many lives as possible. Their efforts will be held in the hearts of us all forever. The Welsh Government itself will no doubt have had to work extraordinarily hard in its efforts to present a clear and coherent policy for Keeping Wales Safe – and for this I pay tribute to its work ethic. It must be said in this same breath, however, that the evidence presented by the weight of the petition and the related commentary on this matter from across the political spectrum, that the Government would appear to have lost its sense of balance and proportionality when considering its policy response. It is generally bad practice to not lead from a position of trust and this situation is arguably escalating as we speak.

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4 See:

[https://www.whatdotheyknow.com/request/700516/response/1677510/attach/3/ATISN%2014458%202020%2011%2018%20Response%20letter.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/700516/response/1677510/attach/3/ATISN%2014458%202020%2011%2018%20Response%20letter.pdf?cookie_passthrough=1) .

In addition, I am grateful that a point on wider signatory was rightfully dismissed during the debate by the Chair of the petitions committee: this was in the majority a Welsh issue debated and brought forward by the Welsh public. For further illustration to Members, you may see a detailed breakdown by region of those that signed this petition, and it will be firmly apparent to those that do that the makeup of those who signed was both predominantly Welsh and distributed fairly evenly across our nation. Constituency and Global data are presented as an appendix. This must be taken as fairly strong evidence of the petition's broad appeal and its Welsh-centricity. The eagle-eyed among you may cast doubt on the handful of signatures captured from the Falkland Islands; given the evidence otherwise on the veracity of this campaign, I'm sure a conceit may be granted to the data-entry or statistical aberration. One specific fact did startle, however: the near 68,000 signatories (at least, the Welsh participants therein) applied to this petition represent around 2% of Wales' population. That is, around 1 in 50 of your fellow constituents will have taken a moment to apply a signature to the petition at some point while it was open. Even the statistically uninitiated must accept that this belies a genuine depth to public opinion on the matter.

Region Name	signature_count	AllPop (estimate)	percSigned
North Wales	14321	632900	2.3%
South Wales Central	15316	703300	2.2%
South Wales East	13840	639500	2.2%
South Wales West	9384	538600	1.7%
Mid and West Wales	8643	577800	1.5%
<i>Wales Total (w/constituency data)</i>	<i>61504</i>	<i>3092100</i>	<i>2.0%</i>

(Welsh population data based on Senedd estimates by constituency area)

Quite simply, the sum total effect of the points raised here mean that the public health message has likely been dearly undermined. The Welsh Government's failure to show any contrition or substantive effort to put the record straight only makes this worse. This was quite eloquently highlighted as a risk by *Wales Online's* Will Hayward on the 24<sup>th</sup> October 2020<sup>5</sup> in his editorial piece in response to the growing criticism at the time. Since then, the Government has – while relaxing restrictions on one hand for a month – since moved toward another apparently bizarre round of rules which ban the sale of alcohol on licensed premises with little scientific justification given or reasons why this is proportionate being put forward at the time of writing. This against the backdrop of a worsening Coronavirus position relative to the rest of the United Kingdom here in Wales, one can only surmise that this administration is desperately clutching at whatever it can to regain control of the situation. If the Welsh Government wishes to regain this said control – given the points raised here, it should now engage much more honestly and apolitically with the Welsh public, and work proactively to build trust in the public health message again. One only needs to see the level of dignity and compassion displayed by the Welsh public over the Summer of 2020 and beyond in reaction to the Crisis as evidence to this. Failure to engage will surely end in catastrophe for the the health of the nation, its economy and indeed may – far from being a validation of devolution as implicitly referenced in the debate – soon usher in a political ideology hell-bent on undoing the Cardiff Bay project forever.

In closing, I – and the signatories of this petition – again ask the Welsh Government to reconsider its position on non-essential goods should another Firebreak (or similar) Lock-down be required in the near future, for the reasons outlined above. This, and the resultant damage it has caused, is not simply a matter of 'misunderstanding' but a poorly thought out policy and an admission to this effect will go a long way to repairing trust between those who work in this Government and the wider Welsh public. This is itself essential at a time like the one we find ourselves in now.

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5 See: <https://www.walesonline.co.uk/news/politics/coronavirus-supermarket-lockdown-non-essential-19159319>

Thank you, diolch yn fawr.

Gareth Howell

## Appendix – Petition Data

Constituency Name	signature_count	AllPop (estimate)	percSigned
Vale of Glamorgan	2717	98700	2.8%
Clwyd West	2030	75000	2.7%
Cardiff North	2382	88700	2.7%
Vale of Clwyd	1885	71700	2.6%
Caerphilly	2264	87800	2.6%
Islwyn	1958	75900	2.6%
Delyn	1779	70100	2.5%
Aberconwy	1388	56800	2.4%
Alyn and Deeside	1973	83700	2.4%
Newport West	2099	85700	2.4%
Torfaen	1918	81700	2.3%
Ynys Môn	1549	70200	2.2%
Bridgend	1821	81500	2.2%
Cardiff South and Penarth	2445	111700	2.2%
Cardiff West	1933	92300	2.1%
Pontypridd	1681	81900	2.1%
Wrexham	1397	71000	2.0%
Clwyd South	1474	73300	2.0%
Cynon Valley	1388	69900	2.0%
Blaenau Gwent	1395	69700	2.0%
Newport East	1555	78900	2.0%
Gower	1492	78100	1.9%
Monmouth	1606	84500	1.9%
Ogmore	1459	75300	1.9%
Rhondda	1224	69500	1.8%
Preseli Pembrokeshire	1302	77800	1.7%
Llanelli	1402	81900	1.7%
Neath	1245	73900	1.7%
Cardiff Central	1546	90700	1.7%
Carmarthen West and South Pembrokeshire	1204	77400	1.6%
Aberavon	1080	66600	1.6%
Brecon and Radnorshire	1080	69100	1.6%
Montgomeryshire	931	63500	1.5%
Swansea East	1225	81000	1.5%
Arfon	846	61100	1.4%
Carmarthen East and Dinefwr	1014	71400	1.4%
Merthyr Tydfil and Rhymney	1045	75400	1.4%
Dwyfor Meirionnydd	783	61200	1.3%
Swansea West	1062	82200	1.3%
Ceredigion	927	75400	1.2%
<i>Wales Total</i>	<i>61504</i>	<i>3092200</i>	<i>2.0%</i>

Table A.1 – Welsh Constituencies

name	Code	signature_count
Wales	GB-WLS	62536
England	GB-ENG	4725
Scotland	GB-SCT	493
Northern Ireland	GB-NIR	73
Ireland	IE	24
United States	US	17
Australia	AU	13
Canada	CA	11
France	FR	7
Falkland Islands	FK	5
Gibraltar	GI	4
Jersey	JE	4
Spain	ES	4
Brazil	BR	2
Germany	DE	2
Italy	IT	2
Netherlands	NL	2
New Zealand	NZ	2
Switzerland	CH	2
Czechia	CZ	1
Denmark	DK	1
Finland	FI	1
Guernsey	GG	1
Isle of Man	IM	1
Malaysia	MY	1
Malta	MT	1
Norway	NO	1
Slovenia	SI	1
South Africa	ZA	1
South Korea	KR	1
Turkey	TR	1

*(note, unable to trace constituency data for 1032 Welsh responders)*

Table A.2 – Global petition signatories