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Ein cyf/Our ref:FM -/00584/17

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3 July 2017

Dear David,

I am writing in response to Mike Hedges' letter of 18 May, written in his capacity at the time of Chair of the Petitions Committee, requesting my response to specific comments raised by Tegrid Roberts in relation to a petition by him to the National Assembly for Wales Petitions Committee. His petition calls for a Welsh Government Department for Europe to ensure a clear, strategic and accountable voice for Wales in ongoing negotiations on the UK's departure from the European Union (EU). My response to each comment raised by Mr Roberts is set out below:

- 1. I would like to know how many staff have been allocated full time to the Brexit project in Wales as there is a danger that it could be under resourced. Brexit will touch many of the devolved areas the Welsh government and Welsh Parliament concern themselves with. They also have direct interaction at the Brussels level.**

The Welsh Government took early action following the referendum to establish a dedicated European Transition Team which leads the development of strategic policy and co-ordinates Welsh Government directorate work on Brexit. The team currently comprises 17 staff, and was built on what was an existing small EU Policy Branch. The new team works closely with the existing team in Brussels, who are working on transition matters in addition to conducting ongoing EU business. We see a continuing important role for the team in Brussels, in particular as negotiations with EU partners develop, though we do not yet know details of how the negotiations will be conducted and what our involvement in them will be. Within Legal Services, a small legal team has also been established since the referendum to support EU Transition work. More broadly, Welsh Government directorates are prioritising existing resources for dealing with specific Brexit issues. A wide range of staff are working on issues related to European transition alongside delivery of the overall programme for government, and specific commitments within it, as set out in Taking Wales Forward. As such it is impossible to separately identify numbers or costs of all staff working directly on European transition. There is, though, substantial staff resource committed across wide work areas including Environment and Rural Affairs, Welsh European Funding Office, and Economy and Infrastructure.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

- 2. I am still concerned that a dedicated Minister has not been allocated to a specific Brexit department. Mark Drakeford though extremely able is also responsible for other important areas of government in Wales.**

I am satisfied at this point that the structures we have set up are appropriate and flexible enough to meet the enormous challenges presented by leaving the European Union. The Cabinet Secretary for Finance and Local Government, Mark Drakeford AM, has played an influential role on the Joint Ministerial Committee (EU Negotiations) which for all its frustrations remains the main forum for the Devolved Administrations to take our issues on Brexit directly to the UK Government. He has also chaired our European Advisory Group, through which we have benefitted from advice from a range of individuals with extensive relevant expertise. It is not just the Cabinet Secretary for Finance and Local Government who is involved. Other Cabinet Secretaries and Ministers lead on the Brexit aspects of their respective portfolios and all Welsh Government Directorates are appropriately involved in this work.

- 3. I would like to better understand if the WG has done a detailed SWOT analysis of Brexit as the report you have forwarded does not cover this most basic of analysis.**

The White Paper Securing Wales' Future focused on a number of strategic areas where potential impacts of Brexit were identified as particular risks. These potential risks included: the loss of access to the single market and possible consequences related to international trade; reducing the access to workers and skills needed for businesses and public services as a result of restrictions to migration from the EU/EEA; cuts to the levels of funding available to Wales for rural development, regional economic development and other areas as a result of the loss of funding currently received from the EU; constitutional issues and the risk of a 'power grab' from the UK Government; the threat of removing or watering down social and environmental protections; and the potential 'cliff edge' if transitional arrangements are not put in place at an early stage of the negotiations.

These reflected early work undertaken by policy departments last year to ensure our preparedness for the inter-governmental discussions in the UK aimed at developing a UK negotiating position. This analysis resulted in the development of six strategic priorities – reflecting our assessment of cross-cutting risks and opportunities, and taking account of known vulnerabilities and also strengths in Wales – through consideration at the Cabinet Sub-Committee on European Transition. This work did not end with the publication of the White Paper, and continues to develop and be refined. As such, the analysis and evidence underpinning our position is more advanced than a crude 'SWOT' analysis.

We are undertaking a fresh risk assessment exercise as we move into the next phase of the work following the triggering of Article 50 and the start of the negotiations with EU partners, and have committed to share further information with the External Affairs and Additional Legislation Committee once this exercise is complete.

**4. Given that the JMC process has been shown to be flawed by evidence given by Prof Drakeford to the Brexit Parliamentary select committee how does the WG expect relations between the WG and the UK Brexit departments to work in future.**

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

We have made it clear that we must be a part of these negotiations in particular within devolved areas of competence in Wales. Our position is that we should have a seat at the table at the negotiation on devolved matters and observer status at the negotiations as a whole.

On 15 June I launched a policy document, *Brexit and Devolution*, which provides a blueprint for renewing the UK's constitutional arrangements post-exit. The Devolved Administrations and UK Government (UKG) will need to find new ways of working together to enable agreements to be reached on common approaches or 'frameworks' in areas where this is achieved now through our membership of the EU. Crucially, this must be through agreement, not imposition by UKG. Existing inter-governmental mechanisms are not fit-for-purpose to enable such agreements to be reached, nor to resolve disagreements or disputes.

The document sets out a number of proposals to support this, including: criteria for identifying where new UK frameworks relating to devolved areas may be appropriate; developing new ways to seek agreement on areas where reserved powers and devolved powers are inter-connected, and devolved administrations have a strong interest in UKG policy responsibilities; and the creation of a new 'UK Council of Ministers' involving the UKG and the three devolved administrations to provide the forum for discussing and agreeing frameworks, which would then be binding.

**5. Given that Brexit and the great repeal bill now introduces a further challenge to the Welsh Assembly sovereignty on devolved matters how will the department mitigate these.**

I wrote to the Prime Minister after the General Election asking for urgent clarification of her intentions in respect of the so-called Great Repeal Bill. In particular, whether as a part of any Bill, the UK Government will seek to modify the devolution settlements. I have made clear repeatedly the Welsh Government's willingness to work with the UK Government and the other devolved administrations to establish new policy frameworks on matters hitherto governed by EU regulation where such frameworks are necessary to prevent the introduction of friction within our own internal market. If the UK Government attempt to take powers to *impose* frameworks in respect of matters within devolved competence, or to place new and continuing constraints on the National Assembly's legislative competence in this regard we will have no choice but to oppose such steps.

Our preferred option remains a UK Repeal Bill which properly recognises and protects the devolution settlement; we will continue to argue this forcefully in bilateral discussions with the UK Government and in the Joint Ministerial Committee. We have however also been considering the issue of our own legislation. It would be premature to bring forward such legislation before we have sight of the Repeal Bill, but if we are not satisfied when we see the Bill that the UK Government has fully taken on board our concerns, then we will have to look further at other options, including our own legislation.

I hope this response is of use in setting out the Welsh Government's position and approach on issues related to this petition. I will continue to make regular oral and written statements to the Assembly to update on the Welsh Government's work to secure the best outcome for Wales as the UK withdraws from the EU.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Carwyn Jones', written in a cursive style.

**CARWYN JONES**