

## **EPGBTWB 46 - Tystiolaeth gan: Undeb Amaethwyr Cymru | Evidence from: Farmers' Union of Wales**

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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](#)

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### **About the Farmers' Union of Wales**

The Farmers' Union of Wales (FUW) was established in 1955 to exclusively represent the interests of farmers in Wales. Since 1978 the Union has been formally recognised by the UK Government, and subsequently by the Welsh Government, as independently representing those interests.

The FUW's Vision is *Thriving, Sustainable, Family Farms in Wales*, while the Mission of the Union is *To Advance and Protect Wales' Family Farms, both Nationally and Individually*, in Order to Fulfil the Union's Vision.

In addition to its Head Office, which has thirty full-time members of staff, the FUW Group has around 80 members of staff based in twelve regional offices around Wales providing a broad range of services for members.

The FUW is a democratic organisation, with policies being formulated following consultation with its twelve County Executive Committees and eleven Standing Committees.

### **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?**

The stated policy intention is to strengthen and enhance the Government's response to the climate and nature emergencies. The Bill aims to strengthen the existing Environment Act 2016 provisions by implementing the use of environmental protection, principles and objectives within policy and decision making for Welsh Ministers, Natural Resources Wales (NRW) and public authorities. It will also establish the independent Office of Environmental Governance Wales (the OEGW) to hold public authorities to account on their application of environmental law, whilst ensuring it is fit for purpose. Thirdly,

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legally binding biodiversity targets will be added to the existing Environment Act, with accompanying plans, evaluation updates and deadlines.

In regards to responding to the climate and nature emergencies in the context of Welsh agriculture, the existing Sustainable Land Management framework within the Agriculture (Wales) Act 2023 (and the Environment Act 2016 to a lesser extent), has more relevance in enabling farmers in Wales to respond. UK Government policies on trade and funding for Wales also has a significant impact on farmers' ability to respond to such emergencies, in addition to the domestic trading environment in which they operate.

However, farmers in Wales are impacted daily by Government and regulators' policies, administration requirements, regulation and red tape. Therefore, whilst the Bill is high level and focused on governing Welsh Ministers and NRW's processes, it is difficult to see how it won't therefore inadvertently increase the regulatory burden for farmers too.

Achieving the biodiversity targets, in contrast, could be seen as an opportunity to better reward, resource, implement and achieve action on the ground for biodiversity by farmers; i.e. those with the most generational knowledge and experience of land management alongside, or achieved by, the production of food. Conversely, as has been the case with the Control of Agricultural Pollution (CoAP) regulations, regulation and additional protection are often used as the primary mechanism to achieve certain outcomes, yet what is achieved in practical terms is far different due to their prescriptive and hollow nature.

## **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 FUW has concerns about NRW and other public authorities' existing capacity, and whether these principles would simply serve to create additional and onerous paperwork burdens and 'duties', as opposed to enabling NRW to focus on implementation and identifying the biggest risks to the environment.

The process required (the 'environmental principles and integrating environmental protection statement') of NRW (and public authorities) to comply with this framework must be made clear, achievable, and enable improvements

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as opposed to creating additional tick boxes and processes. However, the parity with EU principles is to be welcomed by the agricultural industry, as the EU remains the largest export market for Welsh agri-food exports.

The FUW has further concerns about how the precautionary principle in particular may further delay and complicate already lengthy planning processes, or delay and curtail action and innovation, potentially encouraging a 'yes - no' approach to permitting, designated site management, and planning applications in practice, as opposed to a risk-based case-by-case approach that would enable the most appropriate actions to be taken.

It is notable that the precautionary principle does not have a single agreed view. Therefore, the FUW would wish to see the principle being clarified, as well as applied or used as a risk 'assessment' alongside an overall 'net benefit' approach, as opposed to a simplistic, and protectionist principle. Furthermore, it should be applied consistently, and not just when deemed politically beneficial, or to certain actions or groups of land managers and not others.

We would wish to refer the committee to the EU Commission's guidance that:

"In addition, the general principles of risk management remain applicable when the precautionary principle is invoked. These are the following five principles:

proportionality between the measures taken and the chosen level of protection;  
non-discrimination in application of the measures;

consistency of the measures with similar measures already taken in similar situations or using similar approaches;

examination of the benefits and costs of action or lack of action; review of the measures in the light of scientific developments."

