

Huw Irranca-Davies AS/MS
Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet
dros Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for
Climate Change and Rural Affairs



Llywodraeth Cymru
Welsh Government

Our ref: HID-PO-381-2025

Llyr Gruffyd MS
Climate Change, Environment and Infrastructure Committee
Senedd Cymru
Cardiff Bay
CF99 1SN

4 August 2025

Dear Llyr,

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

Thank you for your letter on 08 July. Please see the annex to provide support for the committee's scrutiny of the Bill and points of clarity. I'd like to bring to the attention of the committee; question number 6 appears to not be included.

In addition, further to our scrutiny session on the Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill at the Committee session on the 26 June. I promised to provide further information on the number of cases the Office for Environmental Protection (OEP) or Environmental Standards Scotland (ESS) have brought using the enforcement powers in their respective comparative legislation.

From our research we understand that, to date, neither ESS or the OEP have referred a compliance notice (via Section 37 *UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021*) or an environmental review (through Section 38 of *the Environment Act 2021*) to their respective courts, though we note the OEP came close on one particular occasion. We also understand the OEP and ESS confirmed their use of their powers during their recent evidence session with you.

In our view, this supports our escalatory approach to enforcement, as in the majority of cases the public authorities have sought to work with the respective governance bodies to resolve issues of concern constructively, but the threat of enforcement has nevertheless posed an effective deterrent.

Your sincerely,

Huw Irranca-Davies AS/MS

Y Dirprwy Brif Weinidog ac Ysgrifennydd y Cabinet dros Newid Hinsawdd a Materion Gwledig
Deputy First Minister and Cabinet Secretary for Climate Change and Rural Affairs

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1SN

Gohebiaeth.Huw.Irranca-Davies@llyw.cymru
Correspondence.Huw.Irranca-Davies@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Annex: Response to Climate Change, Environment, and Infrastructure Committee's further evidence questions on the Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill – 08 July 2025

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)?

"Making policy" is defined in the Bill to clarify that "making policy" includes developing, adopting or revising policies" (section 3(3)(b) and article 4A(3)(d), the Natural Resources Body for Wales (Establishment) Order 2012, inserted by section 4(2)).

The Bill also defines "policy" so that "policy" includes proposals for legislation, but does not include an administrative decision in relation to a particular person or case" (section 3(3)(a) and article 4A(3)(c), the Natural Resources Body for Wales (Establishment) Order 2012).

The policy intention is to achieve a deliberately broad effect to capture the wide range of activity that constitutes "making policy" and ensure the duties have a strong impact.

Policy is intended to have a broad interpretation and, in general terms, may be understood as an intended course of action adopted to achieve an objective or outcome.

Proposals for legislation are specifically mentioned to clarify that they are within scope and this is not intended to limit in any way the scope of the provision. Administrative decisions in relation to a particular person or case, however, are specifically excluded.

Given the broad and varied nature of policy making it is not possible to provide an exhaustive legislative definition of all policy making. By way of further explanation, the duty imposed on the Welsh Ministers is intended to apply throughout the policy making process, with examples such as:

- legislative proposals;
- proposals for "quasi-legislation" such as codes and directions;
- policy statements,
- strategies and frameworks;
- ministerial statements setting out the government's formal position on an issue;
- or any other policy document that sets out a change in approach to an established policy position.

The committee may also wish to note that this approach is also similar to that undertaken in the Environment Act 2021 (section 47(1)) and the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 (section 14(1) and (2)).

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

Welsh Government policy is usually developed by government departments and then submitted to the Welsh Ministers for consideration and approval. Most public authorities do not make policy for the Welsh Government, but some might occasionally develop policies for specific areas.

Where public authorities are developing policy on behalf of the Welsh Ministers, the policy making duty imposed on the Welsh Ministers will apply. This will be assessed on a case-by-case basis and appropriate administrative arrangements will be entered into to ensure the process is managed effectively.

For this reason, there is no additional criteria set out on the face of the Bill in respect of public authorities who develop policy on behalf of the Welsh Ministers.

