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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: PO/HID/443/25

Mike Hedges MS
Legislation, Justice and Constitution
Committee
Senedd Cymru
Cardiff Bay
CF99 1SN

12 September 2025

Dear Mike,

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

Thank you for your letter of 9 July and further to our scrutiny session on the Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill at the Committee session on the 30 June. I committed to provide further information as set out below.

Response to Para's 18 – 41 in the transcript

As I explained during my appearance before the committee, there are good reasons as to why we have prioritised other work first and we are now coming to this. We have delivered on a number of high priority commitments relating to the environment since 2019. We acknowledge and recognise that we are behind the other UK nations in respect of establishing legislation to implement the environmental principles and governance body, but it must be recognised we are very much ahead in many other areas.

We have progressed legislation to address the legacy of disused dips in Wales, single use plastics and introduced new Clean Air legislation. We have progressed implementation of a new Net Zero target and set out a pathway to delivery. We have created new grants for nature restoration, radically redirected transport expenditure, made planning reforms, and have supported investments in meeting water quality targets.

We have rightly prioritised active reform to support the environment, and we accept this means we have not been able to implement supporting legislation to lock in and secure these essential reforms by strengthening our overarching governance framework until now.

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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.

However, we consider this to be the right way to have sequenced these events. I'm certain the committee would not want to have seen important legislation on agricultural reform or air quality targets, which will have a direct effect on people's well-being, be delayed any further.

Response to Para 52 in the transcript

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, or appropriate, to subject this statement to a specific Senedd procedure. The statement will be one of Welsh Government policy and 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 parliamentary scrutiny, for example statutory guidance under the Well-being of Future Generations (Wales) Act 2015 (sections 14, 22(2) and 51).

Nevertheless, 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.

Response to Para 81 in the transcript

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 and 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 is 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 of the OEGW can be agreed. This process itself can take up to 12 months. 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.

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.

Response to Para 101 in the transcript

During my appearance at the committee I explained our intention around including "at any time" within Section 15 of the Bill, which 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.

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. In other words, the non-compliance with environmental law **must** be ongoing at the time the notice is issued. It is our view a failure to comply with environmental law could include a failure to deal with the consequences of an earlier breach where the requirement to remedy is on the statute book.

The consequences of a failure to remedy the harm caused by a breach of the law will continue to be dealt with via the existing regulatory regime (if the harm is caused by an individual or private company).

It is also important that we do not conflate the role of the OEGW with those of regulatory authorities. The OEGW is a strategic oversight body, responsible for overseeing compliance with, and the effectiveness of, environmental law. There is a clear separation between existing regulatory bodies and the governance body, enabling the OEGW to focus on monitoring and enforcing compliance with environmental law without becoming involved in the decision-making processes of other regulatory bodies, such as those responsible for planning and licensing.

Where the public authority is responsible in law for remedying harm caused by a breach then the OEGW will be able to take action in this respect against the Public Authority if they determined the failure to remedy the harm was a breach in itself (as the need to remedy would likely be considered environmental law).

Where the need to remedy is not enshrined in law then the guidance and advice functions of the OEGW could be relied upon or an improvement report could be issued.

As discussed at committee, the Bill does not set out how far back the OEGW could go when investigating breaches. The legislation does not provide such a timeframe, and it will be for the OEGW to determine what is appropriate and reasonable in the circumstances.

It should be borne in mind that the regulatory regime continues to sit with the existing regulatory bodies and the OEGW will have oversight more generally. So, for example, if a public authority continually fails to use its enforcement powers (many of which are discretionary) the OEGW may choose to investigate and take action using the mechanisms other than compliance notice available in the Bill, such as advice or improvement reports.

Response to Para 126 in the transcript

See diagram in Annex 2

I have also provided the additional information the Committee has requested in Annex 1

Your sincerely,

A handwritten signature in black ink, appearing to be 'Huw Irranca-Davies', written in a cursive style.

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

Annex: Response to Legislation, Justice and Constitution Committee’s further evidence questions on the Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill – July 2025

1. In our report on the Environment Bill LCM in September 2021, we recommended that: “A future environmental Bill introduced by the Minister should address devolved issues contained within the UK Government’s Environment Bill, following appropriate consultation with stakeholders.” The Welsh Government accepted this recommendation in principle. Please can you explain if the Bill addresses the recommendation in our 2021 report and if so, how?

