

Huw Irranca-Davies MS,
Deputy First Minister and Cabinet Secretary for
Climate Change and Rural Affairs

8 July 2025

Dear Huw,

Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill

Thank you for attending the Committee's 26 June meeting to give evidence on the Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill (the Bill). To further support our scrutiny of the Bill, we would be grateful if you could respond to the questions below.

Part 1: Environmental objective and principles

Duty to apply the environmental principles

Sections 3 and 4 place a duty on the Welsh Ministers and Natural Resources Wales to "have 'special regard' to environmental principles when making policy in relation to Wales". For the purpose of sections 3 and 4, "'policy' includes proposals for legislation, but does not include an administrative decision in relation to a particular person or case."

Further, the Explanatory Memorandum (EM) states:

"certain public authorities may develop policy proposals for the Welsh Ministers in specific areas. These matters will be considered on a case-by-case basis as to whether they would fall within scope of Welsh Ministers' policy making, as defined by the Bill."

1. Can you clarify whether 'making policy' is intended to encompass outputs by the Welsh Government which are not strictly legislation (such as guidance, statements, non-statutory codes of conduct and directions)?

2. What criteria will be used to determine whether policy proposals developed by public authorities fall within scope of Welsh Ministers' policy making?

Section 5 places a duty on public authorities (defined in subsection (4)) to have regard to the environmental principles when carrying out functions in connection with Strategic Environmental Assessments (SEAs), and to integrate environmental protection into the carrying out of those functions.

3. In practice, what proportion of public authorities defined in section 5(4) constitute 'responsible authorities' under the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004, and are thereby required to undertake SEAs?

4. What arrangements will be put in place to ensure that public authorities who are subject to the duty are complying with it? How is this provided for in the Bill?

Environmental principles and integrating environmental protection statement

Section 7 sets out the procedural requirements for the 'environmental principles and integrating environmental protection statement' (the 'statement'). Section 7(1) provides that, before publishing the statement, the Welsh Ministers must consult specified persons. Section 7(2) provides that the Welsh Ministers must lay a copy of the statement before Senedd Cymru.

The Bill does not make provision for Senedd scrutiny of the statement. In contrast, UK and Scottish legislation provides the respective Parliaments with an opportunity to scrutinise comparable documents (i.e. the UK Government's policy statement on environmental principles and the Scottish Government's guidance on environmental principles and associated duties).

5. Why have you chosen not to make provision for Senedd scrutiny of the statement, given its significance?

Part 2: The Office of Environmental Governance Wales (OEGW)

Establishment of the OEGW

7. In appearing before the Committee on 26 June, you estimated the OEGW would be fully operational between 18 to 24 months after the Act receives Royal Assent. Can you provide further details of the planned work schedule, including key milestones?

8. How will you ensure a smooth transition from the interim environmental protection measures, headed by the by the Interim Environmental Protection Assessor for Wales, to a fully operational OEGW?

Investigations and compliance notices

Section 15 of the Bill provides that the OEGW may investigate whether a public authority *is failing or has at any time failed* to comply with environmental law. However, the OEGW can only serve a compliance notice (under section 16) if it considers that the public authority *is failing* to comply with environmental law.

9. Can you clarify why the power for the OEGW to investigate historic cases of non-compliance is needed if the OEGW is subsequently unable to take enforcement action?

Meaning of "environmental law"

Section 29 provides the meaning of "environmental law". Section 29(4) enables the Welsh Ministers, by regulations, to provide that a devolved provision specified in the regulations is, or is not, within the definition of "environmental law" (and therefore within scope of the OEGW). According to the EM, this is "to ensure the definition of environmental law can be future proofed and updated with the latest developments in respect of international and domestic policy".

Section 46 of the Environment Act 2021 provides a comparable power for the Secretary of State in relation to the definition of "environmental law" under that Act. Before making regulations, the Secretary of State must consult the Office for Environmental Protection (the equivalent to the OEGW) and any other persons they consider appropriate.

10. Can you expand on why you consider the power in section 29(4) of the Bill is needed?

11. What criteria will be used to determine whether a devolved provision is, or is not, within the definition of 'environmental law' in the exercise of the power under section 29(4)?

12. What consideration did you give to including a requirement on the Welsh Ministers to consult before making regulations under section 29(4)?

Overlapping functions

During your appearance before us on 26 June 2025, we asked you about potential overlap between the functions of the OEGW and the UK Climate Change Committee (UKCCC). You said:

"we're confident...that there's going to be limited overlap between the OEGW and the UK Climate Change Committee. They're established under different legislative frameworks, and they have fundamentally different purposes."

However, the White Paper highlights a risk that the OEGW's target monitoring functions could duplicate those of other bodies, such as the UKCCC.

13. Can you clarify whether the Bill enables the OEGW to monitor, report and provide advice on climate change targets set under the Environment (Wales) Act 2016?

14. Given that the UK CCC is not listed in paragraph 1(1)(e) of Schedule 2, how does the Bill ensure that the “limited overlap” of functions between the OEGW and UKCCC will be managed effectively?

