Cyswllt Amgylchedd Cymru | Wales Environment Link

Stage 1 evidence: Environment (Principles, Governance and Biodiversity Targets) (Wales) Bill

Date: 30th July 2025

1. What are your views on the general principles of the Bill, and is there a need for legislation to deliver the stated policy intention?

Wales Environment Link (WEL) is a network of over 30 environmental organisations working in Wales. This consultation response 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.

WEL have been calling for the laying of a Bill to address the governance gap established by the departure from the EU for almost ten years. It is a welcome moment to have reached this stage, and we are happy to see the laying of the Environment (Principles, Governance, and Biodiversity Targets) Bill (the Bill) in its draft form. We have worked with the Welsh Government since before the laying of the White Paper to ensure the Bill is robust and provides the environmental protections required to address the scale and pace of the nature emergency, which is rapidly growing in severity.

However, our members are keen to see greater ambition embedded in the Bill. As the likely final act of the Sixth Senedd, we would expect the Bill delivers a strong foundation for future generations, cementing a lasting legacy for this Senedd, upholding the work done to recognise and respond to the climate and nature emergencies for the long term. This can only be secured by placing explicit legal requirements throughout the Bill. These should secure the environmental principles as a driving force for environmental protection in Welsh law, legally binding Welsh Ministers and public authorities; provide sufficient powers, resourcing, and independence to the Office for Environmental Governance Wales, and establish a biodiversity targets framework that mandates immediate action to deliver change for

nature and meet the ambition of the Global Biodiversity Framework. The Bill, in its current form, threatens weak responsibilities and requirements, missing the mark required to deliver a lasting, impactful legacy for nature for our present and future generations.

A strengthening of the Bill and therefore Wales' existing biodiversity framework is crucial, as concepts such as the Sustainable Management of Natural Resources (SMNR) and the Section 6 duty have thus far not secured the systemic action and behaviour change required to change the fortune of biodiversity in Wales. Therefore, it is critical this Bill is strengthened and developed to ensure it delivers the lasting legacy required to halt and reverse biodiversity loss.

2. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

Part 1 - Environmental objective and principles (sections 1 to 7)

There are several areas which are positive in this section of the Bill, including the 'special regard' duty on the implementation of the environmental principles, and the application of these principles to NRW's policymaking. We further welcome the environmental objective, although we feel this could be strengthened.

Areas where we believe the Bill could be clarified or strengthened include:

A. Wording of the environmental objective

We welcome the introduction of an environmental objective in relation to the environmental principles and integration duties, although have reservations in relation to its application to the Office of Environmental Governance Wales. The inclusion of a reference in Part 1, Section 1 1(a) to achieving the well-being goals in section 4 of the Well-being of Future Generations (Wales) Act 2015 (WBFGA) would, in our view, dilute the environmental objective's focus away from its primary aim of the attainment of a high level of environmental protection and environmental improvement, due to the goals' very broad focus. For example, the WBFGA requires public authorities to work towards achieving all wellbeing goals, not just one or two.

This could weaken and confuse the application of the environmental objective, due to the requirement to focus more broadly on wellbeing rather than a clear focus on environmental protection.

A wider point to be made is the approach to integrating the principles with the wellbeing goals, placing the principles within the scope of the FG Act, despite the fact the WBFGA was developed within the context of the principles as they applied in EU law. Removing the principles (due to Brexit) and then inserting them within the WBFGA risks confusing and diluting the strength of the principles as their focus would extend beyond environmental protection to account for the wellbeing goals. We suggest this reference is removed.

The integration of the wellbeing goals is concerning as the Environmental Objective provides the general purpose for the new Office for Environmental Governance Wales (OEGW), potentially limiting the OEGW's ability to uphold environmental law by diluting its purpose. To mitigate this, the objective should be pared back to environmental protection and environmental improvement. We believe this is consistent with Welsh law as the WBFGA is already required to be implemented by the Welsh Government and all public authorities, and therefore the application of the Wellbeing Goals in the objective would create a situation of 'double counting'.

A1. We recommend that the reference to the well-being goals in clause 1(1)(a) is removed. While a strong focus on the environment is necessary to meet the needs of the present and future, the goals apply to all public authorities via the WBFGA, making this additional reference potentially confusing. Attaining a high level of environmental protection and improvement of the environment can only be delivered by focusing on the environment. A statutory focus on environmental protection and improvement is crucial and will bring wider benefits, enabling Ministers and public authorities to achieve the wellbeing goals. A watered-down environmental objective risks muddying the focus of the Bill, moving away from environmental protection.

A2. The Welsh Government should make clear that halting and reversing biodiversity loss includes protecting, conserving and enhancing the favourable conservation status of rare, threatened and protected species.

A3. There must be a requirement on Welsh Ministers and public authorities to publish assessments of how they have applied the environmental objective, the environmental principles, and how they have integrated environmental protection into policymaking. A publication of the assessment process delivers transparency in the application of the environmental duty.

