Cyswllt Amgylchedd Cymru | Wales Environment Link

Climate Change Environment and Infrastructure Committee Priorities for the Sixth Senedd

September 2021

Introduction

Thank you for the opportunity to submit views to the Committee on its priorities for the Sixth Senedd. In establishing the new Ministry for Climate Change Environment and Infrastructure the First Minister committed to putting the environment, biodiversity and climate change at the heart of decision making. Whilst we recognise that the paper outlining the Minister and Deputy Minister's portfolio priorities for the next 12 – 18 months sets out a series of focus areas and not necessarily a comprehensive schedule, it does omit key areas of work.

Nature and climate emergency

Wales Environment Link welcomed the Senedd declarations, backed by the Welsh Government, of first a climate emergency and, more recently, a nature emergency. The role of this Committee, and of this Senedd, in setting the course to ensure Wales' response is ambitious enough to address this challenge, could not be more critical, and the ongoing work towards new global agreements on climate change and biodiversity provides critical context for the Committee in determining its priorities.

In June 2021, IPBES & IPCC published a joint report based on a workshop bringing together the world's leading biodiversity and climate experts. The report states that biodiversity loss and climate change are both driven by human economic activities and mutually reinforce each other. Neither will be successfully resolved unless both are tackled together. Further, while there are many potential win-wins in tacking climate and nature together, narrowly-focused actions to combat climate change can directly and indirectly harm nature and vice-versa. Examples of climate change measures that have potential to harm nature are planting trees in inappropriate places; monoculture afforestation; and poorly located renewable energy infrastructure.

The Welsh Government's commitment to integrating the response to the climate and nature emergency across all activity is very welcome. This Committee will have an important role to play in ensuring this is effectively delivered, and that nature recovery as well as climate objectives are mainstreamed across government.

Reviewing environmental law, Natural Resources Wales and regulatory bodies

In recent evidence sessions at the Senedd the Minister for Climate Change Julie James MS confirmed that the Welsh Government is undertaking a "review of where regulatory bodies sit together – Welsh Government, Natural Resources Wales, local authorities and various other statutory bodies". Presumably this follows calls from the Welsh local government association to review the functions of NRW specifically in relation to flood management. During the JLC Committee 120721 the Minister also stated that Officials had been asked to "scope out a possible review of environmental law in Wales." Although no further details of these reviews are available and therefore their scope remains unclear, these are potentially significant areas of work that should be of interest to the Committee. In this context we note that the Senedd has not to date undertaken post legislative scrutiny of the Environment Wales Act 2016, which created a new statutory purpose for Natural Resources for Wales and the statutory framework for the sustainable management of natural resources. Scrutiny of the implementation of the EWA and that of NRW's broader statutory duties and functions is key to determining whether the intended environmental outcomes are being achieved. It would therefore seem timely to consider this as part of the CCEI Committee's priorities for the Sixth Senedd, alongside the reviews announced by the Minister.

Environmental governance post Brexit – interim and longer term arrangements

The letter outlining the Minister's priorities makes minor reference to the interim environmental governance arrangements and ongoing work with stakeholders to develop permanent arrangements. There are a number of matters relating to environmental governance and principles that require the Committee's consideration.

An environmental governance and principles bill

The previous Welsh Government had committed to "take the first proper legislative opportunity to enshrine environmental principles into law and close the governance gap" back in 2018, with First Minister Mark Drakeford stating that the Welsh Government "*will also bring forward an environmental principles legislation during the next Assembly term, if we're in a position to do so"* in the legislative statement on the 15th of July 2020. The intention was to bring forward an environmental governance and principles bill in the Sixth Senedd, with the previous Minister Lesley Griffiths MS committing in November 2020, to continuing to work with the stakeholder task group with the aim of bringing forward a White paper on the permanent (statutory) arrangements after the Senedd election in May. It was also stated at the time that further steps may be taken to strengthen the interim arrangements, alongside the development of a shadow body ahead of the legislation being laid and establishment of the new body in law.

In evidence sessions on the Environment Bill LCM at the Legislation, Justice and Constitution Committee on the 12th of July 2021 and the Climate Change Environment and Infrastructure Committee on the 15th of July, the Minister for Climate Change Julie James MS clarified a number of points in relation to proposals for an environmental governance and principles bill for Wales, and the existing non statutory interim arrangements introduced on the 1st of January this year.

During the CCEI Committee 150721 the Minister confirmed that "the environment principles and governance Bill isn't in the year 1 programme" and that the Welsh Government was working towards a bill "hopefully in year 2" but that she was "not in a position to promise" that it would be included in year 2. The Minister explained that she had to "negotiate with Government colleagues" and go through the "normal Government process for putting forward Bills from your portfolio" but that there was "only so much space in the legislative programme".

