

EPGBTWB 47 - Evidence from: Hafren Dyfrdwy

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?

We fully support Welsh Government's commitment towards a greener Wales to tackle climate change and the nature emergency. We welcome the introduction of the environmental objective to attain a high level of environmental protection and improvement of the environment. As a water and sewerage company we are fully cognisant to the increased public interest and concern around the state of our environment and believe this is a positive step towards holding government – and associated bodies – accountable for leading us out of the current climate and nature emergencies.

A legislative approach provides more confidence that the principles will be applied consistently across the organisations it applies to, holds Welsh Ministers and public authorities to account and provides a clear steer on what is required to embed those principles.

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)**

We fully support the intention of these provisions to contribute to a high level of environmental protection and improve the environment. We welcome the intent to align these new provisions with the wider Welsh policy and legislative context and contribute to effective implementation of international commitments. Given the recent publication of the Independent Water Commission's (IWC) report, we would like to understand how the

recommendations of the report will influence the development of this Bill. In particular, we note the IWC recommendation for a new independent national systems planner to enable a more integrated approach to planning across the range of sectors interacting with water in Wales – if put in place, it is clear that the scope of this new body would need to be driven by the principles of the Bill. There will need to be clear lines of sight as to how this body would interact with the proposed OEGW.

We also recognise the benefit of applying the duty to integrate environmental protection to policy-making across all areas, not just those directly related to the environment. We believe that, if undertaken consistently, this approach could address some of the contradictions between planning legislation and environmental legislation - for example, it could strengthen Welsh Minister's ability to set stronger standards on products made / distributed in Wales which contribute to environmental risks e.g. PFAS / microplastics.

We would ask that any supplementary legislation and / or guidance relating to the new environmental objectives and principles clearly signpost:

- current environmental legislation and policies in Wales;
- any cross-border implications (e.g. river quality);
- where relevant, sector-specific guidance in relation to the different public bodies; and
- how the Governance Body will regulate public bodies in the context of the existing regulatory regime (see below).

Alongside this, we are keen to understand how the objective to 'ensure a high level of environmental protection' will be measured and reported on.

We also see an opportunity for taking a holistic approach that (i) fully accounts for existing legislation and duties, and (ii) learns the relevant lessons from experience with these. The upside is that such an approach would protect against duplicating effort and contradictions between duties.

We note the intention that the environmental objective will not apply to the duties to be imposed on NRW. While we understand the logic for this approach and recognise that NRW's general purpose complements the new objective, we would also suggest that this may need to be revisited in light of the recommendations in the IWC report.

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)**

We welcome the plan to establish an Environmental Governance Body for Wales that is focused on achieving high standards of environmental protection. We also welcome the plan for its independence, as this will help set the strongest platform for its success.

Paragraph 3.171 of the Explanatory Memorandum states that Welsh Government do not anticipate the OEGW would provide advice or produce reports in relation to policy matters which do not fall within the scope of 'environmental law'. However, if this is the case, we would question what scope the OEGW has to hold public bodies to account with regards to the duty to integrate environmental protection to policy-making across all areas, not just those directly related to the environment.

The Office of Environmental Protection fulfils a similar function for England and Northern Ireland. The organisation and individuals they can hold to account does include water companies - but only in respect of their public powers and duties. It is not yet entirely clear if the OEGW will have the same powers or greater, in respect to water companies in Wales and as a private water and sewerage company we would welcome this clarification at the earliest possible opportunity. We also note that there are no formal provisions for cooperation between the OEGW and the Office for Environmental Protection which may be helpful given the similarity of the role between the two regulators.

We wish to understand how the new organisation - and other key aspects of the Bill - will be impacted by the findings of the Independent Water Commission report, published on 21 July 2025 and would welcome the opportunity to engage with the Climate Change Committee further on this matter.

We note that the meaning of "public authority" is defined as a "person, other than the OEGW, who is - (a) a devolved Welsh authority within the meaning given by

section 157A of the Government of Wales Act 2006 (c.32), or (b) listed in paragraph 9(2) of Schedule 7B of that Act”. From this we understand that “Hafren Dyfrdwy” and “water and sewerage undertakers” will fall under the definition of Welsh Public Authorities for the purposes of this Bill. Therefore, we believe there needs to be a clearer definition of the purpose of governance over Hafren Dyfrdwy (as a private water and sewerage undertaker) and the limits of its identification as a public authority (noting that Hafren Dyfrdwy, as a private company, is not defined as a public authority in other relevant legislation). We believe there is potential for conflicting regulatory expectations – for example, this could arise where an existing regulator has a different interpretation of the legal framework compared with the OEGW. It would, therefore, be helpful to have clarification on how the governance relationship will operate between the OEGW, water and sewerage undertakers and our existing regulators – NRW, Ofwat and DWI.

As a private water and sewerage undertaker, we operate as part of well-established and strong regulatory frameworks. In terms of taking this to the next level through the setting-up of a Governance Body, we recognise there is potential for conflicting expectations and would welcome greater understanding in this area as the Bill develops.