In her [response](#) to your 2021 report, the then Minister for Climate Change stated that “Tackling the climate and nature emergencies are a priority for this Government”, and this remains the case.

Since that time, significant policy initiatives, including primary legislation, have been brought forward to reflect this priority alongside broader responsibilities for sustainable management of natural resources and the protection of public health. This includes, but is not limited to, the Agriculture (Wales) Act 2023, the Environmental Protection (Single-use Plastic Products) (Wales) Act 2023 and the Environment (Air Quality and Soundscapes) (Wales) Act 2024.

The addition of our Bill to this legislative landscape will further support and ‘lock in’ the environmental, health and economic outcomes associated with this policy and legislation. It will achieve this by

- a. making provision about environmental principles and the integration of environmental protection,
- b. introducing an independent oversight body with teeth to oversee environmental law, and
- c. introducing a biodiversity targets framework.

Part 1 of the Bill establishes an environmental objective and makes provision requiring the Welsh Ministers, NRW and certain public authorities to apply environmental principles and to integrate environmental protection.

The establishment of the OEGW in Part 2 will be instrumental in identifying deficiencies and improving accessibility of environmental law, along the lines suggested within your recommendation.

Furthermore, we have recognised that the provisions around the biodiversity targets framework support the delivery of outcomes associated with the Environment (Wales) Act 2016. That is why these new provisions will be incorporated within that Act, providing for a complimentary and holistic approach to biodiversity that also improves accessibility.

This term we have focussed on environmental outcomes which address your recommendation in part, and in principle. We are, however, giving thought to

legislation for the next term focussed on correcting deficiencies, consolidating provisions and improving accessibility and systems in environmental law.

2. Please explain how the duty to have special regard to the principles will work in practice. For example, what processes will be put in place by the Welsh Government to identify policy that has, or could have any effect on the environment, and how will Welsh Ministers go about having special regard to the principles?

The duty placed on the Welsh Ministers and NRW to have special regard to the principles, and to integrate environment protection, applies when making policy in relation to Wales that has, or could have, any effect on the environment.

This is a strong requirement to have special regard to the principles and to integrate environmental protection and, as described in the explanatory memorandum, requires the Welsh Ministers and NRW to give 'considerable importance and weight' to the principles when making policy. The duty applies broadly across the full range of Welsh Government policy making, not just environmental policy.

The "special regard" duty ensures that environmental principles feature prominently in decision-making, whilst also enabling the Welsh Ministers to balance the environmental principles with other relevant considerations (e.g. public health, costs) depending on the context.

This is a stronger and more onerous obligation than "due regard" or "have regard".

Given the effect of the duty, it is important that the scope of the duty is clear. This is achieved by clarifying that the duty applies whenever a policy has, or could have, any effect on the environment.

It would not make sense to apply the duty when making policy if there is no effect on the environment, as considerable importance and weight to the environmental principles could not be given when there is no environmental impact.

That is why the legislation makes clear that in the specific case where a policy has no impact on the environment, which is considered likely to be rare, there is no requirement to apply the duty.

In practical terms, there are very few policies which would not have any effect whatsoever on the environment – for example, the vast majority of transport policy would do so. However, in a small number of cases where policy making has no impact on the environment, it would not be appropriate to apply the principles.

The duty applies throughout the policy making process and will be applied on a case-by-case basis. Policy making will be supported by the environmental principles and integrating environmental protection statement, which will explain (amongst other things) how the Welsh Ministers will comply with the duty, and also by internal guidance, training and policy toolkits.

3. Under section 5 of the Bill, public authorities must have regard to the environmental principles when undertaking strategic environmental assessments. What accountability mechanisms are in the Bill to monitor whether public authorities comply with this duty?

As I explained in my response to the CCEI Committee's letter, 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.

4. The Green Alliance has suggested that the Bill should be amended:

- i. to include a duty on Welsh Ministers to respect the OEGW's independence (see paragraph 17 of Schedule 1 of the UK Environment Act 2021).**
- ii. to clarify that Welsh Ministers have no power of direction in relation to the OEGW (akin to paragraph 1 of Schedule 1 to the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021.)**

What is your view of these suggestions and please can you explain why you disagree with them, should that be the case?

