

**From:** Surman, Neil (HSS - DHP Public Health) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=RECIPIENTS/cn=D9C6EDBC4D6747C595CAA56B88F2EC1B-SURMAN, NEI]  
**Sent:** 14/03/2020 15:36:09  
**To:** PS FirstMinister [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7d46fba2d9b94a7193cb7971f7b6ecff-FirstMinist]  
**CC:** Vaughan Gething (Ministerial) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7872b4b9f19e40938164f1dba256b6db-Vaughan Get]; PS Minister Health & Social Services [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=0bc31ec260ca46199c8b344bf8f40472-PS Minister]; Jenkins, Clare (OFM - Special Adviser) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4820fef59fd463abc962372030cc542-Jenkins, CI]; Brindley, Madeleine (OFM - Special Adviser) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=debae71dd6ed46f5981dd3504d470f7c-Madeleine.B]; Faye, Sara (OFM - Special Adviser) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b7d0af5ededf46e4ab0d86da54bd7b11-Faye, Sara]; Woodward, Tom (OFM - Special Adviser) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=4041ea68e4c941a5acb02b420fa424dd-Tom.Woodwar]; Runeckles, Jane (OFM - Special Adviser) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=da3bc1e3d646478bb57a0aef2e257379-Jane.Runeck]; Griffiths, Paul (OFM - Special Adviser) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6a2f875517cc4b6b9512f2d988ea849b-Griffiths,]; Goodall, Andrew (HSS - DG - NHS Wales Chief Executive) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=1517e328cd7243ec86a25b848596a381-Goodall, An]; Burke, Tracey (EPS - Director General) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=fd18b71e2ba34ab68bb12583ba76f4f5-Burke, Trac]; Slade, Andrew (ESNR - Director General) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=6e6dd98ed5994f73b9f730bacf0c31f-Slade, Andr]; Atherton, Frank (HSS - Chief Medical Officer) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=7f89dd16eea4492188440f6fb67d90a2-Atherton, F]; Kamalan, Chrisan (HSS - DHP Public Health) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=b4927bdb141044aca5ee696d8e9faeba-Kamalan, Ch]; Wakeling, Sarah (OFM - Legal Services Department) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=625020a42f44469b92b0f2dcd37a6d91-Wakeling, S]; [REDACTED] (OFM - Legal Services Department) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=3f273329848d4a7ba07db1272e73f9d6 [REDACTED] [REDACTED] (OFM - Legal Services Department) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=31331c802b84495a82d98c25c89a7b67 [REDACTED] [REDACTED] (OFM - Legal Services Department) [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=41319e3f106742229ffe22fa48397d7 [REDACTED]  
**Subject:** RE: URGENT: Coronavirus Bill commencement etc

Very grateful for the quick response, thank you.

I will go back to UKG on this basis.

Neil

**From:** PS FirstMinister <PS.FirstMinister@gov.wales>  
**Sent:** 14 March 2020 15:25  
**To:** Surman, Neil (HSS - DHP Public Health) <Neil.Surman@gov.wales>  
**Cc:** Vaughan Gething (Ministerial) <Vaughan.Gething@gov.wales>; PS Minister Health & Social Services <PSMHSS@gov.wales>; Jenkins, Clare (OFM - Special Adviser) <Clare.Jenkins010@gov.wales>; Brindley, Madeleine (OFM - Special Adviser) <Madeleine.Brindley@gov.wales>; Faye, Sara (OFM - Special Adviser) <Sara.Faye@gov.wales>;

