

EPGBTWB 42 - Tystiolaeth gan: Dŵr Cymru | Evidence from: Welsh Water

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

Climate Change, Environment, and Infrastructure Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN.

SeneddClimate@senedd.wales

By email only

30th July 2025

Dear Sir/Madam,

Welsh Parliament Consultation – Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill

We welcome the opportunity to respond to the Climate Change, Environment and Infrastructure Committee’s consultation on the Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill.

These comments are from Dŵr Cymru Cyfyngedig (Welsh Water), the statutory water and sewerage undertaker that supplies over three million people in Wales and some adjoining parts of England. We are owned by Glas Cymru, a single purpose, not-for-profit company with no shareholders. We provide essential public services to our customers by supplying their drinking water and then carrying away and dealing with their wastewater sustainably. In this way we make a major contribution to public health and to the protection of the Welsh environment. Our services are also essential to sustainable economic development in Wales.

We recognise the critical importance of this legislation in addressing the climate and nature emergencies and commend the Welsh Government for its ambition and clarity in developing a comprehensive statutory framework. We are pleased to see the Bill reflects many of the principles and objectives outlined in the original White Paper, with further clarity and structure now provided.

Part A – Environmental Principles

We strongly support the statutory embedding of environmental principles into Welsh law. The Bill’s requirement for Welsh Ministers and Natural Resources Wales (NRW) to have special regard to the environmental principles, and to integrate environmental protection into the development of policy, represents a significant and welcome enhancement of the original proposals. This methodology guarantees that environmental factors will occupy a central position in the development of public policy, rather than being treated as secondary concerns.

We’re not-for-profit. Every single penny we make goes back into looking after your water and environment. You can contact us in Welsh or English.

Rydym yn gwmni nid-er-elw. Mae pob ceiniog a wnawn yn mynd i ofalu am eich dŵr a’ch amgylchedd. Cysylltwch a ni yn Gymraeg neu’n Saesneg.

Dŵr Cymru Cyf. (No./Rhif 2366777)
A limited Company registered in Wales:
Cwmni cyfyngedig wedi’i gofrestru yng Nghymru:

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The four core principles—precaution, prevention, rectifying damage at source, and polluter pays—form a strong basis for environmental governance. The introduction of a statutory environmental objective further strengthens this framework by aligning environmental protection with the well-being goals set out in the Well-being of Future Generations (Wales) Act 2015.

We also note the requirement for public authorities, including Dŵr Cymru, to have regard to these principles when undertaking Strategic Environmental Assessments (SEA). We support this targeted application and recommend that the accompanying guidance provides practical examples to ensure consistent and proportionate implementation across the public sector.

Part B – Office of Environmental Governance Wales

We support the establishment of the Office of Environmental Governance Wales (OEGW) as an independent statutory body with a clearly defined remit. The Bill provides clarity regarding the OEGW's powers, duties, and relationship with existing regulatory bodies and we welcome the emphasis on strategic oversight, proportionality, and transparency in the exercise of its functions.

We note that water and sewerage undertakers are explicitly included within the definition of public authorities under the Bill. While we acknowledge the importance of independent oversight, we remain concerned about the potential for duplication of regulatory functions, particularly in relation to existing oversight by Natural Resources Wales and Ofwat. Whilst the Bill's provisions require the OEGW to act in a manner that seeks to avoid overlap with the exercise of functions, there are a limited number of bodies listed and consider that the Bill could be strengthened to prevent the OEGW from duplicating the functions of other regulators. It is critically important that we can take certainty from the decisions of our regulators without risk that they could come into conflict with other bodies adjudicating on the same matters. We propose that the drafting is amended to ensure that the OEGW's strategy and operational guidance explicitly address how it will coordinate with existing regulators and manage cross-border issues.

We welcome the adoption of an escalatory approach to enforcement, and consider that the included safeguards provide important procedural protections. However, we find the Bill unclear about what should happen after a referral to the High Court, particularly regarding the scope of the remedy and its enforcement.

Part C – Biodiversity Targets

We are supportive of the introduction of a statutory biodiversity target-setting framework. The Bill provides a clear and structured approach to the setting, monitoring, and review of biodiversity targets, and we welcome the inclusion of a duty on Welsh Ministers to ensure that such targets are met.

The power to designate public authorities to contribute to the achievement of biodiversity targets is a pragmatic and necessary measure. We support this provision, provided that the designation process is transparent, evidence-based, and subject to appropriate consultation. We also welcome the requirement for designated authorities to report on their contributions through existing reporting mechanisms under the Environment (Wales) Act 2016.