A4. To promote transparency and accountability, Welsh Ministers and public authorities should be required to publish a statement explaining how new legislation meets the environmental objective of environmental protection and improvement, when it is first introduced. Section 20 of the Environment Act 2021, which applies to the introduction of new bills containing environmental law, requires Ministers to make a statement on whether or not the Bill contains provision which, if enacted, would have the effect of reducing the level of environmental protection. An improved version of this provision would provide a useful opportunity for the Senedd to consider the environmental impacts of all new legislation when it is first brought forward.

B. Scope of the environmental principles and integration duty in Clause 3

Overall, WEL members believe this is a good framework and provides a strong basis for the implementation of the environmental principles by utilising a 'special regard' duty.

However, we note environmental principles duties in other legislation in the UK cover all policy making, with some exceptions for fiscal and defence spending. The Welsh Government has instead opted for what appears to be a narrower approach in which only policy "that has, or could have, any effect on the environment" will be covered by the duty. This allows future Welsh Ministers to potentially exclude policy from the duty if they determine it would not have any effect on the environment.

This clause makes no provision for a test to follow or public statement to be made which outlines how it has been determined a policy does or does not have an effect on the environment, placing the power totally in the hands of Ministers to decide when the duty does or does not apply.

Further, the decision to require the integration duty to 'such policy' which is determined to have an impact on the environment effectively cancels out the purpose of the duty. The integration principle is derived from international law, particularly the Rome Treaty, and seeks to ensure that environmental principles are embedded across all fields of policy, not just those obviously related to the environment. This amendment to the duty would therefore mean the strength of the duty is lost. Additionally, Target 14 of the Global Biodiversity Framework requires mainstreaming of consideration of biodiversity throughout policy areas, and the version of the duty in clause 3 undermines the potential for Wales to achieve this target.

Finally, we also have concerns as to the scope of the principles' application to public authorities in clause 5. This appears to be a constraining of the application of the principles as they would have applied under the EU, due to having an even more constrained scope than that of the duty on Welsh Ministers in clause 3.

We propose:

B1. Welsh Government reconsider the scope of the environmental principles duty on Welsh Ministers and apply it to all policy making.

B2. The Bill should be amended to specify that the duty to integrate environmental protections must apply to all policy.

B3. Welsh Ministers should be probed on why public authorities will only be required to have regard to environmental principles, whereas Welsh Ministers and NRW will apply a stronger duty of "special regard". WEL would welcome a stronger application of the principles duty on public authorities who have an impact on the environment, such as Local Planning Authorities and National Park Authorities, and other bodies who take decisions regarding the management of and activities across land, freshwater, and sea in Wales, requiring them to have the same application of the principles as NRW. We would encourage a wider scope to the duty on public authorities which applies to more of their functions, like the management of their own land, their financial decisions and operation of local services.

B4. We question the breadth of the requirement to apply the environmental principles in the Strategic Environmental Assessments (SEA). SEA already requires environmental factors to be considered consistently when developing major plans or programs, so a requirement to apply the principles here is – in effect – where it is least needed. The duty must be strengthened so it has a material impact on decision making. We are keen to understand the intention behind the decision to only apply the environmental principles to public bodies during the SEA process — a clear step back from their application under the EU — and what additional benefit this new duty (and the associated guidance) is expected to secure. We would encourage the Committee to seek further clarity on these matters.

B5. We encourage an amendment to clause 5(4) to bring the definition of "public authority" in line with the definition in s157A(8) of the Government of Wales Act 2006, but more specifically to replace the words "a person", as currently in the Bill, with "a body, office or holder of an office". This is because we do not think this was intentionally drafted to only apply to individuals.

B6. There could be a requirement on Welsh Ministers and public authorities to publish assessments of how they have applied the environmental principles and integrated environmental protection into policymaking This would not only help to discharge the Welsh Minister's obligations under the Aarhus Convention, it would also decrease the burden placed on government departments by having to respond to information requests on these matters.

C. Timetable for publishing and reviewing the environmental principles statement

The Bill requires Welsh Ministers to consult before publishing the statement and enables them to review it "from time to time" (clause 6(5)). The explanatory memorandum suggests that the Welsh Government wants to progress the statement ahead of commencement of the Bill's provisions, which would be welcome (para 3.144). However, without a clear timetable for the laying of, and amendment of the statement, there is a danger that a weak statement could remain in place with future governments deciding not to change it. Or the inverse could happen – a strong statement could immediately be reviewed and replaced with a weaker one once a new government is elected.

We suggest:

C1. It's important for Welsh Ministers to confirm the timetable for consulting on and publishing the first statement, so that the environmental principles can start to meaningfully inform Welsh policy making as quickly as possible once the Bill has received royal assent.

C2. We believe it's important for the statement to be reviewed on a regular basis, for example once during each Senedd term, to ensure that it keeps pace with developments in environmental protection legislation and provides up to date guidance to Ministers and public authorities.