Whilst the FUW understands the addition of a duty to pay 'special regard to the environment' as an attempt to strengthen the Government's response to any policy which could have an impact on the environment, this is, by their own admission, an 'onerous duty'<sup>1</sup>. How this cascades down to delivery is crucial, so that action to enhance the environment is not an onerous process, but is facilitated, resourced, and encouraged.

The FUW will seek clarification on how the principles and objectives will interact with the four Sustainable Land Management (SLM) objectives within the Agriculture Act, and if it undermines the need to consider these equally by having to apply environmental protection as a 'fundamental and prominent

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aspect of policy making', particularly as the duty to have 'special regard' implies, or demands, a priority.

The environmental objective must also align with the Wellbeing of Future Generations Act (WFGA) in accordance with the sustainable development principles. Holistic decision making, rather than 'addressing issues in isolation' as quoted within the Environment (2016) Act, will be essential to ensure due consideration of trade-offs, win-wins, root causes and unintended consequences.

Given the importance of the 'integration' statement, the Committee should consider whether this statement ('The Environmental principles and integrating environmental protection statement') should be given further consultation or Senedd scrutiny to ensure it is appropriate to the Welsh context.

The importance of an appropriate 'scale' and proportionality will also be important in the application of the principles, given the intersection between global issues and local players.

### **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 FUW has concerns about the efficacy, administration burden and cost of an additional Body, with additional strategies, when arguably the key need for biodiversity loss is funding for action and implementation. The RIA projects that the costs to operate the OEGW will be £32.54 million over a 10-year appraisal period.

It will be important to ensure the Body is held to account on exercising its functions in an 'impartial, objective, proportionate and transparent manner', as the Bill outlines. The Auditor General for Wales should, as outlined in the Bill, be able to carry out examinations into the economy, efficiency and effectiveness with which resources have been used.

It will be important for the OEGW to focus their resources on the specific environmental law breach or issue raised by either stakeholders or the public, as opposed to using such cases as catalysts to expand its remit or overlap with the functions or areas addressed by other bodies, nor use the Body as a vehicle to

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actively select perceived issues and priorities based on anecdotes. The FUW believes the 'general purpose' is too broad, and could create duplication of work ("General purpose etc. The OEGW must exercise its functions— 10 (a) for the general purpose of contributing to the environmental objective; (b) impartially, objectively, proportionately and transparently.") For example, the IEPAW's call for evidence on hedgerow protection came from a submission regarding developers netting hedgerows. Yet the recommendations are focused on wider issues around agricultural hedgerows and the SFS (which is a voluntary scheme not a regulatory requirement).

Submissions by stakeholders or the public should be focused on current issues, as opposed to looking at historic concerns. This would not be an appropriate use of resources and public funding.

There are also concerns about adding significant additional reporting burdens and procedures onto various stretched public authorities, as outlined in the previous questions.

The appointment of the OEGW by the Welsh Ministers does also call into question the independence of the Body, especially as members of staff of the Welsh Government are able to be transferred to become members of staff of the OEGW. The equivalent Scottish legislation is far clearer/stronger stating that the 'ESS is not subject to the direction or control of any member of the Scottish Government'.

The FUW believes this control by Welsh Ministers has also contributed negatively to NRW's operations and created missed opportunities.

For example, NRW has in the past undertaken research or given recommendations to the Welsh Government (WG), but has been directed by Ministers to take a different course of action, to the detriment of practical implementation and cost. Again, the Control of Agricultural Pollution Regulations are an example of this where NRW recommended designating 8% of Wales as 'Nitrate Vulnerable Zones'. However, the WG implemented an all-Wales zone, and are now being given recommendations from a different independent review to, again, implement a more efficient 'risk-based' approach<sup>2</sup>. In regards to staffing, again using NRW as an example, for the past six years they have had a progressive farmer sitting on their Board, yet he has recently been replaced by a Wildlife Trust CEO, a doctor of circular economy in electrical equipment, and sustainable supply chain expert. Given the scale of change in farming and the influence NRW has on agricultural operations in Wales, it is disappointing to see a lack of 'critical friends' on the board, or practical

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experience of land management. This should not be replicated within the OEGW via Welsh Ministers' appointments. This was also raised in the 'Lessons Learnt' report by the IEPAW in relation to their support staff. They outlined the lack of environmental and ecological expertise in the secretariat staff the Welsh Government assigned to them, and their need to use student placements to assist with workload.