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?

In principle, any of the "public authorities" (as defined at section 5(4)) could be a "responsible authority" (as defined at regulation 2(1)) for the purposes of the 2004 Regulations.

In practical terms, and based on historic examples, we consider this is most likely to apply to public authorities who own and / or develop land. for example, local authorities and national park authorities. . However, the approach is deliberately broad to capture any "public authorities" (as defined) which fall within the scope of the 2004 Regulations.

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?

The principles duties imposed on the Welsh Ministers, NRW and certain other public authorities are strong and clear. In our view, they clearly form part of the environmental law which will be overseen by the OEGW. If for whatever reason it is considered that the Welsh Ministers, NRW or public authorities are failing to comply with these requirements, this would be a matter for the OEGW to consider and, if necessary, investigate, monitor and potentially take enforcement action against the relevant authority.

We also recognise that transparency and accessibility in the application of these duties is fundamentally important to achieve effective and consistent implementation, and to encourage effective scrutiny and accountability.

For this reason, the Bill imposes detailed requirements about the scope and content of the environmental principles and integrating environmental protection statement, including specifically requiring the Welsh Ministers to explain how they propose to demonstrate compliance with the duties placed on them. This will support effective implementation, and monitoring by the OEGW and others.

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

The Bill sets out detailed procedural requirements for the preparation and publication of the statement, or a revised statement, and requires the Welsh Ministers to consult NRW, the Future Generations Commissioner, the OEGW and such other persons as they consider appropriate

The Welsh Ministers must also lay before the Senedd a copy of the statement, or revised statement, and a document giving details of the consultation carried out and summarising the representations received and the Welsh Ministers' response to them. That is the method by which the Senedd will be able to scrutinise the statement or revised statement.

These provisions are sufficient to provide necessary transparency, accountability and engagement, in the Senedd and with others, and support the effective development of the statement.

We do not think it is necessary to make additional provision for a specific Senedd procedure to apply to the statement, as it will reflect Welsh Government policy, alongside guidance for NRW and other public authorities. The Welsh Ministers, NRW and certain public authorities will be required to "have regard" to the statement, or to guidance in the statement, in complying with their duties under Part 1 of the Bill to apply the principles and integrate environmental protection. Typically, other forms of statutory guidance are not subject to Senedd scrutiny, for example statutory guidance under the Well-being of Future Generations (Wales) Act 2015 (sections 14, 22(2) and 51).

Nevertheless, and as I mentioned during my appearance before the Legislation, Justice and Constitution Committee, I would be interested in hearing the Committee's views on how a Senedd process for the statement might work. However, I would also caution that any additional requirements could result in delays to the Welsh Government's ability to finalise and publish the statement before the provisions are commenced, which is currently to be six months following royal assent. If further processes and procedures are added, this timescale may need to be extended to compensate.

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?

The Bill provides that commencement of some provisions to establish the OEGW will be at the end of the period of two months beginning with the day on which this Act receives Royal Assent (for example recruitment to key positions). We then envisage there will be a separate commencement for the development of a strategy. Remaining provisions will be commenced by order to allow the Body to reach full operating capacity before duties and obligations are placed upon it.

The body will take time to become fully operational and it's not uncommon for this to take around 18-24 months from the date of the legislation receiving royal assent.

It is extremely important that we allow the OEGW this time to get established. There is a necessary sequence that requires the Chair, Board and CEO to be appointed before any substantive decisions or plans around the structure and strategy of the OEGW can be agreed. One of the core tenets of this body is its independence, and if Welsh Government were to become involved in preparing its strategy, establishing its internal policy and practices, and / or recruiting its executive staff, it would clearly undermine this independence before it gets started. The process of recruiting the chair, board and CEO itself can take up to 12 months.

After the board and core executive staff are recruited, the OEGW will need to develop, consult upon, and publish its strategy. This is an important document which details to the public how the OEGW will undertake its functions. It will be foundational towards the OEGW's operating practices, and it's important that room is given to develop this in consultation with stakeholders and the public.