i. We do not consider it necessary to include this statement. The Bill already provides for the OEGW's independence and a statement along these lines would not change the effect of the Bill as we consider the detailed practical measures we've put in place throughout the Bill demonstrate and make effective the independence of the OEGW. Furthermore, it should be noted that the Secretary of State has more functions to exercise in relation to the Office of Environmental Protection (OEP) when compared with the functions the WMs will exercise in relation to the OEGW. For example, the SoS has power to provide guidance to the OEP on their enforcement action, to which the OEP must then "have regard". In our view this leads to a stronger argument for the inclusion of a statement on the independence from the ministers in a UK context, due to the number of powers the SoS has in respect of the OEP, rather than the way in which the Welsh Bill has been drafted which already significantly limits the powers Welsh Ministers have in respect of the OEGW. Nevertheless, we recognise that a declamatory statement affirming the OEGW's independence, as provided for in the Bill already, can sometimes be helpful and would welcome the committee's views on this to inform our thinking going forward.

ii. As with question (i), we do not consider it is necessary to make express provision that the WMs have no power of direction. This is the effect of the

Bill in any event. The Bill deliberately does not provide any power of direction for the Welsh Ministers in respect of the OEGW and we do not consider such a power could be implied. Further, there are instances where the Welsh Ministers have been given a power to direct. For example, The Natural Resources Body for Wales (Establishment) Order 2012 specifically allows the Welsh Ministers to give directions to NRW about the exercise of its functions. Welsh Ministers cannot tell the OEGW what to do (or what not to do) because there is no provision to enable them to do so. We, therefore, consider it would be unnecessary to clarify that WMs have no power of direction in relation to the OEGW on the face of the Bill.

5. The Welsh Ministers must consult a Senedd committee before appointing the OEGW’s chair and deputy chair (paragraph 8(2) of Schedule 1). If this is intended to be a pre-appointment hearing, why does it not state that on the face of the Bill, and do you intend to add these roles to the list of offices subject to pre-appointment hearings under the protocol agreed between the Llywydd and the Welsh Government?

This consultation requirement fulfils a similar role to the pre-appointment hearing procedure in place for other significant public roles, such as the Well-being of Future Generations Commissioner and the Chair of Natural Resources Wales.

The committee should note the language used is similar to s17(3) of the Well-being of Future Generations (Wales) Act 2015, which does not state a ‘pre-appointment hearing’ must take place but places a clear requirement on Welsh Ministers to consult the relevant committee.

It is our intention to add these roles to the list of offices subject to pre-appointment hearings under the protocol.

As the Well Being of Future Generations (Wales) Act 2015 does not use the specific wording of “pre-appointment hearing”, we would appreciate any further thoughts from the committee if they consider this specific wording is necessary in this Bill.

6. The OEGW may apply to the High Court for an order requiring a public authority to take any action specified in a compliance notice it has issued. What are the possible sanctions for public authorities if they fail to comply with a High Court order?

The initial referral to the court provides for the court to enforce the Compliance Notice by way of Court Order (and the Court can vary the Compliance Notice itself if they see fit or indeed choose to not make a Court Order).

If the Public Authority, then fails to comply with the Court Order enforcing the Compliance Notice, then either an application can be made to the Court to find the

Public Authority in contempt of court, or the Court may decide to instigate these proceedings itself.

There are a range of sanctions available on a finding of contempt of court which would then be available to the Court, which include financial penalties.

7. Environmental law is a key definition in the Bill. It covers legislation wholly or mainly relating to environmental protection that has been, or could be, made by the Senedd. Do international conventions and agreements on the environment fall within the definition of ‘environmental law’ under the Bill?

The Bill includes a definition of “environmental law” to provide clarity, as the OEGW’s functions depend upon public authorities complying with “environmental law” and how well this law is made, implemented and applied.

Notably the definition clarifies that environmental law only relates to “devolved provision”. This has been framed to capture any future changes and also ensure there is limited overlap with the functions of the OEP.

The definition states that "environmental law" involves any devolved provision that "wholly or mainly relates to environmental protection." This means specific provisions or functions within an enactment may qualify, even if the entire Act does not.

Within that context, the OEGW’s remit applies to environmental law which is devolved and wholly or mainly relates to environmental protection. This applies to international obligations where the policy is devolved.

For example, the Aarhus convention is a legally binding international treaty that has been ratified by the UK and establishes three core procedural environmental rights:

- Access to environmental information
- Public participation in environmental decision-making
- Access to justice in environmental matters

In terms of the application of these core rights in Wales and where it is within the legislative competence of the Senedd, and therefore a devolved provision, then the OEGW will have oversight of these matters. It will be the OEGW itself who determines, case-by-case, whether legislative provision in their view falls under this definition. The OEGW would therefore first need to establish whether this falls within the scope of environmental law and then, if so, be able to assess its effectiveness and any non-compliance.