Woodward, Tom (OFM - Special Adviser) <Tom.Woodward@gov.wales>; Runeckles, Jane (OFM - Special Adviser) <Jane.Runeckles@gov.wales>; Griffiths, Paul (OFM - Special Adviser) <Paul.Griffiths003@gov.wales>; Goodall, Andrew (HSS - DG - NHS Wales Chief Executive) <Andrew.Goodall@Gov.Wales>; Burke, Tracey (EPS - Director General) <Tracey.Burke@gov.wales>; Slade, Andrew (ESNR - Director General) <Andrew.Slade@gov.wales>; Atherton, Frank (HSS - Chief Medical Officer) <Frank.Atherton@gov.wales>; Kamalan, Chrishan (HSS - DHP Public Health) <Chrishan.Kamalan@gov.wales>; Wakeling, Sarah (OFM - Legal Services Department) <Sarah.Wakeling@gov.wales>; [NR] (OFM - Legal Services Department) [NR]@gov.wales>; [NR] OFM - Legal Services Department) [NR]@gov.wales>; [NR] (OFM - Legal Services Department) [NR]@gov.wales>  
**Subject:** Re: URGENT: Coronavirus Bill commencement etc

Hi Neil,

Thanks for this. The FM has commented as below:

"Thanks very much for that. Let's keep in touch on the s109 front. I'd much prefer we had assurance in writing, but if that is not forthcoming we'll need to weigh up the risk of continuing without it.

I think your interpretation of the discussion on Wednesday is correct: we need to take the powers, but the more draconian they are, and the more they interfere with the normal freedoms of Welsh citizens, the higher the bar will need to be before they are deployed. That applies to the mass gatherings issue, as to all others."

Thanks,

[NR]

Sent from my iPhone

On 14 Mar 2020, at 14:58, Surman, Neil (HSS - DHP Public Health) <[Neil.Surman@gov.wales](mailto:Neil.Surman@gov.wales)> wrote:

Many thanks [Name Redacted]

On the s109 order question, LS have asked for written confirmation but I understand that has not yet been received. If the FM is content, we will respond as proposed below but with the caveat that we are awaiting formal written assurance on the s109 issue before giving WMs' agreement.

On **mass gatherings**, the latest version of the Bill (13 March 2020) makes separate provision for Wales in respect of powers relating to events, gatherings and premises in Wales. This is subject to further revision being undertaken by the Office of Parliamentary Counsel today and a further draft is expected later.

The powers under this part of the Bill will commence on Royal Assent but will be subject to a "triggering" declaration that the Welsh Ministers are of the view that the incidence of coronavirus constitutes a serious or imminent threat to public health in Wales and that the powers in this part of the Schedule will be an effective means of delaying or preventing significant further transmission of coronavirus in Wales. The purpose of this declaration is to commence the "public health response period" during which time the powers in the Schedule are exercisable. The declaration may be revoked at such a time the Welsh Ministers are no longer of the view that the incidence of coronavirus constitutes a serious or imminent threat to public health in Wales.

The powers in the relevant Schedule enable the Welsh Ministers to give a direction prohibiting or imposing requirements or restrictions to the owner or occupier of premises, organiser or any other

person involved in holding an event or gathering. This will also apply in relation to classes of events and gatherings or classes of premises, and may also be given to classes of persons (and not only to particular identified persons). The Welsh Ministers will have a broad power to offer compensation in connection with the giving of a direction under this part of Bill.

Compliance with such a direction issued by the Welsh Ministers may be enforced by a constable, who may do so by exercising reasonable force if necessary. Failure to comply with such a direction will be an offence for which a person will be liable on summary conviction to a fine.

I was conscious in saying that the WMs wished to take these powers of the discussion between Ministers at the Cabinet Control Group on Wednesday morning. I interpreted that discussion to mean that we should take these powers if they are to be available to UKG and other devolved governments but that Ministers will want to weigh very carefully the circumstances under which they might be used. I hope I got that right.