There appears to be a shift in priority given to bringing forward legislation necessary to establish environmental governance arrangements and principles in Wales post Brexit, in contrast to previous commitments made. This is of major concern to WEL members. Wales is well behind the other UK countries in the establishment of domestic measures to address the governance gap, resulting in weakened environmental protection in spite of the recognised nature and climate emergency.

We note that the Minister spoke of the environmental principles and governance Bill as a potential vehicle for nature recovery targets – we welcome and support this, as set out in more detail below. We would emphasise that delay beyond the second year of the Senedd is not acceptable, and that there is no reason that a framework for statutory targets cannot be developed in line with this timetable.

Environmental Principles – Interim approach

In the absence of legislation, the Welsh Government is currently developing non statutory guidance on the application of environmental principles. This guidance is not subject to public consultation and the timetable for its introduction is unclear.

The EU-UK Trade and Cooperation Agreement (TCA) and environmental governance

The EU-UK Trade and Cooperation Agreement (TCA) contains sector specific environment and climate change commitments as well as a number of provisions intended to maintain high environmental standards. Whilst this is the responsibility of the UK Government, the absence of environmental governance arrangements in Wales is notable and requires consideration.

Interim governance arrangements and the role of the Interim Environmental Protection Assessor Wales (IEPAW)

In the absence of legislation, non statutory interim environmental governance arrangements were phased in from the 1st of January this year. Initially this included a web page, followed by the appointment of the Interim Environmental Protection Assessor Wales in March. The interim arrangements are intended for up to two years "during which time the Welsh Government will develop a permanent environmental governance oversight body, allowing for a period of transition from the interim to the new arrangements". To meet this timeframe it is essential that a Bill should be brought forward in the second legislative programme.

Whilst we welcome the appointment of the IEPAW, the role of the Assessor as it stands is to consider matters relating to the functioning of environmental law rather than a complaints mechanism for

breaches of environmental law by public bodies. As such the role of IEPAW does not address the governance gap that arose when the UK left the EU at the start of the year.

The role of the Senedd in existing and longer term environmental governance arrangements

As WEL has highlighted previously the role of the Senedd in the interim and longer term governance arrangements is yet to be considered in detail. Initial discussions between the Trefnydd and Presiding Officer had been scheduled to take place in early 2021. The Chair of the CCERA Committee wrote to the Presiding Officer in December 2020 asking for clarity on the practical operation of the complaints system and the identifying the need to attach Welsh Parliamentary Commission resources to support emerging Parliamentary procedures. It remains unclear what progress if any has been made in this regard.

Statutory Nature Recovery Targets

Wales Environment Link strongly supports conclusion 26 of the Legacy Report of this Committee's predecessor in the fifth Senedd:

> Conclusion 26. This Committee firmly believes that the next Welsh Government should introduce targets to arrest the decline and restore biodiversity. We believe our successor Committee should ensure the Welsh Government prioritises this matter during the first year of the next Senedd term.

The Sixth Senedd has, of course, already expressed its view on this, on 30 June this year, passing a resolution that formally declared a nature emergency and called on the Welsh Government to: "Introduce legally binding requirement to reverse biodiversity loss through statutory targets." This motion was supported by Welsh Government and the Minister has since spoken of her intention to bring forward an environmental governance Bill that could also provide a means to legislate for nature recovery targets, which we strongly welcome.

WEL Members were concerned, however, by the comments made by the Minister to this Committee on 15 July, that suggest that this legislation may not be given a slot even in the second year of this

Senedd. Furthermore, the Minister expressed a concern that developing statutory targets might hold up a governance bill. In our view there is no reason that the legislation for nature recovery targets cannot be produced in good time for a second year bill; and as stated above, further delay to governance legislation is unacceptable.

As set out in Putting Wales on a Path to Nature Recovery, published by RSPB and WWF with the support of WEL in June 2021, the Bill should introduce key high-level duties that would not be time-intensive to bring in: a duty to halt and begin to reverse the loss of biodiversity by 2030 and achieve recovery by 2050; and a duty to set SMART long term and interim targets via secondary legislation, informed by independent expertise and scientific advice, and by the post-2020 CBD framework. These must be supported by a legal requirement on Ministers to ensure that the targets are met.

Putting Wales on a Path to Nature Recovery sets out a comprehensive case for long-term and interim statutory nature targets based on evidence including examples from other areas of policy and from approaches taken internationally. The Westminster Environment Bill will introduce a framework for legally binding biodiversity targets for England.

While there will be a need for alignment between domestic targets and the Post 2020 Global Biodiversity Framework that will be finalised in Spring 2022, there is no reason to wait until a final framework is agreed and published to start setting ambitions for Wales. The direction of travel is already clear, not only from the recent draft published by CBD but also from recent agreements including the Edinburgh Declaration, the Leaders' Pledge for Nature, and the G7 2030 Nature Compact. Wales is among the most nature-depleted countries in the world and must be prepared to show leadership by acting swiftly on this agenda.

