

EPGBTWB 35 - Tystiolaeth gan: Gwasanaeth Tân ac Achub Gogledd Cymru | Evidence from: North Wales Fire and Rescue Service

Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee

Bil yr Amgylchedd (Egwyddorion, Llywodraethiant a Thargedau Bioamrywiaeth) (Cymru) | Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill

1. What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

NWFRS supports the Bill's principles and agrees legislation is needed to address the climate and nature emergencies. Our corporate plans already include an "Environment Principle," and as first responders to increasing wildfires and floods, we have a direct operational interest in policies that build environmental resilience.

However, the Bill creates a fundamental conflict between our primary statutory duty to save life and the new environmental duties. An Incident Commander (IC) must take immediate action at major incidents, often with unavoidable environmental consequences, such as using large volumes of water or specialist foams.

The Bill places ICs in an untenable position, where a life-saving decision made under extreme pressure could be retrospectively investigated by the new Office of Environmental Governance Wales (OEGW). This risks creating a dangerous "decision paralysis," which could jeopardise public safety. The legislation must be amended to explicitly acknowledge the primacy of the duty to save life in an emergency context.

2. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

- **Part 1 - Environmental objective and principles (sections 1 to 7)**

The principles in Part 1 are unworkable for emergency response without significant qualification. The precautionary and prevention principles are core to our non-emergency functions, but their application during an incident is problematic.

When the FRS is mobilised, prevention has already failed, and an IC cannot delay life-saving action based on the precautionary principle. The "rectified at source" principle aligns well with existing FRS best practice of containing pollution on-site using booms and drain blockers. However, the "polluter pays" principle is fundamentally misapplied to a statutory emergency service. The FRS is a responder mitigating an incident caused by others; the environmental consequences of our actions are a direct result of fulfilling our statutory duty.

Applying this principle would transfer liability from the responsible party to the public purse, creating a perverse incentive for ICs to hesitate in using necessary resources, endangering lives and potentially causing far greater environmental harm. Recent developments in national operational guidance promote greater use of resources at incidents, i.e. significantly more water to reduce the risk of harm to responders. Limiting the use of resources such as firefighting foam or water could increase the risks to responders. The Bill must clarify that "polluter pays" does not apply to emergency services acting in good faith.

We would also suggest that, as worded, this principle arguably creates a duty to not only quantify but directly mitigate economic externalities arising from operational carbon emissions. This, while laudable, would represent a significant percentage of our annual budget.

3. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

- **Part 2 - The Office of Environmental Governance Wales (sections 8 to 32 and Schedules 1, 2 and 3)**

While we support establishing the OEGW, we have profound concerns about its enforcement powers' workability for emergency services. The power to serve compliance notices for perceived failures to comply with environmental law, without a clear threshold for what constitutes a "serious" failure, is particularly worrying.

The ambiguity risks subjecting an Incident Commander's good-faith operational decisions to investigation and sanction, which could undermine operational effectiveness.

A fundamental flaw is the lack of any requirement for the OEGW to have expertise in emergency response or incident command [, Schedule 1, para 8(1)] leading to disproportionate enforcement actions based on a misunderstanding of the unavoidable trade-offs involved. Operational decisions to limit use of firefighting resources would be in conflict with existing national and international guidance on best practice in firefighting.

We believe Improvement Reports are a more constructive tool for engaging with the FRS. To ensure the OEGW is a credible partner, we recommend mandating operational expertise on its board and co-designing a specific emergency services protocol. For example, it is necessary for firefighters to be able to train in realistic conditions, resulting in certain environmental impacts from our training facilities being unavoidable.

4. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

- **Part 3 - Biodiversity targets, etc (sections 33 to 38)**

NWFRS supports the ambition to set biodiversity targets and recognises our key role as a delivery partner. We directly protect Wales's biodiversity through our

expert role in preventing and responding to wildfires, which pose a devastating threat to sensitive habitats.

Our 44 stations are strategically located within and near National Parks, AONBs, and European designated sites like SSSIs and SACs, making us de facto custodians during emergencies. However, the new duty in Section 34 for public authorities to "take action to contribute to meeting the target" is a significant, unfunded mandate.

Meaningful action beyond our existing response function requires new investment in specialist all-terrain vehicles, advanced training in wildfire suppression tactics that minimise ecological damage, and dedicated staff time for proactive planning with partners.

Without a clear "new burdens" funding commitment from the Welsh Government, this duty will divert critical funds from our core life-safety functions, creating an unacceptable public risk.

5. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

- **Part 4 - General (sections 39 to 45 and Schedule 4)**

The general provisions in Part 4 are, for the most part, standard and necessary legislative mechanisms for the Bill's implementation. We support the practical tools provided, such as the power for Welsh Ministers to make supplementary regulations to ensure the Act can be fully effective.

We particularly support the consequential amendment in Schedule 4, which subjects the new OEGW to the Well-being of Future Generations (Wales) Act 2015. This is a crucial measure that ensures the environmental watchdog is itself bound by the same principles of sustainable development it will oversee in other public authorities, thereby enhancing its credibility and ensuring its own strategies contribute positively to all of Wales's well-being goals.

The provisions for the Act's phased entry into force also appear logical, allowing public bodies time to prepare. Our overall support for this Part is contingent on the FRS being a statutory consultee in the development of all subordinate legislation affecting our operations

6. What are the potential barriers to the implementation of the Bill's provisions and how does the Bill take account of them?

The Bill faces three primary implementation barriers which it fails to adequately address. Firstly, the unresolved operational conflict between the primary duty to save life and new environmental duties creates legal uncertainty for Incident Commanders, risking a dangerous "decision paralysis" on the incident ground.

Secondly, the Bill imposes significant new financial burdens without a corresponding funding commitment. These unfunded mandates include comprehensive new training for all operational staff on the Bill's provisions, a new administrative workload for OEGW compliance, and investment in specialist equipment and planning for our enhanced biodiversity role. These costs are substantial and cannot be absorbed by already stretched FRS budgets.

Thirdly, there is a lack of specialist guidance for the emergency response sector and no mandated operational expertise within the OEGW itself. This risks creating a governance system disconnected from the operational realities of the bodies it oversees. The Bill must be amended to resolve these barriers to be workable.

7. How appropriate are the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum)

Using subordinate legislation to implement the Bill's detailed aspects is an appropriate and necessary approach, providing the flexibility to adapt to new science and practical lessons. The use of both affirmative and negative Senedd procedures for different regulations also appears proportionate.

However, our support for these powers is conditional on a crucial addition. The Bill provides for parliamentary scrutiny but fails to mandate consultation with the key public authorities who will be bound by these new regulations. Given the profound operational, legal, and financial impacts that this subordinate legislation will have on the Fire and Rescue Service, it is essential that we are formally involved in its development.

We strongly recommend the Bill is amended to make the three Welsh Fire and Rescue Authorities statutory consultees for any subordinate legislation that could impact our functions, duties, resources, or operational procedures, including regulations on biodiversity targets, the environmental principles

statement, and the OEGW's strategy. This will ensure regulations are practical and effective

8. Are any unintended consequences likely to arise from the Bill?

Yes, the Bill is highly likely to cause serious unintended consequences. The most severe is "operational paralysis," where the threat of retrospective investigation by the OEGW causes Incident Commanders to hesitate in making critical, time-sensitive life-saving decisions. This delay could allow an incident to escalate, ultimately causing greater harm to both people and the environment.

Another major consequence is the diversion of critical resources from core safety functions. The Bill's unfunded mandates for new equipment, training, and administration will force budget cuts to existing life-saving activities like community fire safety and firefighter training, contradicting inspectorate advice and making communities less safe.

Finally, the Bill risks creating an adversarial and ineffective governance system. It could replace the current collaborative partnership between the FRS and environment agencies with a punitive relationship, eroding trust and hindering the proactive, problem-solving approach needed for effective environmental protection at incidents

9. What are your views on the Welsh Government's assessment of the financial implications of the Bill as set out in Part 2 of the Explanatory Memorandum?

The Welsh Government's financial assessment is wholly inadequate and fails to quantify the significant new costs the Bill imposes on Fire and Rescue Services. These are unfunded mandates that will place unsustainable pressure on existing life-safety budgets.

As a proactive service, NWFRS has already transitioned to fluorine-free foam, but the Bill introduces other major costs not accounted for. These include comprehensive new training requirements for all operational personnel and commanders on the Bill's provisions, their new legal duties, and the role of the OEGW.

It will also create a significant new administrative burden for OEGW compliance, requiring dedicated staff time to respond to information notices, participate in investigations, and report on biodiversity targets.

Furthermore, fulfilling the new biodiversity duty will necessitate investment in specialist wildfire equipment and resources for proactive planning. FRS budgets have no capacity to absorb these costs. We request a full "new burdens" assessment and a dedicated, ring-fenced funding stream to cover all new costs

10. Are there any other issues that you would like to raise about the Bill and the accompanying Explanatory Memorandum or any related matters?
