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Llywodraeth Cymru
Welsh Government

The Rt Hon Michael Gove MP
Chancellor of the Duchy of Lancaster
Cabinet Office
70 Whitehall
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23 June 2020

Dear Michael,

I am writing to you to set out some further detail on the Welsh Government's priorities for mobility and social security as part of the UK/EU future relationship negotiations.

We have been clear that the Welsh Government would have set a different approach to the negotiations than the one set out by the UK Government. The UK Government, in taking a very restricted approach to UK immigration policy, has effectively cut off opportunities for mobility of UK citizens across Europe, as the EU27 and EEA countries have no incentive to offer a more generous regime to UK citizens. Despite this we want to remain constructive in the negotiations and continue to seek a formal role inputting Welsh priorities into an agreed UK position. In the absence of the UK Government committing to a meaningful role for the Devolved Governments in the negotiations I am setting out further detail on our negotiating priorities.

Our position has been reinforced by the impact of Covid-19. Ease of mobility will be important for rebuilding the economy, both for supporting existing industries and to help develop new industries. Covid-19 has brought recognition of the value of all workers, and particularly so for many essential workers who originally came from the EU and without whom our many services would not be sustainable. Post-Covid-19 the economy and labour market supply and demand, including the pattern of shortage occupations, are likely to change significantly. I question whether we should be pressing ahead with mobility policies that are based on pre-Covid-19 thinking, as this could be a threat to our future post-Covid-19 economic recovery.

Belatedly, we have now seen the UK Government's legal texts which have been tabled in the negotiations. However, key annexes (11-A to 11-C) are left blank which leaves many questions about the detail of how this aspect of mobility could work in practice. We would be grateful if more information could be shared with us on how the UK intends to approach negotiations on mobility as an aspect of business travel. We are supportive of a position

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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.

which enables ease of access to the UK for doing business, and makes it easy for Welsh businesses and professionals to access the European market.

Ease of mobility is necessary for professionals delivering face to face services in third countries, for example lawyers operating on fly in fly out (FIFO) arrangements. Along with agreements on mutual recognition of professional qualifications (MRPQ), the ability of professionals to cross borders at short notice and for short to medium term work is crucial for continued growth in trade in services. Without clear and easy to navigate routes for UK professionals working abroad and overseas professionals coming to the UK to work, it is likely that any provisions on services in a trade deal, however positive, will not be used. This could mean that not only are UK professionals unable to practise abroad but that the UK isolates itself from world class expertise and continues to suffer from the skill gaps that we know exist in essential sectors for future economic growth e.g. digital, life sciences and food technology.

Whilst the details of Mutual Recognition Agreements are likely to be concluded outside but alongside the trade deal itself, it is vital that barriers to cross border working for our professionals are not compounded. In particular, we see risks that the UK Government approach could lead to a lack of read across between mobility, domestic immigration and MRPQ regulations causing complexity, or that the existing rights of professionals to work abroad will have been materially diminished as the result of trade negotiations.

The Future Relationship with the EU did not contain detail on how the UK Government intends to approach mode 4 service provision, and the legal text has gaps in the detail that make it challenging to analyse. In *The Future Relationship with the EU*, the UK Government seems minded to rely on the current UK immigration system for inward business travel, and did not appear to be considering new approaches to promote inward travel for service provision.

The routes available under the existing immigration rules are limited compared to freedom of movement. In particular, there are very limited routes for independent professionals, and contracted service suppliers. This could have a severe impact on some segments of the Welsh economy; both short and medium term until the domestic workforce can provide the skills and experience mix required, and long term or structurally where industries are too specialist or seasonal to support a fully domestic workforce. This could be the case, for example, in industries where maintenance work on heavy equipment is specialist, highly technical and carried out seasonally. It is encouraging that the legal text set out provisions for both independent professionals and contracted service suppliers, but we would like to see more detail about what the UK Government proposes for these groups. In particular, we would like to know what kind of visa routes or visa-free routes would be open for these groups as a result of entering into an FTA with the EU.