We reiterate the importance of ensuring that the implementation of biodiversity targets is supported by clear guidance, adequate funding, and alignment with the planning system and land use policy.

Furthermore, we encourage the Welsh Government to recognise the essential role of non-public actors, including landowners and the agricultural sector, in delivering biodiversity outcomes.

In summary, we support the overarching aims of the Bill and commend the Welsh Government's ambition to strengthen environmental governance and biodiversity protection through a coherent and forward-looking statutory framework.

More detailed responses addressing each of the consultation questions in turn have been submitted through the online form and are also attached to this letter for ease of reference. We have sought to provide constructive feedback on the workability of the Bill's provisions, the clarity of its definitions and duties, and the practical considerations for implementation, particularly in relation to investment planning, regulatory alignment, and reporting obligations.

We would welcome the opportunity to engage further on any aspect of our submission and to support the successful implementation of the Bill.

Yours Sincerely,

A handwritten signature in cursive script, appearing to read 'SEllwood'.

Sharon Ellwood

Head of Environmental Services

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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?

We support the overarching aims of the Bill and commend the Welsh Government for its ambition in addressing the climate and nature emergencies through a coherent and forward-looking legislative framework. The general principles of the Bill are aligned with the Welsh Government's strategic ambition to providing a comprehensive statutory framework for strengthening environmental governance and biodiversity protection in Wales.

The introduction of a statutory framework that embeds environmental principles and establishes a dedicated oversight mechanism is both timely and necessary. We support the establishment of a new oversight body as a means of addressing the accountability gap and ensuring that environmental law is implemented effectively. However, it is essential that the remit of this body is clearly defined and carefully integrated with the functions of existing regulators, such as Natural Resources Wales and Ofwat. Without such clarity, there is a risk of regulatory duplication, inefficiency, and uncertainty. To maximise the effectiveness of the proposed framework, implementation should prioritise strategic alignment, operational clarity, and minimisation of administrative burden. A coordinated approach will be critical to ensuring that the new governance arrangements complement existing structures and deliver meaningful environmental outcomes.

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 provisions in Part 1 of the Bill provide a strong foundation for embedding environmental principles into Welsh law. The requirement for Ministers and Natural Resources Wales to have “special regard” to the environmental principles, and to integrate environmental protection into policymaking, is a positive step. However, the practical implementation of these duties will require clear and detailed guidance to ensure consistency and proportionality across public authorities.

The statutory environmental objective is ambitious and aligns with broader sustainability goals, but its effectiveness will depend on how it is operationalised and measured. The Bill would benefit from further clarification on how the objective will be monitored and how conflicts between environmental and other policy objectives will be resolved.

The inclusion of a duty for public authorities to have regard to the principles when undertaking Strategic Environmental Assessments is appropriate, but the scope of this duty should be clearly defined to avoid uncertainty.

Overall, the provisions are workable, but their success will depend heavily on the quality of the supporting guidance and the capacity of public authorities to implement them effectively.

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)**

The establishment of the Office of Environmental Governance Wales (OEGW) is a significant development in the post-EU environmental governance landscape. The Bill provides a clear statutory basis for the OEGW's functions, including

investigation, compliance, and enforcement powers. These provisions appear broadly workable and reflect a proportionate approach to oversight.

However, the potential for overlap with existing regulators remains a concern. We consider that the Bill should make it clear that it is not the role of the OEGW to act where others already have such powers, it should instead engage with that regulator/public authority, to ensure clarity of roles and avoid duplication. The inclusion of water and sewerage undertakers, such as us, as public authorities under the OEGW's remit provides an example of where confusion and duplication could arise. It will be important to ensure that the OEGW's enforcement activities do not undermine the regulatory frameworks of Ofwat and Natural Resources Wales. For example, our environment programme is carefully agreed with Natural Resources Wales and is subject to Ofwat's price control. This is also reflective of most of the defined public authorities where environmental compliance is in part dependent on adequacy of funding.

The requirement for the OEGW to act transparently and proportionately is welcome, as is the inclusion of procedural safeguards such as the ability to seek review of compliance notices. However, we consider that the Bill and Explanatory Memorandum do not provide sufficient detail as to what is expected following a High Court's review, such as what sanction or outcome would the OEGW seek, e.g., could a public authority be required to act on a compliance notice regardless of cost or impact on its other functions. In our view, the success of the OEGW will depend on its ability to build trust with stakeholders, maintain independence, and focus on strategic oversight rather than operational intervention.