Generally, we expect this would be straightforward, but, as with all legislative terminology, in time, and with an evolving legislative landscape on this subject matter, the courts may need to resolve any disputes about the interpretation of “environmental law” as defined in the Bill.

8. In exercising its functions, the OEGW will be required to determine on a case by case basis whether legislation constitutes environmental law under

the Bill. Are you confident that this is workable and feasible in practice? For example, is it reasonable to expect the OEGW to enforce the law and potentially escalate it to the High Court on the basis of its own assessment of whether a provision is within the Senedd’s legislative competence under section 29(3)(b) of the Bill?

We have no concerns about the feasibility and practicability of expecting the OEGW to use its functions and enforce the provisions. The environment is largely a devolved area and has been for some time so there is generally a good understanding of what is devolved. As mentioned in my answer to the question above, we expected the OEGW’s assessment of whether provisions falls within the scope of environmental law would be straightforward (though recognise this could change with an evolving legislative landscape).

Further, the OEGW’s Board will be comprised of expertise which includes knowledge and awareness of environmental law and policy in the context of the Bill, and this meaning of environmental law is expressly tied to devolved provision.

Further it is expected, although not specifically provided for in the Bill, that the OEGW will seek access to legal advice for such matters given the wide range of enforcement powers made available to them, as other public authorities do.

The EA 2021 also contains reference to devolved provision, so the same issue arises in respect of the OEP.

9. The Statement of Policy Intent (“SOPI”) for the subordinate legislation powers under the Bill states that in instances of uncertainty or disagreement, it may be necessary for the courts to ultimately decide whether provision constitutes ‘environmental law’. What assessment has been made of the impact of this on the justice system?

We are confident the definition of environmental law is sufficiently clear and have given specific examples within the explanatory memorandum.

[The Justice System Impact Identification Assessment](#), agreed with MoJ, reflects our view that there will be negligible impact on the justice system. Referrals to the court, including around whether a provision constitutes environmental law, are intended to be made as an option of last resort once all other methods to address a failure has been explored, including informal resolution (advice and guidance), information notices and compliance notices, as well as improvement reports.

10. The Welsh Ministers have a power under section 29(4) of the Bill to make regulations specifying whether provision is, or is not, within the definition of ‘environmental law’. Please explain why this power is necessary, and whether you intend to routinely use it to identify which legislation, or parts of legislation, constitute ‘environmental law’.

We have included a definition for “environmental law” to provide greater clarity. Arguments around what would and wouldn’t fit into the scope of environmental law can 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.

This will enable the Act to be futureproofed for an evolving legislative landscape and as this will be subject to Senedd approval and formal consultation in respect of secondary legislation. It is not something Welsh Ministers could do unilaterally, nor expect to use routinely. Notably, this power could also be used to reflect the circumstances covered by question 9: namely to reflect the findings of the court.

11. The SOPI states that, if exercised, the power in section 29(4) of the Bill would be considered to “substantially affect provisions of the Bill by adding, amending or removing provisions which can be considered ‘environmental law’ for the purposes of the Act, and which has a substantial bearing on the scope of the Office of Environmental Governance’s oversight powers”. To what extent could this power be used to exclude provision that currently falls under the definition of ‘environmental law’ as drafted under the Bill?

The power could be used to exclude existing provision that has been considered environmental law prior to that point as the power is, deliberately, fairly broad and says the Welsh Ministers can provide that a devolved provision is, or is not, within the definition of environmental law.

As per the responses in question 9 and 10, this may be required or beneficial to reflect the findings of the court if there was any challenge around the scope of environmental law. It is worth reiterating, however, that the power is subject to the Senedd approval procedure and again, cannot be used unilaterally by Welsh Ministers.

12. Why is there no duty to consult the OEGW in relation to regulations to be made under section 29(4)?

Welsh Ministers are committed to consult on secondary legislation unless it is technical or not making substantial amendments.

We are aware the commitment of the Welsh Government to consult prior to making secondary legislation is one made by the existing Welsh Government and is not a statutory duty on them. We are giving further consideration as to whether this expectation of consultation prior to the making of regulations could be strengthened within the Bill.