Regards

Neil

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**From:** PS FirstMinister <[PS.FirstMinister@gov.wales](mailto:PS.FirstMinister@gov.wales)>

**Sent:** 14 March 2020 14:16

**To:** Vaughan Gething (Ministerial) <[Vaughan.Gething@gov.wales](mailto:Vaughan.Gething@gov.wales)>; Surman, Neil (HSS - DHP Public Health) <[Neil.Surman@gov.wales](mailto:Neil.Surman@gov.wales)>; PS Minister Health & Social Services <[PSMHSS@gov.wales](mailto:PSMHSS@gov.wales)>; PS FirstMinister <[PS.FirstMinister@gov.wales](mailto:PS.FirstMinister@gov.wales)>

**Cc:** Jenkins, Clare (OFM - Special Adviser) <[Clare.Jenkins010@gov.wales](mailto:Clare.Jenkins010@gov.wales)>; Brindley, Madeleine (OFM - Special Adviser) <[Madeleine.Brindley@gov.wales](mailto:Madeleine.Brindley@gov.wales)>; Faye, Sara (OFM - Special Adviser) <[Sara.Faye@gov.wales](mailto:Sara.Faye@gov.wales)>; Woodward, Tom (OFM - Special Adviser) <[Tom.Woodward@gov.wales](mailto:Tom.Woodward@gov.wales)>; Runeckles, Jane (OFM - Special Adviser) <[Jane.Runeckles@gov.wales](mailto:Jane.Runeckles@gov.wales)>; Griffiths, Paul (OFM - Special Adviser) <[Paul.Griffiths003@gov.wales](mailto:Paul.Griffiths003@gov.wales)>; Goodall, Andrew (HSS - DG - NHS Wales Chief Executive) <[Andrew.Goodall@Gov.Wales](mailto:Andrew.Goodall@Gov.Wales)>; Burke, Tracey (EPS - Director General) <[Tracey.Burke@gov.wales](mailto:Tracey.Burke@gov.wales)>; Slade, Andrew (ESNR - Director General) <[Andrew.Slade@gov.wales](mailto:Andrew.Slade@gov.wales)>; Atherton, Frank (HSS - Chief Medical Officer) <[Frank.Atherton@gov.wales](mailto:Frank.Atherton@gov.wales)>; Kamalan, Chrishan (HSS - DHP Public Health) <[Chrishan.Kamalan@gov.wales](mailto:Chrishan.Kamalan@gov.wales)>; Wakeling, Sarah (OFM - Legal Services Department) <[Sarah.Wakeling@gov.wales](mailto:Sarah.Wakeling@gov.wales)>; **NR** (OFM - Legal Services Department) <[NR@gov.wales](mailto:NR@gov.wales)>

**Subject:** RE: URGENT: Coronavirus Bill commencement etc

Neil,

Thank you for this. The First Minister is content to agree this. However, he has asked if we have had a written commitment on the s109 order front? He's stated he would prefer written confirmation, in the form of an email at least.

The FM has also asked whether the latest version of the Bill includes anything new on the mass gatherings issue, or are these previously seen provisions?

The FM thanks you all this further work.

**Name Redacted**

Prif Ysgrifennydd Preifat i Brif Weinidog Cymru  
Senior Private Secretary to the First Minister of Wales



Tel/Ffon: [Irrelevant & Sensitive]

E-mail/E-bost: [ps.firstminister@gov.wales](mailto:ps.firstminister@gov.wales)

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**From:** Vaughan Gething (Ministerial) <[Vaughan.Gething@gov.wales](mailto:Vaughan.Gething@gov.wales)>

**Sent:** 14 March 2020 13:57

**To:** Surman, Neil (HSS - DHP Public Health) <[Neil.Surman@gov.wales](mailto:Neil.Surman@gov.wales)>; PS Minister Health & Social Services <[PSMHSS@gov.wales](mailto:PSMHSS@gov.wales)>; PS FirstMinister <[PS.FirstMinister@gov.wales](mailto:PS.FirstMinister@gov.wales)>