This is a win-win situation. Many of the actions that we need to take to protect and restore wildlife will also serve as nature-based solutions to flooding, soil erosion and water and air pollution and also help capture carbon to reduce net greenhouse gas emissions. The joint IPBES & IPCC report published in June 2021 made clear that neither climate change nor biodiversity loss can be successfully resolved without tackling both together. It also highlighted the potential for narrowly-focused action on climate to be damaging for nature, and vice versa. This underlines the need for nature recovery, as

well as climate, to be taken into account across Government decision making at all scales; statutory nature recovery targets will be key to ensuring this happens.

Climate and Biodiversity Education

The majority of climate related priority areas outlined in the Minister's letter are focussed on infrastructure and technology. Whilst welcome, we would urge that this area also needs to include the engagement and education of the people of Wales. Whilst climate awareness is growing, the skills and knowledge required to provide solutions for the future are currently limited. Outside of the more widely understood areas of car driving and energy efficiency, there is a significant lack of knowledge as to what people can do to tackle climate change through individual and everyday choices. It is evident that Environmental Education is needed for adults, as well as young people and children and we should not assume that there is a broad level of understanding across the population as to what can be done or what needs to be done to take action.

Keep Wales Tidy, through the Eco-Schools Programme, and Size of Wales have been delivering environmental education for a number of years and have recently undertaken a number of successful training programmes with teachers. This training was well received but both charities have highlighted the current lack of understanding of environmental challenges, including climate change, biodiversity loss, pollution and over-consumption. RSPB Cymru's report Every Child Outdoors Wales outlines an "extinction of experience", a phenomenon where children are having less experiences in nature than ever before in in history, and the impacts that this nature deficit can have on their development. Whilst there is significant support for the need to teach these issues, and pupil led learning is directing educators to engage in these issues, in many cases, there is a gap in the skills, knowledge and confidence to effectively engage learners.

The Future of Food, Farming and Land Use in Wales

In the Minister Julie James' letter to the committee outlining Welsh Government's priorities in relation to climate change, environment and infrastructure, we noted that the letter did not specifically refer to the key role that the food and farming sector needs to play. Importantly, it's worth recognising that our food system is at risk from a changing climate. It also directly contributes towards climate change, with agriculture contributing around 16% of Wales' total greenhouse gas

emissions. Based on UK data, food manufacture, transport and retail emissions account for another 5.5%. Furthermore, unsustainable land use is one of the key drivers of biodiversity loss, with more than 80% of Wales' land utilised for agriculture. Crucially, our land is our biggest natural defence against climate change and it could be our biggest ally in restoring nature. We therefore believe that this committee has to consider within its priorities the crucial role of food and farming (from farm to fork – production to consumption), and land use.

The Legislative Programme confirmed that the Government plans to bring the Agriculture Bill to the Senedd in this Senedd year. This critical piece of legislation will shape our landscapes, ecosystems and rural communities for many years to come. Ecological resilience, food production and the long-term viability of farming in Wales as interdependent; a healthy environment underpins food production itself. The Agriculture Bill must respond to the triple challenge of delivering high quality sustainable food whilst restoring nature and getting to carbon net zero. The recent IPCC report adds significant context to this ambition and the Government will have to consider the new data and advice contained in the report closely alongside its work on the Bill. With this in mind, joint scrutiny of the Agriculture Bill and proposed Sustainable Farming Scheme by the Climate Change, Environment and Infrastructure Committee with the Economy, Trade and Rural Affairs Committee would be appropriate.

Net zero - Low carbon delivery plan and 2nd carbon budget

We agree with the Minister on the need for the 2020s to be 'the decade of action' if we are to meet net zero by 2050. We also agree of the importance of the second Low Carbon Delivery Plan and carbon budget in working towards this 2050 objective. Given the new commitment to a 2050 net zero target, we want to see a tightening of targets and transparent, timebound pathways towards identifying them, particularly clear detailed pathways for agriculture and land use. We also want to see scope 3 emissions accounted for in carbon budgets. We appreciate that it is a challenging aspect to measure but feel that it is vital for countries to ensure that this element is included if we are to have a realistic chance of meeting targets set in the Paris Agreements. By including scope three in Welsh Government targets, we would also be setting the challenge for other UK and global governments to fully consider all aspects of CO2e emissions. We are unclear as to whether Welsh Government will set sectoral emission targets in the second low carbon plan, and if they did, what the level of ambition would be and how they would get there. We believe there could have

been more stakeholder engagement and co design of the second Low Carbon Delivery Plan which we believe is due to be launched in COP 26. We would therefore welcome immediate committee scrutiny on the second Low Carbon Delivery Plan and carbon budget.