However, the ability to hold NRW and other public authorities to account on ensuring their approach to farmers versus other industries (e.g. water companies) is consistent is to be welcomed. But it will be important to maintain that the OEGW is there to regulate the regulators and systemic issues, as opposed to having influence over direct cases. As outlined in the 'Lessons Learned' document by the IEPAW, it will be important to communicate the OEGW's remit clearly to the public, what information is needed for any submissions, and implement streamlined processes for referring them to a more appropriate body.

Furthermore, the FUW may suggest an amendment which strengthens the process of consulting with those most impacted by any proposed changes, to ensure they are practical, implementable and effective. The farming industry is facing increasingly burdensome red tape and bureaucracy, with the introduction of the Sustainable Farming Scheme (SFS) Universal Actions in addition to new regulations, and an increased regulatory baseline as part of the SFS. The supply chain is also increasing demands on the industry for carbon audits for example, therefore the cumulative burden is significant.

The OEGW will have a duty to advance sustainable development via the WFGA, which is generally understood as having the three pillars of environmental, economic and social development. Effective engagement and dialogue across a diverse range of stakeholders has been highlighted as a key achievement of the IEPAW in feedback<sup>3</sup>, therefore the FUW would wish to see this continued with the OEGW.

Whilst 'fines' are difficult to navigate between different Government bodies or stretched public authorities, it is notable that assurances were given that enforcement powers post-Brexit would be at least equivalent to those enjoyed by the EU institutions. Others have argued that the ability to fine Government Bodies was an effective mechanism within EU systems, yet this Bill is not proposing that fines are used.

Farmers may question why they can be subject to fines and penalties whilst NRW themselves are not. Therefore, the FUW believes that a clear mechanism is

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required in order for the OEGW's credibility to be upheld as an effective body and both members of the public and local authorities understand the processes that are to be followed when a breach is identified.

2 <https://www.gov.wales/sites/default/files/publications/2025-03/statutory-review-control-agricultural-pollution-regulations-2025-review.pdf>

#### **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)**

As with many other approaches to top down target setting, the FUW reiterates the importance of well resourced and long term support to ensure such targets are practical and achievable.

This is especially prevalent given the lack of multi annual funding security within the SFS, which will be the primary lever for enhancing biodiversity on agricultural land in Wales. The Committee has previously called for better implementation and resourcing of biodiversity policy. Given the majority of land in Wales is associated with farming, the targets need to recognise and reflect this structure, the links with businesses (i.e. the whole socio-economic-ecological system) and the dominant land management such as livestock, grasslands, heathlands etc.

In addition to being properly resourced, they need to be made specific to how a farmer or land manager can implement them on the ground. For example, the target to 'restore' ecosystem function isn't always helpful or comprehensible-restore to what specific point in time or to what condition? An 'increase' is more tangible, such as an increase in diversity, connectivity, numbers etc. Shorter term targets may also be more practical alongside a longer term vision, as is implemented in 'carbon budgets' towards Net Zero. Further 'localising' these targets and their implementation would also be beneficial.

These targets could be welcomed if they enable a fairer allocation of funding to those managing and restoring habitats on the ground, however, not if they are used to increase regulation and limitations. The Welsh Government reassured farmers after Brexit that new 'public good schemes' would pay over and above 'income foregone', yet that is still the premise for the majority of the SFS Optional Actions.

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The value of the Habitat Wales Scheme in 2024 dropped by over £12 million (£12,245,05) in comparison to the preceding Glastir Schemes, albeit covering a larger area of land and being open to more farmers.