13. The definition of ‘public authority’ in the Bill has been defined by reference to Devolved Welsh Authorities in section 157A of the Government

of Wales Act 2006, and various other bodies in Schedule 7B to the Act. How did you decide which bodies should be caught under this definition, and why has it not been drafted by reference to any body providing functions of a public nature in Wales?

The public authorities captured within the remit of the OEGW by the drafting approach are within the legislative scope of the Senedd, as far as possible. This is to minimise overlap and duplication with other organisations, such as the OEP, who will broadly be responsible for reserved authorities.

Some bodies providing functions of a public nature in Wales, such as the Ministry of Defence and the Crown Estate are reserved bodies therefore not subject to political oversight in the same way that authorities included within the scope of the OEGW will be.

The OEP exists to broadly cover reserved authorities and, if any oversight gap were to arise, we consider these can be addressed through cooperation between the OEGW, the OEP, and the public authorities themselves.

14. The majority of the public authorities under the Bill are listed in Schedule 9A to the Government of Wales Act 2006 as introduced by section 157A. However, under section 157A, there is also a statutory test for additional public bodies to constitute Devolved Welsh Authorities. Therefore, are you content that the scope of the definition of ‘public authorities’ under the Bill is sufficiently certain, and to what extent do you expect further public bodies to qualify as ‘public authorities’ under the statutory test?

Yes, we are content that the definition of “public authorities” is sufficiently certain. The advantage of this approach is that it is ambulatory in nature, and if any future bodies are added to the list in Schedule 9A or otherwise meet the conditions in subsection (2) of subsection 157A (that is, its functions are exercisable only in relation to Wales, and are wholly or mainly functions that do not relate to reserved matters), then they would be captured within the oversight of the OEGW.

We currently do not have an expectation of any further public bodies which may fall under the statutory test at 157A(2), however we consider it prudent to future proof the scope of the powers contained in the Bill.

15. The Welsh Ministers have a power to set targets in respect of ‘any matter’ relating to biodiversity in Wales. Objectively, this is a very wide power. What are the limits on the exercise of this power?

The Bill contains a number of limits on the exercise of this power. Targets can only be set if the Welsh Ministers are satisfied that the target will, if met, contribute to halting and reversing the decline in biodiversity in Wales, in particular through one or more of the following: increasing the abundance of native species, enhancing ecosystem resilience, or increasing genetic diversity.

There are also practical limits built into the target setting power. For example, each target must:

- State an objectively measurable standard to be achieved,
- Be achievable (and the Welsh Ministers are under a duty to achieve them),
- And include a clear deadline for achievement.

In addition, targets cannot be set under the priority area “reducing pollution” if they could also be set by the Welsh Ministers in air quality targets under the Environment (Air Quality and Soundscapes) (Wales) Act 2024, which is to avoid duplicating those powers.

16. The numerous amendments made to section 6 of the Environment (Wales) Act 2016 by sections 33-36 of the Bill have arguably made it less accessible to the reader. There are two separate definitions of ‘public authority’ in the same section for separate purposes, and separate duties for the Welsh Government and other public authorities in relation to the same section 6 plans and reports without clear headings. Are you open to revisiting the amendments made by the Bill to section 6 of the 2016 Act with a view to improving its accessibility and readability?

By incorporating the biodiversity target-setting framework into the Environment (Wales) Act 2016, we are ensuring that all primary legislation relating to biodiversity in Wales is consolidated within a single Act. We believe this approach improves accessibility and coherence, avoiding the need to navigate multiple legislative instruments.

Since the Environment (Wales) Act 2016 was enacted, the Senedd’s legislative competence has changed. This has influenced the drafting of the current Bill. For example, the definition of “public authority” in section 6(9) and (10) of the 2016 Act reflects the devolution settlement at that time. In contrast, the definition now included through section 34(4) of the Bill (the proposed new section 6(11) of the 2016 Act) reflects the Senedd’s current legislative competence.

Under the current devolution arrangements, certain public authorities—typically those operating across both England and Wales—are now classified as “reserved authorities.” In these cases, the Senedd requires Minister of the Crown consent to impose functions on such bodies. An example of a reserved authority is the Crown Estate. However, there are exceptions to this requirement.

Some reserved authorities, such as water and sewerage undertakers, listed in paragraph 9(6) of Schedule 7B to the Government of Wales Act 2006 do not require Minister of the Crown consent. Others, including the Food Standards Agency, Ofwat, and the Controller of Plant Variety Rights, do require consent, as the Senedd cannot create functions specifically exercisable in relation to them without it. All of these authorities are captured within the Bill’s definition of “public authority.”

