

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

Ein cyf/Our ref HID-PO-079-26

Lynda Warren  
Interim Environmental Protection Assessor for Wales

[lyndamwar@gmail.com](mailto:lyndamwar@gmail.com)

10 February 2026

Dear Lynda

Thank you for sharing the IEPAW report on the Aarhus Convention in Wales for my consideration. In line with our agreement, I will publish a full response to the report by 5 March. I am, however, aware the two recommendations in the report relate to the Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill. Given the timelines associated Senedd scrutiny, I thought you would appreciate early sight of my proposed response to the recommendations. I will, however, publish a full response to the recommendations in the Government response to the report.

#### Recommendation 1

We recommend that the Welsh Government ensures the Explanatory Notes to the Act include reference to judicial review and to intervention in proceedings in respect of the supplementary powers in Schedule 1, Part 9, paragraph 23.

#### **Accept**

It remains my view that the Bill provides the OEGW the power to apply for judicial review or apply to intervene in a JR. This is contained in the ancillary powers at paragraph 23 of Schedule 1. Whilst we clearly have a shared desire to ensure the OEGW is equipped with the powers it needs to operate effectively, I cannot agree with the concerns raised by this report that there is deficiency in the powers that enable OEGW to apply for or apply to intervene in a JR. To date, we have not received any evidence to suggest that this would be the case.

In particular, I am unable to accept the statement that “*Without express reference to judicial review there is a real danger that the courts will deny standing.*” Whilst this view has been expressed several times during the passage of the Bill, we have not been provided with any legal basis, case law nor legislation to substantiate this view. I acknowledge it is possible this position could be argued in court and is ultimately a matter for the courts as with any application for judicial review, but I consider there is substantial merit in the counterargument that the OEGW could be considered to have sufficient interest from a public interest perspective given its functions to oversee environmental law in Wales.

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

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1SN

[Gohebiaeth.Huw.Irranca-Davies@llyw.cymru](mailto:Gohebiaeth.Huw.Irranca-Davies@llyw.cymru)  
[Correspondence.Huw.Irranca-Davies@gov.wales](mailto: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.

However, I recognise the strength of feeling from both your office and certain stakeholders on this matter. I am, therefore, prepared to include a statement within the explanatory materials for the Bill that clarifies, in such a way so as not to limit those ancillary powers in respect of other matters, that applying for judicial review and / or intervention in proceedings are examples of activity which the supplementary powers provide by virtue of Schedule 1, Part 9, paragraph 23.

#### Recommendation 2

We recommend that the Welsh Government, in the next Senedd term, work with the MOJ to amend the Act to include express provision for the OEGW to apply for judicial review in urgent cases and to intervene.

#### **Reject**

As explained above, I consider such express provision to be unnecessary and have not received any credible evidence to corroborate the view that the court would deny standing to the OEGW because it has no such powers.

If the court refuses standing because there is no power to apply, then we would of course revisit this position and have necessary discussions with the MoJ. At the current time however, there is no evidence to suggest a correlation between a power to apply and the granting of standing to bring a JR.

I remain open to considering any evidence on this matter from you or stakeholders.

Yours sincerely



#### **Huw Irranca-Davies AS/MS**

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