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)**

The introduction of a statutory biodiversity target-setting framework is a welcome development. It has the potential to provide greater clarity and focus for public authorities and other stakeholders, including regulated utilities such as ourselves. Measures that help identify where investment and effort can deliver the greatest biodiversity benefit are particularly valuable. Targets offer a clear articulation of the outcomes Wales is seeking to achieve, and their integration

into sectoral strategies, such as the Sustainable Farming Scheme, is strongly supported.

The clarity that targets bring is especially important for sectors such as water, where long-term investment planning is essential. For water companies, the timing of secondary legislation introducing statutory biodiversity targets will be critical. Draft business plans for AMP9 are expected by the end of September 2028, with detailed planning commencing approximately a year earlier. To ensure that statutory biodiversity targets are adequately reflected in investment proposals, it is recommended that Welsh Government provide early direction through strategic guidance, including incorporation into Strategic Direction Statements.

The Bill's provisions for consultation with public authorities on proposed targets are particularly important and are welcomed. Recognition of existing programmes such as the Nature Networks Programme and the National Peatlands Action Programme is also positive, as these initiatives provide a practical foundation for delivering ecosystem resilience and species recovery.

It is considered that the most significant contribution to halting biodiversity loss will come through the delivery of statutory functions and enhancement programmes. In particular, the alignment with global biodiversity targets—such as Target 7 on reducing pollution harmful to biodiversity—is essential. Investment programmes targeting storm overflows and wastewater treatment works are directly relevant to this aim and should be acknowledged in accompanying guidance.

The interaction between biodiversity targets and the planning system will also be critical. Proposals to update Planning Policy Wales to provide greater certainty on the application of Net Benefit for Biodiversity are therefore welcomed.

Enhancing the existing Biodiversity Action Plan reporting duty under the Environment (Wales) Act 2016 is a pragmatic approach. However, the current three-year reporting cycle may not allow sufficient time to assess the effectiveness of measures. A longer-term reporting framework, supported by simplified interim updates, may provide a more meaningful assessment of progress.

Reporting across all relevant public authorities should be structured to support Welsh Government's international reporting obligations under COP15. This will also assist Ministers in demonstrating progress against the overarching objective

of halting and reversing biodiversity loss and will improve transparency for stakeholders and the public.

Finally, consideration should be given to strengthening compliance with the duty to prepare and publish biodiversity plans. Audit Wales has reported that nearly half of public authorities had not met this requirement as of March this year. Without comprehensive data, it will be difficult for Ministers to report credibly on progress against biodiversity commitments.

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 of the Bill provide the necessary administrative and interpretive framework to support the implementation of the substantive provisions. The definitions of key terms such as “public authority” and “environmental law” are broadly appropriate, but further clarification may be required to ensure consistent interpretation across sectors.

We note the inclusion of water and sewerage undertakers within the definition of public authorities. While this reflects the important role we have with regards to environmental protection, it also introduces new compliance obligations that must be clearly defined to avoid legal uncertainty. The Bill should ensure that these obligations are proportionate and aligned with existing regulatory frameworks.

The provisions relating to guidance, reporting, and review will be essential in ensuring transparency and accountability. However, the effectiveness of these mechanisms will depend on the quality and timeliness of the guidance issued by Welsh Ministers. It is recommended that guidance be developed in consultation with stakeholders and include practical examples to support implementation.

Overall, the general provisions appear workable, but their success will depend on the clarity of supporting materials and the capacity of public authorities to meet their new obligations.

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

Several potential barriers to implementation have been identified. First, the risk of regulatory duplication between the new Office of Environmental Governance Wales and existing bodies such as Natural Resources Wales and Ofwat could lead to inefficiencies and confusion. While the Bill includes provisions for coordination, these must be supported by detailed operational protocols and clear delineation of responsibilities.

Second, resource constraints may limit the ability of public authorities to comply with new duties. Many authorities are already operating under significant financial and staffing pressures, and the introduction of additional reporting and compliance requirements could exacerbate these challenges. The Bill does not currently include provisions for additional funding or capacity-building support, which may hinder effective implementation.

Third, the success of the Bill will depend heavily on the quality of the guidance and secondary legislation that will follow. If these materials are delayed or lack clarity, public authorities may struggle to understand and fulfil their obligations.