Linked to Mode 4, mobility is often a key enabler that accompanies the export of a product or good; described as Mode 5 or servicification. This close relationship means that any adverse impact linked to reduced mobility could translate into serious impacts on trade in goods (for example, engineers crossing borders to maintain machinery as part of a service contract). Mode 5 is recognised as a rapidly growing and often hidden aspect of trade in services and is particularly important to Wales given the size of our manufacturing base. It could reduce the attractiveness of Welsh products, and undermine the important revenue streams that service packages provide if UK manufacturers who currently sell goods into the EU with accompanying ongoing maintenance and servicing arrangements can no longer do so. Indeed, some industries have been able to provide a competitive price point for their goods by offsetting costs through services packages. Reductions in mobility for Mode 5 services could also hinder Welsh industry and consumers, if they are less able to access expertise for maintenance and services of products they have purchased. It is concerning

that Mode 5 service provision does not feature explicitly as a distinct aspect of trade in services and mobility in the negotiations. We have raised the issue of 'Mode 5' service provision with the UK Government repeatedly and I therefore ask for an urgent and substantive reassurance that the UK Government will be seeking to secure this as part of the trade deal with the EU, and how it is going about this.

The EU legal text sets out in detail proposals for eligibility for different kinds of business mobility, though, as with the UK's text, some annexes are incomplete. The EU legal text sets out specific criteria for eligibility which we consider to be unnecessarily restrictive, such as the requirement to hold a certain qualification level and practice in the field of industry for a certain period of time. We note that the UK is taking a less restrictive approach, though we question whether the length of time working in a particular field and the level of qualification required is still unduly burdensome for independent professionals. We have concerns that the restrictions proposed in the legal texts will place unnecessary constraints on economic opportunities for Wales. It would effectively prevent those working in new and innovative fields from being able to access a visa. It would also present additional barriers to those working in professions where formal qualifications are not a requirement, including entrepreneurs.

We are supportive of the UK's position that that EEA nationals should be able to travel to the UK visa free for leisure, tourism, and visiting family for six months. However, we have concerns that the current approach to visas for third country national students would create significant restrictions on access to education in the UK if extended to EEA nationals. In turn, this would impact negatively on institutions such as universities, which are already struggling to recruit international students due to the impact of Covid-19. The restrictions this could place on researchers would also reduce the opportunities for cross border research and collaboration, with the direct consequence of affecting the standing of research institutions in Wales.

The Future Relationship with the EU and the UK's legal text are also largely silent on mobility for non-economic purposes, such as travel for education or research. The EU legal text sets out a high level position on entry and residence for study, research, youth exchange schemes and training. There is limited detail in the EU's position, only that there should be reciprocal arrangements for a period exceeding 90 days. We are concerned at the prospect of restrictions across Europe that would limit the opportunities for Welsh students, researchers, and young people, and limit the opportunities for higher education and research facilities in Wales to attract talented individuals. It is disappointing that the UK Government is not seeking the opportunity to retain the cultural, educational, economic and social benefits this type of mobility brings for the UK and its citizens, and I therefore ask you to reconsider your position on this.

There are existing youth mobility schemes operating in the UK, and we would support these schemes being extended to young people in the EEA. However, the youth mobility schemes have limited options for extending stays beyond the scheme, which, among other considerations, makes it an unsuitable route to meeting long term skills gaps. These schemes are valuable for cultural exchanges, but do not create the same opportunities for retaining individuals with high-potential to contribute to the UK economy compared to freedom of movement. We would support an approach that considered extended versions of youth mobility schemes for young people from the EEA.

Co-ordination of social security is also linked to mobility. Social security is largely non-devolved, with the exception of aspects of reciprocal health care arrangements. I am aware of the on-going discussions on reciprocal healthcare at official level, but we would be grateful for detailed information on the UK's proposals for ongoing reciprocal health care arrangements, if FTA negotiations are likely to affect the existing measures put in place by

the Healthcare (European Economic Area and Switzerland Arrangements) Act 2019. Additionally, arrangements for social security can have an indirect impact on devolved policy areas, so we would be grateful if we could be kept informed immediately of developments in the negotiations in this area, so that Welsh public services can adapt to reflect the new arrangements.

I am copying this letter to the Secretary of State for Wales, and the Paymaster General; to the Cabinet Secretary for the Constitution, Europe and External Affairs in the Scottish Government; and to the First Minister and deputy First Minister of Northern Ireland.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'JM', with a stylized flourish at the end.

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