By way of comparison, the ESS was established with a full Board which was directly appointed by Scottish Ministers in October 2021. It launched its consultation on its full strategic plan in May 2022 and it was approved in November 2022. As you can see, this process took 12 months to complete. Alongside this, the OEGW will need to recruit staff up to its full complement. Again, it is important the OEGW makes the decisions around its executive staff to ensure there is no question as to their independence from the public authorities that are being overseen, which includes Welsh Ministers.

Despite these requirements, we are already exploring opportunities to speed up this process, alongside wider benefits like sharing back-office functions across multiple public authorities, such as the disused tips authority. In addition, we already have the Interim Environmental Protection Assessor for Wales, and / these roles will remain in place until the new body is fully operational.

As such, we recognise the importance of a smooth transition from the IEPAW to the OEGW. The details of this transition will, of course, be subject to independent decisions taken by the OEGW, however, we have provided several mechanisms to

aid with this, including a 'modular' approach for functions to be commenced by order earlier or later, depending on readiness and need.

For example, the aspects of the OEGW's functions which relate to activity currently undertaken by the IEPAW (i.e. monitoring and reporting) could be commenced earlier than other functions if the OEGW is satisfied they are now ready to take on the IEPAW's case load and they have finalised their strategy

Further, provision is made for the OEGW to make a staff transfer scheme if this would aid with enhancing continuity between the IEPAW regime and the new OEGW.

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?

The ability to investigate based on breaches that have occurred 'at any time' is very important. As I highlighted during my appearance before the LJC committee, it is not my view the provision is retrospective in a legal sense. It will not change the law at the time of the alleged failure and by their very nature investigations will need to be backwards looking.

The intention of including "at any time" is to allow for representations to be made about alleged failures that may have been made in the past (and may only recently have come to light) and to ensure there is no gap between the IEPAW and the new Body. Without this, the OEGW would only be able to investigate breaches that occurred following its establishment – that is to say, two months after the Bill receives royal assent. Further, as the OEGW has a strategic oversight role they may wish to report/advise on the effectiveness application or implementation of environmental law in respect of the alleged failure, but this would not lead to a Compliance Notice.

To be clear however, if an investigation concluded that a failure to comply is no longer ongoing then the OEGW will not be able to issue a compliance notice but as set out above, could use its other functions in respect of that alleged failure.

The Explanatory Memorandum sets out that a failure to comply with Environmental law must be ongoing at the time the notice is issued. The "at any time" element refers only to the OEGW's ability to investigate and not its ability to enforce.

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)?

As I explained to the LJC Committee, we have included a definition for “environmental law” to provide greater clarity. Arguments around what would and would not fit into the scope of environmental law may be broad and complex, covering areas like air quality, water, waste, biodiversity, and more.

The purpose of section 29(4) is to provide Welsh Ministers, subject to the Senedd approval procedure, a mechanism to update the definition of environmental law without needing to amend the primary legislation each time, where there is clear justification for doing so.

In that respect, there is no set criteria for determining whether a devolved provision is, or is not, within the definition of environmental law. This would be something the OEGW determines based on their interpretation of the definition and, if challenged, on which the courts would adjudicate.

However, importantly, Section 29(4) will enable the Bill/Act to be futureproofed for an evolving legislative landscape. This will be subject to Senedd approval and formal consultation in respect of secondary legislation, to which the Welsh Government is committed, and it is not something Welsh Ministers could do unilaterally.

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?

No restrictions are placed on the OEGW in respect of their oversight of environmental law. We consider the climate change targets set under the Environment (Wales) Act 2016 to clearly fall within the scope of environmental law, and it would be the OEGW’s decision to what extent they wish to monitor, report and provide advice on these targets, as with any other aspect of environmental law.

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?

I am confident the limited overlap between the OEGW and UK Climate Change Committee can be managed by administrative arrangements between the two organisations but as with other functions that will be for the OEGW to determine as it sees fit.