**Cc:** Jenkins, Clare (OFM - Special Adviser) <[Clare.Jenkins010@gov.wales](mailto:Clare.Jenkins010@gov.wales)>; Brindley, Madeleine (OFM - Special Adviser) <[Madeleine.Brindley@gov.wales](mailto:Madeleine.Brindley@gov.wales)>; [NR] OFM - Special Adviser [NR] <[\[Name Redacted\]@gov.wales](mailto:[Name Redacted]@gov.wales)>; [Name Redacted] OFM - Special Adviser <[\[Name Redacted\]@gov.wales](mailto:[Name Redacted]@gov.wales)>; Runeckles, Jane (OFM - Special Adviser) <[Jane.Runeckles@gov.wales](mailto:Jane.Runeckles@gov.wales)>; Griffiths, Paul (OFM - Special Adviser) <[Paul.Griffiths003@gov.wales](mailto:Paul.Griffiths003@gov.wales)>; Goodall, Andrew (HSS - DG - NHS Wales Chief Executive) <[Andrew.Goodall@gov.wales](mailto:Andrew.Goodall@gov.wales)>; Burke, Tracey (EPS - Director General) <[Tracey.Burke@gov.wales](mailto:Tracey.Burke@gov.wales)>; Slade, Andrew (ESNR - Director General) <[Andrew.Slade@gov.wales](mailto:Andrew.Slade@gov.wales)>; Atherton, Frank (HSS - Chief Medical Officer) <[Frank.Atherton@gov.wales](mailto:Frank.Atherton@gov.wales)>; Kamalan, Chrishan (HSS - DHP Public Health) <[Chrishan.Kamalan@gov.wales](mailto:Chrishan.Kamalan@gov.wales)>; Wakeling, Sarah (OFM - Legal Services Department) <[Sarah.Wakeling@gov.wales](mailto:Sarah.Wakeling@gov.wales)>; [NR] OFM - Legal Services Department <[\[Name Redacted\]@gov.wales](mailto:[Name Redacted]@gov.wales)>

**Subject:** Re: URGENT: Coronavirus Bill commencement etc

I recognise the point being made about concurrent powers but it is so specific that it should not in my view prevent us from moving forward.

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**From:** Surman, Neil (HSS - DHP Public Health) <[Neil.Surman@gov.wales](mailto:Neil.Surman@gov.wales)>

**Sent:** Saturday, March 14, 2020 1:50 pm

**To:** PS Minister Health & Social Services; PS FirstMinister; Vaughan Gething (Ministerial)

**Cc:** Jenkins, Clare (OFM - Special Adviser); Brindley, Madeleine (OFM - Special Adviser); Faye, Sara (OFM - Special Adviser); Woodward, Tom (OFM - Special Adviser); Runeckles, Jane (OFM - Special Adviser); Griffiths, Paul (OFM - Special Adviser); Goodall, Andrew (HSS - DG - NHS Wales Chief Executive); Burke, Tracey (EPS - Director General); Slade, Andrew (ESNR - Director General); Atherton, Frank (HSS - Chief Medical Officer); Kamalan, Chrishan (HSS - DHP Public Health); Wakeling, Sarah (OFM - Legal Services Department) <[\[Name Redacted\]@gov.wales](mailto:[Name Redacted]@gov.wales)>; [Name Redacted] OFM - Legal Services Department

**Subject:** RE: URGENT: Coronavirus Bill commencement etc

Thanks [Name Redacted]

Neil

---

**From:** PS Minister Health & Social Services <[PSMHSS@gov.wales](mailto:PSMHSS@gov.wales)>

**Sent:** 14 March 2020 13:50

**To:** Surman, Neil (HSS - DHP Public Health) <[Neil.Surman@gov.wales](mailto:Neil.Surman@gov.wales)>; PS FirstMinister <[PS.FirstMinister@gov.wales](mailto:PS.FirstMinister@gov.wales)>; PS Minister Health & Social Services <[PSMHSS@gov.wales](mailto:PSMHSS@gov.wales)>; Vaughan Gething (Ministerial) <[Vaughan.Gething@gov.wales](mailto:Vaughan.Gething@gov.wales)>

