



Our ref: NB/MM

Ask for: Nick Bennett

 01656 641152

Date: 7 June 2019

 Marilyn.morgan
@ombudsman-wales.org.uk

EU Exit & Strategy Unit
Department for Energy, Planning & Rural Affairs
Welsh Government

By email only:
Environmental.Governance@gov.wales

Dear Minister

I refer to the consultation document issued on 18 March and I am pleased to provide my comments.

I will provide a number of detailed comments on the consultation, as there appears to be some misunderstanding of the role of the PSOW. However, having appraised myself of the consultation, I am sure that any steps to protect and enhance environmental governance in Wales post-Brexit are to be welcomed. I am also glad that the consultation refers to established governance structures, including my office.

In principle, I agree that there is a regulatory gap resulting from Brexit. However, in respect of individual complaints about personal injustice affecting a citizen of Wales, my office will remain the appropriate body to consider complaints about Natural Resources Wales (NRW), local authorities or the Welsh Government.

Should Welsh Government establish a new body in this field then our vires will also be affected, as Welsh Government is in our jurisdiction and I would expect any new body to be listed in Schedule 3 of the PSOW Act, as the NRW and Welsh Government currently are. I am aware that the proposed Office for Environmental Protection (OEP) in England includes provisions for the new body to be in the Parliamentary Commissioner's jurisdiction and that there has been ongoing dialogue between DEFRA and the PHSO.

The broader issue relating to Brexit and governance arrangements in policy fields, which currently have a split competence between the EU commission and Member States/ Devolved Governments, is something that is discussed regularly with the

Page 1 of 2

Public Service Ombudsman Group in the UK and also with the European Ombudsman. Whilst post-Brexit accountability mechanisms are a matter for government/s, we have a joint interest in ensuring that whatever mechanisms that are in place post-Brexit are as clear as possible to the citizen.

I think it is important that any reforms in this area fill any emergent environmental regulation gap, but do not duplicate existing complaint systems or create confusion for the citizen. I note that the consultation paper suggests (p59) that my office is not specifically focused on environmental issues (which is correct) and that we may not have the technical expertise for complex environmental issues. My office considers complaints about a wide range of complex issues, including health and environmental issues and my staff are absolutely able to deal with such technical complex cases.

The Consultation document suggests that my office may have a general “oversight” and “scrutiny” role of public bodies in Wales. As indicated above, my role is to consider complaints of personal injustice arising from maladministration or service failure on the part of a public body in Wales. Where I find fault on the part of a public body which has caused injustice to an individual (or groups of individuals), I make recommendations to remedy any injustice. I do not therefore have a regulatory role. This, coupled with the fact that my role is to consider personal injustice, perhaps reinforces the need for a regulator in this area to deal with wider environmental concerns – e.g. by a lobbying group.

My office will happily collaborate with Welsh Government officials so that, should Brexit/these proposals proceed, we can ensure that any emergent complaints system in this policy area is as citizen focused as possible.

Thank you again for seeking my views.

Yours sincerely

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

Nick Bennett
Ombudsman