As I explained during my appearance before committee, the two bodies will be established under different legislative frameworks with fundamentally different purposes. The OEGW will be responsible for overseeing compliance with environmental law in Wales. Its remit includes monitoring, investigating, and enforcing compliance by public authorities, and advising Welsh Ministers on environmental law and governance.

In contrast, the UK CCC is a UK-wide statutory advisory body established under the Climate Change Act 2008. Its role is to provide independent advice to the UK and devolved governments on setting and meeting carbon budgets and preparing for climate change impacts.

The UK CCC does not have enforcement powers or a compliance role. It advises on climate mitigation and adaptation, whereas the OEGW enforces and will recommend improvements to environmental law more broadly.

The OEGW may wish to formalise some of these relationships, including the interactions with the UKCCC, via an MoU, for example. However, that will ultimately be a decision for the OEGW to make independently. In my view it is not something which should be imposed by statute given we are seeking to ensure the independence of the OEGW and provide it with as much discretion as possible, where appropriate.

The OEGW has powers to do anything it considers appropriate for the purposes of, or in connection with, its functions, or incidental or conducive to the exercise of those functions.

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?

The UK CCC are a reserved authority. We are, therefore, unable to make specific provision in the Bill to compel the UK CCC to enter into an MoU with the OEGW without UK Government consent. However, as stated above, it would be within the OEGW's general powers (see Q14) to do so, if it was their independent view that this is beneficial, and subject to the agreement of the UKCCC.

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?

Yes, and we have already seen instances where the OEP, ESS and the IEPAW have started to work together effectively on cross-border matters, such as specifically with regards to Special Protections Areas.

There is nothing in this Bill that would prevent the continuation of this spirit of co-operation, and we fully expect this will continue, and be enhanced, through the establishment of the OEGW.

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?

We have not sought consent, which would be required, for a specific statutory obligation on the OEGW to consult with or otherwise compel these bodies to collaborate. We consider this is a matter for the OEGW to consider further when they are established. We are aware of the memorandum of understanding between the IEPAW and the OEP and ESS, which has no legislative basis, but is nevertheless effective. Again, the OEGW has general powers that could be used (see Q14).

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

'Ordinary' compliance notices can be served in routine cases and provides public authorities with at least 30 days to act after the date in the notice.

In contrast, an 'urgent compliance notice' can be served where the OEGW considers there is an "imminent risk of serious damage to the environment or to human health", caused by non-compliance with environmental law. These will require public authorities to act at least 7 days from when the notice is served and before 30 days.

Furthermore, urgent compliance notices can be escalated to the high court immediately after the response and review period (if a review has been requested) This ensures that the OEGW can take necessary and proportionate action to deal with non-compliance that is posing imminent risk of serious damage to the environment, or human health in a shorter period of time than that provided for with an 'ordinary' compliance notice.

In cases where there is not an imminent risk of damage to the environment or human health, it would be disproportionate to expect public authorities to respond to compliance notices within the timescales provided by urgent compliance notices. As explained in the explanatory memorandum, the urgent compliance notice provides for a 7 day period for public authorities to respond to provide reasonably sufficient time for a public authority to consider the urgent compliance notice and, if they are so minded, request a review of the notice, whilst accounting for further engagement and clearance mechanisms within larger organisations, as well as accounting for non-business days.

Even in urgent cases, we do not consider it necessary, nor reasonable, to enable the OEGW to require action shorter than seven days, as they are not themselves a front-line regulator and are unlikely to be dealing with matters of such urgency that would result in significant harm to the environment unless immediately resolved. It is an urgent notice in the context of their strategic oversight role.

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

We have prepared the following example to illustrate the circumstances in which an Urgent Compliance notice (UCN) may be proportionate. It is purely hypothetical and does not imply or suggest that this practice is a current and relevant concern.

A regulatory authority may be legally responsible for providing advice and guidance on ammonia emissions, and as part of this issue guidance and regulations, which is considered by local planning authorities to be applied during the planning permission process for developments that may release ammonia.