The Bill acknowledges some of these challenges but could go further in providing mechanisms to address them. For example, phased implementation, pilot programmes, or transitional arrangements could help mitigate the impact of new duties and allow for lessons to be learned before full rollout.

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)

The powers granted to Welsh Ministers to make subordinate legislation appear generally appropriate and necessary to provide for flexibility in implementing the Bill's provisions. These powers will enable Ministers to respond to emerging evidence, adapt to changing circumstances, and refine operational details without requiring primary legislation.

However, the breadth of these powers places a significant responsibility on the Welsh Government to ensure that subordinate legislation is developed transparently and in consultation with stakeholders. Key areas such as the setting of biodiversity targets, designation of public authorities, and

development of guidance will have substantial implications for a regulated business like us and should be subject to robust scrutiny.

To maintain public confidence and ensure accountability, it is recommended that the use of subordinate legislation be accompanied by clear consultation processes, impact assessments, and opportunities for parliamentary oversight. This will help ensure that the powers are exercised in a manner that is proportionate, evidence-based, and aligned with the Bill's overarching objectives.

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

While the Bill is well-intentioned, issues may arise if implementation is not carefully managed. One potential issue is the potential for regulatory confusion, particularly for organisations such as us that are subject to oversight by multiple bodies. Without clear guidance and coordination, there is a risk that we receive conflicting messages or face duplicative compliance requirements.

Another concern is the potential for legal uncertainty, especially in relation to the definitions of key terms and the scope of new duties. For example, the duties to “have regard to” environmental principles or to “contribute to” biodiversity targets are not clearly defined in terms of what would constitute appropriate compliance or how these duties interact with existing statutory obligations e.g. under the Water Industry Act or the Well-being of Future Generations Act. It is not explicit whether failure to meet these duties could lead to enforcement action by the OEGW. Without clear guidance on these duties the result could either be under-compliance, due to lack of clarity, or over-compliance, due to risk aversion, both of which have the potential to introduce inefficiencies and additional costs. Another example within the Bill allows the OEGW to investigate and issue compliance notices where it believes a public authority is failing to comply with environmental law. However, the threshold for what constitutes a “failure” is not clear. How would the OEGW deal with distinguishing between a breach of law and a disagreement over interpretation or policy position/prioritisation? Such ambiguities in the legislation could lead to inconsistent interpretation and increased litigation risk.

There is also a risk that the new duties could be perceived as burdensome or disconnected from operational realities, leading to disengagement among public authorities. This could undermine the Bill's objectives and reduce the effectiveness of its provisions.

To mitigate these risks, the Welsh Government should prioritise clear communication, stakeholder engagement, and the development of practical, user-friendly guidance. Regular review and evaluation of the legislation's impact will also be important to identify and address any unintended consequences that emerge over time.

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 financial assessment provided in the Explanatory Memorandum appears optimistic and may underestimate the resources required for effective implementation. Establishing a new governance body, developing guidance, and supporting compliance across the public sector will entail significant costs, both in terms of staffing and operational capacity.

For public authorities, particularly those with limited resources, the introduction of new duties may require additional investment in training, systems, and reporting mechanisms. Without dedicated funding or support, there is a risk that compliance will be uneven and that the intended outcomes of the Bill will not be fully realised.

The financial implications for regulated utilities, such as us, should also be considered. The timing of new requirements must align with existing investment planning cycles to ensure that necessary funding can be secured.

It is recommended that the Welsh Government undertake a more detailed financial impact assessment, including scenario modelling and consultation with affected stakeholders. This will help ensure that the necessary resources are in place to support successful implementation.

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

One additional issue relates to the alignment of the Bill with existing Welsh legislation, such as the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016. Greater clarity on how the new duties will

interact with existing frameworks would be beneficial, particularly in terms of reporting and accountability.

The role of non-public actors in delivering biodiversity outcomes also warrants further attention. While the Bill focuses on public authorities, many of the actions required to halt and reverse biodiversity loss will depend on the engagement of landowners, farmers, and other private stakeholders. The Welsh Government should consider publishing its expectations for these sectors and exploring mechanisms to support their contributions.

Finally, the success of the Bill will depend on sustained engagement with stakeholders throughout the implementation process. This includes not only formal consultation on subordinate legislation but also ongoing dialogue to share best practices, address challenges, and ensure that the legislation delivers meaningful environmental benefits.