The definition of “public authority” in the Bill also includes devolved Welsh authorities. Given the number of such bodies and the potential for organisational change—such as renaming, merging, or replacement—we considered it impractical to list each authority individually. Doing so would have resulted in a lengthy and inflexible provision that would require frequent amendment.

We believe the approach taken in the Bill strikes an appropriate balance between clarity, functionality, and flexibility, particularly given the complexities involved. However, if the Committee wishes to propose an alternative approach that addresses these considerations more effectively, we would welcome the opportunity to consider it.

17. Under new section 6C, the Welsh Ministers must lay draft regulations with biodiversity targets in priority areas within three years of Royal Assent. The Senedd’s Climate Change, Environment and Infrastructure Committee previously described this proposed timescale as “not acceptable” and “deeply concerning”. What is the justification for this deadline?

18. Would it be feasible to introduce draft regulations with targets sooner than this, and would you consider amendments to that effect at stage 2

We recognise the concerns raised regarding the timescales for setting biodiversity targets. However, as I raised with the CCEI committee, this is a complex and multi-stage process that necessarily takes time to ensure rigour and credibility. Work on target development is already progressing at pace alongside the Bill. That said, any significant acceleration may require compromises in the depth or breadth of target development.

A key component of the target development process is comprehensive scenario testing and modelling, which helps us evaluate different policy options and understand how varying environmental, social, and economic conditions could affect biodiversity outcomes. We have commissioned the Joint Nature Conservation Committee (JNCC) to undertake this modelling. Overall, this programme of work is expected to take 12 months, consisting of a series of successive work packages. These work packages will build upon subsequent outputs to deliver a final modelling output.

In addition to the modelling, we must also allow sufficient time for the secondary legislation process. This includes seeking independent advice, conducting integrated and regulatory impact assessments (including cost-benefit analysis), undertaking public consultation, drafting legislation, securing Senedd approval, and preparing detailed implementation guidance. Taking all of these factors into account—alongside the timing of the Senedd elections next year—we believe a three-year timeframe is realistic. This proposed timeline was also corroborated by the academic experts during the CCEI committee’s first evidence session.

However, we remain committed to bringing forward the regulations sooner if possible. Given the complexities and dependencies involved, we would welcome the Committee’s views, as I’ve welcomed views from the CCEI committee, on what they consider to be a realistic and achievable timeframe for laying the Regulations.

19. The express requirement to take action to contribute to meeting the biodiversity targets applies to public authorities that have been ‘designated’ in regulations by the Welsh Ministers. Why does the Bill not include a general duty on public authorities to comply with biodiversity targets?

Under the proposed framework, the statutory duty to meet biodiversity targets will rest solely with the Welsh Ministers. However, the Bill provides a regulation-making power enabling the Welsh Ministers to designate specific public authorities to contribute to the achievement of particular targets. Public authorities in Wales are already subject to, and will remain subject to, the general biodiversity duty under section 6(1) of the Environment (Wales) Act 2016, which requires them to seek to maintain and enhance biodiversity and promote the resilience of ecosystems when exercising functions in Wales. The new duty to contribute is intended to complement this existing section 6 duty by providing a more targeted and outcome-focused mechanism for delivery. It is designed to offer greater clarity on the specific contributions that designated public authorities can make toward achieving biodiversity outcomes.

We have taken a proportionate and evidence-based approach to this power. Designation will only be considered where a public authority is well placed to make a meaningful contribution to a specific target through its existing functions. This approach recognises that not all targets will be relevant to all authorities—for example, a land locked local authority would not be expected to directly contribute to a marine biodiversity target. We have also been mindful of the operational pressures on public authorities and have reflected stakeholder feedback received through the White Paper consultation. We consider this targeted and flexible approach strikes an appropriate balance between the benefits to be gained from imposing a duty to contribute and imposing additional burdens on public authorities.

20. Each public authority proposed for designation must be consulted, along with such other persons considered appropriate by Welsh Ministers. Up to 100 public bodies constitute ‘public authorities’ under the Bill. What proportion of these bodies do you envisage being designated?

It is important to emphasise that we will not know which public authorities are best placed to contribute—nor the proportion that may be designated—until the targets themselves have been developed in detail. Each target will have distinct delivery requirements, and the relevance of individual public authorities will vary accordingly.