The OEGW could determine the guidance produced by this regulatory authority does not adequately consider the environmental impacts of ammonia emissions, and following investigation, conclude that the guidance is in breach of environmental law. If the guidance remains in place there is an urgent risk of environmental harm by virtue of enabling planning authorities to authorise developments which, in this example, they should not.

It is the regulatory regime, including the guidance produced by the regulator, which is non-compliant. In these circumstances it would be proportionate and appropriate for the OEGW to expect the regulator to react urgently, rather than within the longer period of the ordinary compliance notice, to amend the guidance at the earliest possible opportunity and prevent any further risk of imminent and serious damage, and as such it would be appropriate for them to issue an urgent compliance notice.

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

The Bill provides for a public authority to request a review of a compliance notice to provide a procedural safeguard to enhance fairness and strengthen the legitimacy and accountability of the enforcement process.

It provides public authorities with an avenue to challenge decisions made without being reliant solely on escalations to judicial review or the first-tier tribunal which can be time consuming for all parties.

The review committee itself will be formed by the OEGW but will have key elements that enable it to act independently of the wider organisation. This includes co-opted members drawn from a list of experts. This list will be held by the Welsh Government to provide separation between the OEGW and the reviewers of the original compliance notice. It is important to note however that the individuals to sit on each review committee when convened will be selected from the list by the OEGW itself.

We have considered the alternative of the OEGW itself holding this list but reached the conclusion that if the OEGW were to maintain the list of experts it may call into question the fairness of the review process itself.

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

We chose to avoid creating an exhaustive list as this might, unintentionally, exclude valid grounds for review. Instead, the approach we have taken enables the review committee to consider a broad range of issues which is guided by the procedure to issue compliance and information notices set out in the Bill. This open-ended approach ensures that the review process remains adaptable and responsive to the facts of each case and also lends itself to the independence of the Body.

The Bill also includes a safeguard to prevent trivial objections from derailing enforcement. Section 18(6) provides that the review committee must disregard any failure, defect, or error in the notice if it is not considered material—such as a typo. Moreover, judicial review remains available as a backstop. If a public authority believes the issuing or requirements of a compliance notice meets the grounds for judicial review, it would still be open for them to apply for permission to seek judicial review.

Section 19(3)(b) provides that the OEGW cannot make a referral to the high court until the usual time limit that applies to judicial review has passed to leave scope for the public Authority to judicially review the notice should they be so minded.

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?

On the contrary, we have developed this approach specifically to ensure that the request for a review reflects the urgency of a particular case. We fully recognise the OEGW must be empowered to quickly and effectively manage instances where urgent action is needed by a public authority.

However, we took the view it would not be fair, even in these circumstances, to provide no avenue for challenge for public authorities issued with an urgent compliance notice. In these cases, the Bill provides the review committee must receive the request to review the compliance notice from the public authority within 7 days. In most cases it is our view the OEGW would wish to undertake this review and respond to the request for a review within 7 days to recognise the urgency of the matter, but this will be for their own independent determination. As set out above, this is a strategic body and is not intended to replace the powers in existence for regulatory bodies in instances of specific harm.

In contrast, whilst it is feasible the First-tier Tribunal of England and Wales, for example, could turn around appeal cases within a short-timeframe, this may not always be possible. So, there is a risk that potential delays associated with using the tribunal system could prolong instances of imminent risk of serious damage to the environment or to human health.

In contrast the urgent compliance notice process, complemented by the review committee procedure, enables the OEGW to swiftly respond to these scenarios, and a key part of that approach is having a reliable and controlled way of managing timescales associated with requests for reviews.

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

I do not believe that this provision will lead to less ambitious targets. The Bill's target setting provisions in the proposed new sections 6B and 6D of the Environment (Wales) Act 2016 reflect our intention that all targets meet the SMART criteria—meaning they are Specific, Measurable, Achievable, Relevant, and Time-bound.

Striking the right balance between achievability and ambition is essential to ensure that the targets drive meaningful change for nature. As I outlined in committee, we have also built in mechanisms for scrutiny of draft targets, to help ensure that Welsh Ministers have achieved the right balance. Before any regulations setting biodiversity, targets are laid before the Senedd, the Welsh Ministers are required to seek independent expert advice. We are fully committed to doing this through a transparent and collaborative process.