Many large businesses have already signed up to the UN Race to Zero campaign which includes scope three impacts in measurement so it would be fantastic to see Government also take this approach and lead by example for some of the Welsh businesses who have yet to sign up.

National Parks/ Protected Landscapes

It's notable that there is no mention of National Parks in the Minister's letter to the committee. This is disappointing given that the WG has previously emphasised the role of NPs in mitigating and adapting to climate change in its priorities for designated landscapes (see, for example the Valued and Resilient policy statement).

In the letter which accompanied the most recent funding settlement for NPAs WG highlights the importance of the next few years as a time to take action on the climate and acknowledges that a lack of capacity is holding back NPAs' ability to undertake various work including biodiversity and climate change mitigation projects. It would be really timely for the Committee to be looking at whether NPAs have the right tools and resources and what needs to change to enable them to do more in this area.

Plastics and The Circular Economy

We welcome the inclusion of plastics and the circular economy in the Deputy Ministers priorities and although we understand the challenges currently faced with the potential implication of the UKIMA, the commitment to ban plastics and introduce a DRS for drinks containers has been long discussed and many consultations have been published, all of which showing broad levels of public support. The lack of action on these basic principles as a first step in the journey to reducing our plastic waste which is having considerable negative impacts on our terrestrial, marine and freshwater environments is frustrating.

With the passage of the Environment Bill UK (as currently proposed), the Welsh Government will receive new powers to tackle certain issues of waste. We fully expect the Welsh Government to make use of these powers and to take action on some of our most persistent issues in this area, by, for example, introducing a levy on single use cups, supporting reduction initiatives for the littering of single use sanitary items and the promotion of reusable alternatives across sectors.

The issue of extending the carrier bag charge to 'bags for life' (and consideration of a ban on single use carrier bags) is also overdue a decision by Welsh Ministers.

The marine environment and spatial planning

Since the Welsh National Marine Plan (WNMP) was developed, ambitions for development (particularly renewables) in Welsh seas have grown significantly. Potential impacts to marine ecosystems from marine developments include wildlife collision, disturbance, man-made noise, habitat loss, and loss of access to preferred foraging areas (displacement).

The marine environment is not currently resilient and a recent evaluation shows that the status of some species, such as seabirds, is worsening. Marine planning must therefore ensure that marine development ambitions are delivered in a way which does not further hinder the achievement of Good Environmental Status.

The WNMP does not have a spatial component. As Welsh seas become more crowded, we believe the marine planning system must operate at a strategic and spatial level to:

- guide the siting of developments away from the most ecologically sensitive areas;
- assess and minimise the cumulative impacts on habitats and species; and
- provide greater certainty to developers and other sectors.

Sectoral Locational guidance as currently proposed by the Welsh Government is not enough. A statutory spatial plan must look cross-sector, at either a regional or national level, to address cumulative impacts on our marine ecosystems from all marine users is required. A marine

development plan, such as those that are commonplace on land, would be one way to achieve this. Embedding a spatial approach into marine planning could be usefully considered by the committee.

Tackling Climate Change in harmony with nature: Blue Carbon

It is encouraging that the Minister recognises the importance of our blue carbon habitats in sequestering carbon. In order to meet the ambitious target to becoming carbon net-zero by 2050, it is critical we look towards the ocean and its immense carbon storing capabilities. An NRW-commissioned report in 2020 revealed that blue carbon habitat in the Welsh National Marine Plan area presently stores at least 10 years' worth of Wales' carbon emissions. Not only do these habitats act as effective carbon stores, but equally are efficient at absorbing storm energy; thus, acting as a natural flooding solution.

We recommend the Committee explore the development, implementation and funding of a National Blue Carbon Recovery Plan designed to maintain and enhance our invaluable marine blue carbon habitats.

Restoration and protection of Welsh seas

We welcome the Minister's continued commitment to seas that are "*clean, healthy, safe, productive and biologically diverse*" (a commitment made by all four UK nations within the UK Marine Policy Statement, 2011). Given that the Minister does not elaborate on priorities here, we thought it would be useful to set out our priorities for the Committee:

We recommend that the Committee scrutinises the identification, designation and management of the Marine Conservation Zones process in Wales over the next 12 months. The process of identifying sites is already severely delayed in Wales. In addition, this committee should work with the Rural Affairs Committee to consider scrutinising the UK Joint Fisheries Statement and the Fisheries Management Plans once these are made available.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector. Our vision is a thriving Welsh environment for future generations.

This paper represents the consensus view of a group of WEL members working in this specialist area. Members may also produce information individually in order to raise more detailed issues that are important to their particular organisation.

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