For example, targets that require land or ecosystem management are likely to involve consultation with authorities that own or manage land, such as local and national park authorities, water and sewerage undertakers, Natural Resources Wales, Sport Wales, CADW, and Transport for Wales. Further work during the target development phase will provide greater clarity on which public authorities can meaningfully contribute to each target. We are committed to consulting

relevant public authorities as part of the designation process to ensure that any duties imposed are proportionate, targeted, and aligned with existing functions.

21. Under the Bill, the Welsh Ministers are required to ensure the biodiversity targets are met. Why does the Bill not impose an express duty on the OEGW to monitor and enforce this obligation?

Schedule 2 to the Bill sets out key operational requirements for the OEGW, including the obligation to articulate within its strategy how, in carrying out its functions under section 11 (monitoring and reporting), it intends to monitor any environmental targets set by or under environmental law. The strategy is subject to public consultation, which introduces an important layer of transparency and accountability. However, to ensure the OEGW functions is a truly independent body, it must remain free from direction by the Welsh Ministers or any other party.

Statutory environmental targets are an important part of the legislative landscape, and we fully expect that the OEGW will wish to investigate and, if necessary, take enforcement action where concerns arise regarding their delivery. That said, we have been cautious not to prescribe how the OEGW should carry out its functions. As an independent body of experts, the OEGW is best placed to determine its own priorities. If it considers that any statutory targets, not just biodiversity targets, warrant focused attention, there is nothing in the legislation to prevent it from doing so. We believe this approach respects the principle of independence while ensuring the necessary powers and transparency are in place to support effective environmental governance.

Furthermore, we understand this approach to protect the independence of the body to select which statutory obligations it considers, in balance with its resourcing, was supported by the evidence given by the Office of Environmental Protection, Environmental Standards Scotland and the Interim Environmental Protection Assessor of Wales when they came before the CCEI committee earlier this month.

Aside from the OEGW, there are measures in the Bill to ensure that the Welsh Ministers are regularly monitoring and reporting on progress to achieving the target. For example, through the revised section 6 reports, which must be prepared every three years. If it appears to the Welsh Ministers that a target may not be met, then they must review that target (which includes seeking independent expert advice) and lay a statement before the Senedd noting its conclusions. This means progress towards achieving the targets will be a transparent process and open for Senedd scrutiny (proposed new section 6G).

22. The requirement to set biodiversity targets will fall to the Welsh Government in the seventh Senedd. As drafted, the biodiversity requirements in the Bill could be satisfied by laying regulations in 2029 setting only four targets without any requirement to designate any public authority in relation to such targets. Are you satisfied that this is sufficiently robust, and if so, why?

Yes, we are satisfied that the Bill is sufficiently robust. As well as the new biodiversity target framework, the Bill builds on and strengthens the Welsh Ministers' existing duties (and any public authorities designated to contribute to biodiversity targets) to better support efforts tackling the nature emergency in Wales. The biodiversity provisions are focused on establishing statutory targets that will drive action to halt and reverse biodiversity loss, helping to put nature on a path to recovery for the benefit of current and future generations. However, the Bill is only one element of the Welsh Government's approach for addressing the nature and climate emergencies. It should not be viewed in isolation, as it complements a wide range of existing policy and legislative measures.

The target-making power in the Bill allows the Welsh Ministers to set biodiversity targets beyond those required for the identified priority areas, ensuring the framework remains responsive to emerging challenges. Given the difficulty in predicting all future drivers of biodiversity loss, this flexibility is essential to maintaining the Bill's long-term relevance. The Bill also includes provisions for reviewing targets to ensure they continue to support our overarching goal of halting and reversing biodiversity loss. Included in this mechanism is a requirement for the Welsh Ministers to set out how the targets, if achieved, will contribute to the halting and reversing of biodiversity loss. The UN's Global Biodiversity Framework, which has informed the development of the priority areas, is due to be reviewed in 2030. This will provide a timely opportunity to consider if further targets aligned with any new global priorities are needed.

While the Bill does not impose a duty to designate public authorities, the Welsh Ministers will be under a statutory duty to meet the targets they set. Coupled with the Bill's provisions surrounding monitoring and reporting on targets (discussed earlier), this creates a strong incentive to designate public authorities where they are well placed to contribute meaningfully to achieving targets. The need for collective action, combined with the statutory duty on Ministers, provides a clear mechanism for future governments to leverage the capabilities of public authorities in a proportionate and strategic way.