**Cc:** Jenkins, Clare (OFM - Special Adviser) <[Clare.Jenkins010@gov.wales](mailto:Clare.Jenkins010@gov.wales)>; Brindley, Madeleine (OFM - Special Adviser) <[Madeleine.Brindley@gov.wales](mailto:Madeleine.Brindley@gov.wales)>; Faye, Sara (OFM - Special Adviser) <[Sara.Faye@gov.wales](mailto:Sara.Faye@gov.wales)>; Woodward, Tom (OFM - Special Adviser) <[Tom.Woodward@gov.wales](mailto:Tom.Woodward@gov.wales)>; Runeckles, Jane (OFM - Special Adviser) <[Jane.Runeckles@gov.wales](mailto:Jane.Runeckles@gov.wales)>; Griffiths, Paul (OFM - Special Adviser) <[Paul.Griffiths003@gov.wales](mailto:Paul.Griffiths003@gov.wales)>; Goodall, Andrew (HSS - DG - NHS Wales Chief Executive) <[Andrew.Goodall@gov.wales](mailto:Andrew.Goodall@gov.wales)>; Burke, Tracey (EPS - Director General) <[Tracey.Burke@gov.wales](mailto:Tracey.Burke@gov.wales)>; Slade, Andrew (ESNR - Director General) <[Andrew.Slade@gov.wales](mailto:Andrew.Slade@gov.wales)>; Atherton, Frank (HSS - Chief Medical Officer) <[Frank.Atherton@gov.wales](mailto:Frank.Atherton@gov.wales)>; Kamalan, Chrishan (HSS - DHP Public Health) <[Chrishan.Kamalan@gov.wales](mailto:Chrishan.Kamalan@gov.wales)>

**Subject:** RE: URGENT: Coronavirus Bill commencement etc

Thanks Neil,

I have brought this email to the Minister's attention. I am hoping he will get an opportunity to read it before 4 today.

Regards,

**Name Redacted**

---

**From:** Surman, Neil (HSS - DHP Public Health) <[Neil.Surman@gov.wales](mailto:Neil.Surman@gov.wales)>

**Sent:** 14 March 2020 12:44

**To:** PS FirstMinister <[PS.FirstMinister@gov.wales](mailto:PS.FirstMinister@gov.wales)>; PS Minister Health & Social Services <[PSMHSS@gov.wales](mailto:PSMHSS@gov.wales)>; Vaughan Gething (Ministerial) <[Vaughan.Gething@gov.wales](mailto:Vaughan.Gething@gov.wales)>

**Cc:** Jenkins, Clare (OFM - Special Adviser) <[Clare.Jenkins010@gov.wales](mailto:Clare.Jenkins010@gov.wales)>; Brindley, Madeleine (OFM - Special Adviser) <[Madeleine.Brindley@gov.wales](mailto:Madeleine.Brindley@gov.wales)>; Faye, Sara (OFM - Special Adviser) <[Sara.Faye@gov.wales](mailto:Sara.Faye@gov.wales)>; **Name Redacted** (OFM - Special Adviser) <[Tom.Woodward@gov.wales](mailto:Tom.Woodward@gov.wales)>; Runeckles, Jane (OFM - Special Adviser) <[Jane.Runeckles@gov.wales](mailto:Jane.Runeckles@gov.wales)>; Griffiths, Paul (OFM - Special Adviser) <[Paul.Griffiths003@gov.wales](mailto:Paul.Griffiths003@gov.wales)>; Goodall, Andrew (HSS - DG - NHS Wales Chief Executive) <[Andrew.Goodall@gov.wales](mailto:Andrew.Goodall@gov.wales)>; Burke, Tracey (EPS - Director General) <[Tracey.Burke@gov.wales](mailto:Tracey.Burke@gov.wales)>; Slade, Andrew (ESNR - Director General) <[Andrew.Slade@gov.wales](mailto:Andrew.Slade@gov.wales)>; Atherton, Frank (HSS - Chief Medical Officer) <[Frank.Atherton@gov.wales](mailto:Frank.Atherton@gov.wales)>; Kamalan, Chrishan (HSS - DHP Public Health) <[Chrishan.Kamalan@gov.wales](mailto:Chrishan.Kamalan@gov.wales)>