It should also be recognised that setting top down and desktop modelled targets do not necessarily ensure delivery is achievable e.g. advice and targets from the UK Climate Change Committee. Unfortunately, this top down approach can already be seen within the Welsh Government. Farming Unions were not invited onto any of the Biodiversity Deep Dive task groups between 2022-25, and nor are there farming representatives on the Biodiversity Target Advisory Panel. Whilst the FUW are now on a target 'sub-group', it is still questionable whether an equitable approach is being implemented. Wider consultation with the farming industry and stakeholders is only set to take place on implementation of the targets. The development of the 30 x 30 framework, and the definition, designation and implications of 'OECMs' has some key questions for farmers and landowners left unanswered, thus reducing its ability to be impactful.

Setting targets is also made more complex by many factors outside the control of the 'deliverers' of the targets, or in FUW's case, farmers. External pressures such as climate change, or the lack of baseline knowledge of the condition of a certain site will make for a dynamic situation, particularly given the complexity of timescales to assess 'progress' or how different interventions work, or don't work in real life conditions.

For example, farmers have been following Welsh Government written Glastir prescriptions for over a decade, only to be told by the most recent ERAMMP review that they have not been effective. Data sets often sit separately to each other, so information on soils, slopes, watercourses, habitats sit separately, creating duplicated administration work for farmers, and limiting the value or insights they could provide.

Delivering and communicating relevant biodiversity and land management data back to farmers and land managers will be essential in tracking and providing insights into progress. Synchronising RPW Online with existing data sets and making it more user-friendly offers a significant opportunity for the delivery of biodiversity improvements via the SFS.

We would also like to refer the committee to the FUW's response to your inquiry into Halting and Reversing the Loss of Nature by 20304 which proposes some practical suggestions.

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## **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 definition of 'Environmental Protection' includes the 'protection of the environment from the effects of human activity'. However, the FUW would suggest this should be the 'negative' effects of human activity as humans have, and always will be, part of the environment and therefore effect, and be affected by, the environment. Protection from human activity does not consider the positive influence that also can be had on the environment.

Any additional regulations, powers to make provisions or modifications of primary legislation made under this Bill should be subject to scientific rigour and industry consultation.

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

As outlined, potential barriers include the independence of the OEGW, as well as resourcing the implementation of biodiversity improvements towards the targets.

Whilst trade deals are reserved to the UK Government, the Welsh Government is responsible for ensuring Welsh industries are protected throughout such negotiations. Is it therefore essential that enhancing biodiversity and halting the loss of nature is considered on a global basis.

Trade deals which undermine domestic food production through lower environmental standards impact negatively on our own farmers' ability to halt and reverse the loss of nature, in addition to the environmental damage caused by such imports. For example, food that is imported has a total impact on species/wildlife loss ten times greater than the food we produce domestically<sup>5</sup>.

Undermining domestic food production can also be caused by policies which further regulate the industry without providing support and payments for best practice. Therefore, the Welsh Government must exercise caution when raising regulatory burdens which could make imports or food produced to lower standards more competitively priced.

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5 <https://www.nationalfoodstrategy.org/wp-content/uploads/2021/07/National-Food-Strategy-The-Plan.pdf>

## **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 regulation-making powers should potentially be given additional oversight or approval by the Senedd. Furthermore, as outlined earlier, additional (and genuine) consultation with the farming and land management sector should be undertaken in regards to additional regulation or targets.

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

Please see previous answers above.

## **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?**

Whilst it is understandably difficult to monetise and quantify the delivery of, as of yet unidentified targets, and a body which is not yet in existence, it does call into question the claims that this Bill could deliver potential benefits of £1,024 million.

Furthermore, as the targets are yet to be set, it is impossible to quantify the potential benefits but also costs for farming businesses in time, capital costs or lost potential income from the implementation of the Bill in its entirety.

The RIA states that the £33.64 million costs of the Bill over a ten year period 'does not include the illustrative costs projected to be needed to deliver the illustrative benefits'- therefore arguably the costs on Welsh citizens and in the FUW's case, farming businesses, have not been considered.

It has already been outlined that there will be additional compliance costs on (already stretched) public authorities. As outlined earlier, further assessments and consultation will be needed with the industry before implementation of the targets and any OEGW recommendations.

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

The FUW looks forward to continuing its engagement with the Committee as the Bill is scrutinised over the coming months.

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