15. The Environment Act 2021 requires the Office for Environmental Protection and the UKCCC to prepare a memorandum of understanding on how they intend to cooperate. What consideration did you give to including comparable provision in the Bill?

Relationship with other environmental governance bodies

16. Do you envisage the OEGW working in collaboration/cooperation with the Office for Environmental Protection, for example, if a matter being investigated under section 15 also touches on ‘reserved’ environmental law?

17. The Office for Environmental Protection and Environmental Standards Scotland are required to consult counterparts in the other UK nations if they consider that a particular exercise of their functions may be relevant to the exercise of the functions of their counterparts. Why have you chosen not to place an equivalent requirement on the OEGW?

Compliance notices

Section 16 enables the OEGW to serve a compliance notice on a public authority if it considers that the authority is failing to comply with environmental law. The compliance notice must specify one or more action the authority must take in order to address the failure and the period within which each action must be taken. The period specified must be at least 30 days from the day on which the notice was served.

Section 17 enables the OEGW to serve an ‘urgent’ compliance notice where it considers action “needs to be urgently taken to prevent or mitigate an imminent risk of serious damage to the environment or to human health”. The notice may specify actions to be taken within a 7 to 30-day period.

Section 18 makes provision for the OEGW to review compliance notices, including ‘urgent’ compliance notices. The OEGW is required to review any such notice if requested to do so by the public authority on whom the notice was served. While the Bill does not specify the grounds on which a request for a review can be made, the EM states the grounds “must be material and not frivolous”.

18. Why do you consider it necessary to enable the OEGW to serve ‘urgent’ compliance notices?

19. Under what circumstances do you envisage an ‘urgent’ compliance notice being issued? Can you provide an example(s)?

20. Why do you consider it necessary to enable a public authority to request a review of a compliance notice?

21. Why have you chosen not to specify in the Bill the grounds on which a request for a review can be made?

22. Is there a danger that a request for the review of an 'urgent' compliance notice could delay action "that needs to be taken urgently to prevent or mitigate an imminent risk of serious damage to the environment or to human health"? How does the Bill safeguard against this?

Part 3: Biodiversity targets

Target-setting

The Bill provides that before setting or amending biodiversity targets, the Welsh Ministers must be satisfied that those targets can be met (new section 6D of the Environment (Wales) Act 2016 (the 2016 Act) to be inserted by section 33).

23. Is there a danger that this will result in less ambitious targets?

24. In practice, how will the Welsh Ministers satisfy themselves that proposed targets can be met?

25. The Bill enables the Welsh Ministers to revoke or lower targets. Why do you consider this power is needed?

The Bill sets out the circumstances under which a target can be revoked or lowered (new section 6H of the 2016 Act to be inserted by section 33), including:

"because of changes in circumstances since the existing target was set, the environmental, social, economic or other costs of meeting it would be disproportionate to the benefits".

26. In practice, how will the Welsh Ministers determine whether the environmental, social, economic or other costs of meeting a target would be disproportionate to the benefits?

Designation of public authorities

The Bill enables the Welsh Ministers to designate in regulations public authorities that must take action to contribute towards achieving the targets(s) (new section 6F of the 2016 Act to be inserted by section 33).

27. What criteria will the Welsh Ministers use to determine whether a public authority should be designated in relation to a target?

28. Is it the intention to simultaneously lay regulations setting targets under new section 6B and designating relevant public authorities under new section 6F?

The new section 6 plans (under the 2016 Act)

The White Paper proposal was for “a statutory long term Wales Nature Recovery Strategy, outlining the approach to delivery of the statutory targets as well as the Welsh Government’s response to the Global Biodiversity Framework”. There is no provision in the Bill for such a strategy, rather a requirement on the Welsh Ministers to set out in their section 6 plan (under the 2016 Act) the action they propose to take to ensure that the biodiversity targets are met and when they propose to take that action. In appearing before the Committee, you explained this change of approach was to avoid duplication, adding:

“The section 6 plan will serve as the Welsh biodiversity strategy...This provides that clear, strategic pathway for us, for public bodies, for stakeholders and wider society to seek that reversal of biodiversity decline. It's very transparent, it's very effective in terms of monitoring and evaluation, and we can track progress through it.”

29. What opportunity will there be for stakeholders to influence the development of the new section 6 plan? How does the Bill provide for this?

30. Can you clarify whether the intention is for the section 6 plan to replace the Nature Recovery Action Plan (NRAP)?

- If so, is it the intention for the section 6 plan to include wider actions in response to the Global Biodiversity Framework?
- If not, can you explain how the section 6 plan and the NRAP will relate to one another?

It would be helpful to receive a response as soon as possible, and by 5 August at the latest.

I am copying this letter to Mike Hedges MS, Chair of the Legislation, Justice and Constitution Committee.

Regards,



Llyr Gruffydd MS,
Chair, Climate Change, Environment and Infrastructure Committee

Croesewir gohebiaeth yn Gymraeg neu Saesneg | We welcome correspondence in Welsh or English.