To support this, I have established the Biodiversity Targets Advisory Panel, which brings together leading experts to provide rigorous, evidence-based recommendations.

In addition to the duty to seek independent advice, we are also required to apply the principles of sustainable management of natural resources when making regulations. These principles include ensuring appropriate arrangements for public participation in decision-making.

Together, the independent expert advice, Senedd scrutiny and opportunities for public engagement will play a vital role in holding the Welsh Ministers to account. They ensure that the targets we set are not only evidence-based and achievable, but also suitably ambitious—reflecting both scientific rigour and public expectation in our response to the nature emergency.

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

As I have stated in Committee previously, the Welsh Ministers will be relying on a strong evidence base to ensure that any targets are not only ambitious but also achievable. We're very aware that setting the right targets is crucial.

If we get them wrong, we risk doing more harm than good – ecosystems are complex and dynamic, and a poorly designed target could have unintended consequences. To avoid that, each target will be carefully modelled. This modelling will help us test whether a target is realistic and whether it will actually deliver the outcomes we need for nature recovery.

We've commissioned the Joint Nature Conservation Committee to carry out this work. The analysis that they will undertake will give us the evidence we need to

make informed decisions about what levels of ambition are appropriate for Wales. A fundamental part of that analysis involves scenario modelling.

This is a common policy tool for exploring different possible futures by testing how changes in things like the environment, society, or the economy could affect biodiversity. It's a powerful tool that helps us understand what's feasible and what's likely to be effective.

The Bill also provides a number of check points to ensure Welsh Ministers are making effective progress on target delivery. These measures include three yearly reporting on progress and an evaluation of the effectiveness of policy and actions.

The Bill also allows Welsh Ministers to review biodiversity targets to ensure that they continue to support our goal of halting and reversing biodiversity loss. Targets may be reviewed from time to time but will be required to do so if the target may not be met or that the target may no longer be appropriate. If a single target is not met by the specified date, all targets must be reviewed to ensure against systematic failure or to identify issues which impact on the effective delivery of the other targets. This process will be underpinned by robust independent evidence.

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

Ordinarily, a power to make regulations also includes a power to make subsequent regulations that amend or revoke the earlier regulations (section 18 of the Legislation (Wales) Act 2019). The Bill introduces restrictions on this power, limiting the circumstances in which the Welsh Ministers may use their regulation making power to amend or revoke existing targets to prevent an unwarranted lowering of ambition.

Targets may therefore only be lowered or revoked if Welsh Ministers are satisfied -

- a) Because of the change in evidence to which they had regard when setting the existing target, meeting it would not contribute to halting and reversing the decline in biodiversity
- b) Meeting the existing target would have no significant benefit compared with not meeting it or with meeting a lower target,
- c) Because the 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, or
- d) Because the target is no longer achievable due to either changes in circumstance or changes in evidence used when setting the target

Before revoking or lowering a target, the Welsh Ministers must lay before Senedd Cymru, and publish, a statement explaining why the Welsh Ministers are satisfied that the above criteria are met.

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?

The Welsh Ministers must lay before Senedd Cymru, and publish, a statement explaining why they are satisfied that the criteria set out in the proposed new section 6H of the Environment (Wales) Act 2016 are met before a target can be amended or revoked.

As I raised in committee, the Bill includes a target review process (proposed new section 6G) which will be informed by independent expert evidence and transparency within the public domain. We anticipate that this review process will consider the criteria in section 6H.

In practice, there are a number of components which enable Welsh Ministers to fully consider impacts and benefits of the targets contribution in the round which would include whether the environmental, social or economic costs are disproportionate to the benefits:-

The Biodiversity Target Advisory Panel is made up of a broad range of expertise including a range of environmental, economic and social scientists. Their collective input in considering changes in evidence will be a key part of assessing whether the costs are disproportionate to benefits.