23. The Explanatory Memorandum states that the Bill will help to implement the commitments set out in the UK-EU Trade and Cooperation Agreement. Please elaborate and explain how the Bill will do this

The pre-ambles of the UK-EU Trade and Cooperation Agreement (the "TCA") acknowledges the parties' commitment to high standards of environmental protection (and to strive to continue to improve those standards) and the fight against climate change. Provision relevant to the environment can be found throughout the TCA on a wide range of areas, including climate change, air quality, water quality, and biodiversity. In this respect, the intended policy outcomes for this Bill supports these commitments. For example, the environmental objective guides the principles and the OEGW to contribute to the "attainment of a high level of environmental protection and an improvement of the environment". The OEGW could also choose to review whether Welsh Ministers have addressed the duty to have special regard to the environmental principles.

Part 2, Heading 1, Title XI, Chapter 7 of the TCA makes particular provision about the environment. Each party agrees not to weaken or reduce, in a manner affecting trade or investment between the parties, its environmental levels of protection or its climate level of protection below the levels that are in place at the end of the transition period, including by failing to effectively enforce its environmental law or climate level of protection (Article 391). The introduction of the OEGW as an independent body responsible for overseeing compliance with environmental law, including enforcing compliance with environmental law, will directly support this commitment.

The UK and EU also each commit to respect the internationally recognised environmental principles to which it has committed, in particular:

- the principle that environmental protection should be integrated into the making of policies, including through impact assessments;
- the principle of preventative action to avert environmental damage;
- the precautionary approach referred to in Article 356(2)
- the principle that environmental damage should as a priority be rectified at source; and
- the polluter pays principle (Part 2, Heading 1, Title XI, Article 393)

Part 1 of the Bill directly supports this commitment by making provision about environmental principles and the integration of environmental protection, including duties to apply the principles when making policy or undertaking SEA (as the case may be).

UN 2030 Agenda for Sustainable Development 2015
17 Goals

Well-being of Future Generations (Wales) Act 2015
Wellbeing Goals, Milestones and National Indicators
Environment (Wales) Act 2016

UN Treaty under UNFCCC
The Paris Agreement 2015
limit global warming to 1.5°C

Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill
Pt 2 OEGW – oversight environmental law and targets
Pt 3 amends Part 1 EWA* 2016 Act - establishes biodiversity targets framework

UN Kunming-Montreal Global Biodiversity Framework 2022
Global vision of a world living in harmony with nature by 2050
4 Goals for 2050 & 23 targets for 2030

Environment (Wales) Act 2016 - Part 1 – SMNR & Biodiversity
S6 Biodiversity targets to halt and reverse biodiversity loss.

Natural Resources Policy (NRP)

- Shows delivery against environmental principles (Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill)
- Informed by the **State of Natural Resources Report (SoNaRR)**
- Reflects **Area Statements** from Natural Resource Wales

Environment (Wales) Act 2016 Part 2 – Climate
“2050 emissions target”
Interim targets – 2020, 2030, 2040



Targets & Legislation

Wales's environmental objectives targets and indicators are embedded in a complex suite of legislative instruments and strategic frameworks that collectively support delivery of national and international commitments. These include:

- Biodiversity:** The Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill establishes statutory biodiversity targets and an oversight body (OEGW), amending the Environment (Wales) Act 2016 to strengthen Section 6 duties
- Air Quality:** The Environment (Air Quality & Soundscapes) (Wales) Act 2024 mandates legally binding targets for PM2.5 and other pollutants, with phased deadlines to 2030
- Climate Change:** The Environment (Wales) Act 2016 sets a net zero target by 2050, with interim carbon budgets and duties on Ministers to act
- Water Quality:** Managed under retained EU law (e.g. Water Framework Directive) and the Flood and Water Management Act 2010, with NRW and local authorities responsible
- Sustainable Land Management:** The Agriculture (Wales) Act 2023 introduced SLM objectives with associated indicators and targets that relate to the indicators
- Marine:** The UK Marine Strategy and Welsh National Marine Plan set targets for good environmental status in Welsh seas
- Circular Economy:** Workplace Recycling Regulations support waste reduction; food waste targets are non-legislative but aligned with broader sustainability goals

Each set of targets has their own reporting and monitoring requirements

World Health Organisation

*OEGW – Office of Environmental Governance Wales
*EWA – Environment (Wales) Act 2016
*SMNR – Sustainable Management of Natural Resources
*SLM – Sustainable Land Management