Section 23 of the draft Bill places a duty on public authorities to co-operate with the OEGW and give it such reasonable assistance as it requests (including the provision of information), in connection with the exercise of the OEGW's functions. Paragraph 3.237 of the Explanatory Memorandum states that public authorities must make all reasonable efforts to ‘swiftly resolve’ any matter raised by the OEGW in relation to compliance with environmental law.

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)**

We welcome the proposal to introduce clear biodiversity targets, based around a ‘nature positive framework’ aimed at providing a pathway to halt and reverse biodiversity loss in Wales. We believe this will provide a useful feedback loop between the national vision and local delivery. Setting statutory biodiversity targets will further help disseminate that action.

We note the intention to develop targets to align, where relevant, with the UN

Convention on Biological Diversity and the Global Biodiversity Framework; while we welcome this ambition we are uncertain about how appropriate this would be without clear pathways on how it can be achieved. Nevertheless, we agree that a suite of supporting targets is needed. We also strongly recommend that such targets are supported by clear justifications and are easily measurable – in a way that maximises the opportunity for citizen science, and the raising of awareness and engagement.

When it comes to developing the nature positive framework we recognise that its detailed programme of work will need to strike a balance across:

- being suitably prescriptive to deliver on the targets;
- stable enough to link to other regulatory commitments such as the water industry AMP8 Biodiversity Outcome Delivery Incentive ('ODI'); and
- suitably agile to be able to respond to developments in scientific evidence.

In our experience, such programmes are most successful when they are built on a strategy that (i) is informed by science and data – both national and hyper-local – (ii) brings in the right experts on boards, and (iii) factors in the specific needs of different species and habitats.

The Bill appears to set out a number of caveats around the setting of the biodiversity targets which could potentially stifle ambition. While we recognise that targets need to be achievable, the nature and climate emergencies show that we can no longer afford to be risk averse in addressing reversal of biodiversity decline.

We note the introduction of an additional duty on public authorities, under section 6(1) of the Environment (Wales) Act (if so designated by Welsh Ministers), to take action to contribute to achieving the target for which they are designated. While we recognise the intention to complement the existing section 6 duty - and agree that it could provide greater clarity on the specific contributions public authorities can make - we have concerns as to how this will be applied in practice. Paragraph 3.308 of the EM states the intention is that Welsh Ministers will only propose designating a public authority who they consider can, through their functions, meaningfully contribute to achieving a target. Given that water companies now have statutory biodiversity ODIs to deliver against, we would want reassurance that this would not result in an expectation of delivering more than our 'fair share'. While our customers have shown full support of our biodiversity improvement plans, we have to be mindful of balancing ambition with bill

affordability and should not be placed in a position where we are not funded for additional obligations.

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)**

We have no comment to make on these sections of the Bill.

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

We would strongly recommend that, while the Bill is still in early stages of development and debate, the Welsh Ministers consider the recommendations set out in the Independent Water Commission report and how they could complement or contradict any intentions of the Bill.

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)

We have no comments to make on this element of the Bill

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

We do have concerns around the crossover of responsibilities between OEGW and existing regulators (Natural Resources Wales, DWI and Ofwat, or the new regulatory body for water that will replace them in due course. We would also wish to seek reassurance that the Bill would not result in further unfunded obligations for water and sewerage undertakers.

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?

We have no comments to make on this element of the Bill

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

Addendum to question 12: As a regulated company, Hafren Dyfrdwy has well-established assurance and governance processes in place for responding to regulator queries and information requests. We would, therefore, ask that the development of Service Level Agreements (SLAs) for response timelines to the OEGW are aligned with those set by other regulators such as NRW, Ofwat and DWI to ensure a consistent and practicable process for responding to such requests. We also note that as a regulator the OEGW will be subject to the Regulators Code and more broadly the statutory principles of good regulation under the Legislative and Regulatory Reform Act 2006, including the principles of transparency, consistency, proportionality and accountability in the exercise of regulatory activities.

Response to Q19: The Independent Water Commission report (published 21 July 2025) sets out recommendations for legislative reform in Wales. The first of these suggests a review of legislation, including the WFD Regulations and Urban Wastewater Treatment Regulations, to ensure legislation is updated to better align with the Well-being of Future Generations (Wales) Act 2015 and other Welsh priorities. There are elements of the draft Bill which would suggest this action is already being considered but we feel that the release of the Commission's report is timely and would strongly support Welsh Government undertaking such a review in parallel to the further development of this Bill.

We also note the Commission's recommendation that the concept of constrained discretion is taken forward across Wales. We are already working with NRW to explore innovative solutions for overflow spill reduction and other water quality improvements, for example, and would welcome greater flexibility to trial innovative 'green' and 'blue' solutions in the future. We believe that this recommendation aligns with the new objective and principles set out by the Bill and would strongly urge consideration of these recommendations by the Committee and Welsh Ministers, with a view to building them into the Bill and/or relevant supplementary legislation.