In terms of evaluating a target against these criteria, the Welsh Ministers will be informed by the proposed new section 6A evaluation reports as well as their existing section 6 reports, which will also report on progress toward achieving a target. The evaluation report will be an important source of evidence as it will assess effectiveness, efficiency and impact of target delivery mechanisms against the context and baseline evidence collated as part of the target setting process. Changes in circumstances will be captured as part of this to provide the context in which target targets are being delivered.

Welsh Ministers will also need to reassess impacts against the original integrated impact assessment which brings together multiple policy assessments to ensures that decisions are aligned with the Wellbeing of Future Generations (Wales) Act 2015. The includes a robust policy assessment of equality, socio-economic, health, rural proofing and environmental impacts and a contribution to the 7 wellbeing goals.

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

The criteria for deciding whether a public authority should be designated in relation to a specific target will depend largely on the nature of the target itself—specifically, its metrics and thematic focus.

The purpose of this duty is to make sure the Welsh Ministers only designate public authorities that are genuinely able to help deliver a target through their existing responsibilities. Before any designation is made, Ministers must consult with the authority in question. This gives us a chance to have a direct conversation with them about whether they have the right tools, expertise, and capacity to contribute meaningfully to the target.

For example, where targets require a land or ecosystem management approach, we would expect to consult primarily with those who own or manage land. This could include local and national park authorities, water and sewage undertakers, Natural Resources Wales (NRW), Sport Wales, Cadw, and Transport for Wales. Similarly, we would not expect the Welsh Ministers to designate a land locked public authority such as Powys County Council to contribute to a marine 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?

If the target development process has identified a public authority, or public authorities, that we consider can meaningfully contribute to achieving that target, then we anticipate the Welsh Ministers would exercise their powers in both the proposed new sections 6B and 6F of the Environment (Wales) Act 2016 to lay one set of regulations before the Senedd that both set the target and also designates those public authorities.

It would be open to the Welsh Ministers to make further regulations under section 6F that designate additional, or remove already designated, public authorities, and such regulations would be subject to the consultation requirement in that section.

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?

The Bill does not amend the existing process in section 6(6) of the Environment (Wales) Act 2016 for public authorities (including the Welsh Ministers) developing and publishing plans that set out how they will comply with their duty to maintain and enhance biodiversity. However, we anticipate carrying out a public consultation in line with the Welsh Government's consultation policy to allow stakeholders to influence the Welsh Ministers' section 6 plan.

It is also worth noting that, as proposed in section 35 of the Bill, the Welsh Ministers' section 6 plan must also set out how we will achieve any targets. As part of the development of those targets, the Welsh Ministers must seek independent advice and apply the principles of the sustainable management of natural resources, which includes making appropriate provision for public participation in decision making. This will allow further opportunity for stakeholders to influence what is in the Welsh Ministers' section 6 plan.

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

Yes the intention is for the section 6 plan to replace the Nature Recovery Action Plan (NRAP). The NRAP guides biodiversity action in Wales and we therefore see this as an opportunity to consolidate this and the Welsh Ministers' section 6 plan. As I said in committee, our focus is on delivery, not on repeatedly producing multiple new documents and strategies. As the provisions in this Bill amend the Environment (Wales) Act 2016, we consider using the existing section 6 plan a clearer and more straightforward approach.

Under the revised section 6 plan, the Welsh Ministers must set out what they propose to do to (1) comply with their existing section 6 duty (to maintain and enhance biodiversity and promote the resilience of ecosystems) and (2) to achieve the biodiversity targets. By structuring the plan around the section 6 duty and the targets, we are setting out a single narrative providing a clear strategic pathway for public bodies, stakeholders, and wider society to drive action to reverse biodiversity decline.

Through creating a single focused plan, this will also bring additional benefits of being able to use the section 6 report as well as the proposed new section 6A evaluation report which will evaluate the impacts and effectiveness of Welsh Government biodiversity policies contained in our section 6 plan.

This approach will consolidate our policy delivery, provide greater clarity and coherence of the policy landscape as well as enable more effective monitoring and evaluation, helping us track progress and adapt our response as needed.