**Subject:** URGENT: Coronavirus Bill commencement etc

**Importance:** High

Ministers

A revised version of the Coronavirus (Emergency) Bill was sent to us last night.

**We need to respond by 4pm today** with any comments.

We wanted to draw your particular attention to the formulation of Welsh Ministers powers in the Bill.

### **Commencement powers**

The Bill as drafted automatically commences a number of provisions on Royal Assent:

Indemnities;  
Industrial Development Act;  
Infectious persons;  
Mass Gatherings;  
Live links in court proceedings; and  
Transport, disposal and storage of dead bodies.

This may expand to include education and social care provisions.

Remaining limited provisions in devolved areas will be brought into force by regulations which can be made by the Welsh Ministers or Secretary of State with WM consent (e.g powers to require information about the food supply chain).

Where Bill provisions impact bilingual Wales only primary legislation we are requesting that only Welsh Ministers have power to commence.

### **Substantive provisions**

Subject to the singular point below, powers in substantive Bill provisions in devolved areas once commenced will only be exercised by Welsh Ministers or relevant Welsh public authorities.

- Powers to require information in relation to food supply chains – directions can be made by the Welsh Ministers or Secretary of State with WM consent (this is the agreed WG policy position)

### **Powers to suspend, revive and transitional provisions etc**

The Bill gives concurrent functions to both Welsh Ministers and Secretary of State (with WM consent) in relation to powers to suspend and revive provisions, make transitional and consequential provisions and alter the expiry date of provisions. Again officials are seeking to only allow Welsh Ministers power to suspend etc. Wales only bilingual legislation.

### **Impact of concurrent functions**

By allowing the Secretary of State to take concurrent plus powers in relation to devolved areas, albeit with the need for Welsh Ministers consent, this does have GOWA 2006 implications.

If Secretary of State is given power to commence, suspend or extend Welsh Ministers powers in the Bill this would probably be interpreted as a “qualified devolved function” (within the meaning of paragraph 11 of Schedule 7B GOWA 2006), meaning that Minister of the Crown consent may be needed for the Senedd to legislate in this area going forwards.

However, the practical implications of this are likely to be relatively small for two main reasons:

- (i) This is a time limited Bill to deal with a specific set of circumstances. Although there is a power to extend the life of the Bill, it seems that there is low risk of the Senedd needing to legislate in this area before the Bill expires.
- (ii) We have now received confirmation from the Office of the Secretary of State for Wales that the Coronavirus Bill will be included in a s.109 Order. Therefore, provided that the Order is in fact made, which is due to be in July 2020, no consent would be required to remove these functions in any Senedd legislation.

If Ministers are content with this approach we propose to urgently request drafting amendments to the Bill this afternoon.

### **Regulations**

The Health Protection (Coronavirus) (Wales) Regulations 2020 are ready to go forward. Equivalent regulations were made in England on 10<sup>th</sup> February. These regulations would supplement the existing public health regime in the event a declaration made in the name of the Welsh Ministers that there is a serious and imminent threat to public health.

Officials are working on the assumption that both the declaration and regulations will be made on Monday.

Thanks,

Neil

**Neil Surman**



Dirprwy Gyfarwyddwr, Is-adran Iechyd y Cyhoedd / Deputy Director, Public Health Division  
Is-adran Iechyd y Cyhoedd / Public Health Division  
Cyfarwyddiaeth Polisi Iechyd / Directorate of Health Policy  
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