D. Clarification of the terms 'policy' and 'making policy'

The meaning of the term "policy" should be clarified. One of the issues with the duty on Welsh Ministers in clause 3(1) to have special regard to the environmental principles and to integrate environmental protection when making policy that has, or could have any effect on the environment (and the similar duty on NRW in clause 4), is that the Bill does not provide a clear explanation of what is meant by the term "policy". This is because the definition given in clause 3(3)(a) is very brief.

Another issue with the duty on Welsh Ministers in clause 3 and the similar duty on NRW in clause 4 is the current definition of "making policy" in these provisions has already proved to be problematic in the Environment Act 2021.

Clause 3(3)(b) and clause 4 (2) both state that "'making policy' includes developing, adopting or revising policy". This identical phrase is also used to define "making policy" in Section 47 of the Environment Act 2021. In a recent case in the High Court, one of the issues which arose was whether this phrase meant that the duty to have due regard to the EPPS applied to all of these activities or if the relevant minister could choose to apply the duty to only one of these activities on an "either/or" basis. In R. (on the application of Rights Community Action Ltd) v Secretary of State for Levelling Up, Housing and Communities, the judge found that the definition of "making policy" in Section 47 could be read to mean that Ministers could lawfully apply the statutory duty either when developing policy at the outset or when revising it at a later stage.

We suggest:

D1. A clear and comprehensive definition of “policy” could be included in both clauses 3 and 4 of the Bill, to ensure action plans, strategies, budgets, and other forms of policy are captured by the definition.

D2. The meaning of “making policy” must be clarified. For the avoidance of doubt, it would be useful to clarify that the duty on Welsh Ministers and NRW in clauses 3 and 4 of the Bill must be applied at every stage, from when policy is first developed or adopted at the outset, to any time it is applied as well as when policy is revised at a later stage.

3. What are your views on the Bill’s provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

Part 2 - The Office of Environmental Governance Wales (sections 8 to 32 and Schedules 1, 2 and 3)

The establishment of the OEGW is welcome. This body is long overdue, and therefore we recommend the Bill provides the strongest framework possible to ensure the Body can immediately deliver its functions appropriately and effectively once established. It is crucial the body is established at pace to close the governance gap in place since Wales’ departure from the EU. The Body must be sufficiently resourced, with its independence protected, as well as supported with sufficient powers to deliver impact comparable to the OEP and the ESS. Without further work to make its independence explicit within the Bill, its legal powers will likely be questioned and potentially undermined.

An empowered, independent body is critical. The Interim Environmental Governance Assessor for Wales (IEPAW) has recently published a ‘lessons learned’ report, which highlights the key challenges of delivering their work - including a lack of independence, the need for sufficient resources, as well as the need for sufficient

powers and accountability. The provisions of this Bill must take these learnings into account in order to avoid future pitfalls in environmental governance in Wales.

There are several areas we believe require clarification to deliver a sufficiently robust, independent, and capable OEGW.

1. To avoid delay, we recommend the Bill requires a timetable for the laying of statutory instruments to bring the remaining provisions (clauses 10 to 27) into force to secure transparency and certainty in the process.

A. Independence of the OEGW

The Welsh Government recognises the independence of the OEGW "is of paramount importance to its effective operation" (para 3.165, Explanatory Memorandum). However, there is a concerning absence of legal safeguards in the Bill to protect the body's independence in the long term. While welcome, warm words of the current administration do not amount to long term legal certainty. Legal clarity regarding the independence of the OEGW is critical as it is likely much of its work will focus on holding to account the Welsh Ministers and public authorities, who may not always welcome its researching and reporting.

A1. The Welsh Government must amend the Bill to introduce a duty on Welsh Ministers to respect the OEGW's independence, like that of Schedule 1 (paragraph 17) of the UK Environment Act 2021. The OEP in their evidence to the CCEI committee stated the duty provides a 'helpful frame of reference, a clear signal of legislative intent, and a valuable safeguard through changes of Ministers and Government'.

A2. The Bill could also be amended to clarify that Welsh Ministers have no power of direction in relation to the OEGW, like that set out in Schedule 1 Para 1 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021 – "In performing its functions, [ESS] is not subject to the direction or control of any member of the Scottish Government".

A3. Regardless of form, a statutory duty for Ministers to respect the independence of the Body is crucial to ensure the OEGWs independence is protected for the long term.

A4. Public Authorities must be clarified in clause 30 to ensure the OEGW and the wider Bill can be correctly and clearly applied to appropriate authorities.

B. Clarity of purpose for the OEGW

We welcome the introduction of an environmental objective in clause 1, although we believe this must be amended in order to provide a clarity of purpose to the objective. We have serious reservations about its application to the general purpose of the OEGW (clause 9).

The OEGW is intended to replace the role played by the European Commission and Courts in monitoring and overseeing compliance with environmental law. Broadening this purpose runs the risk of the body's powers being under delivered because of a lack of clarity regarding their strategic purpose in the legislation, meaning its focus is diluted across areas beyond environmental law.

Powers for the OEGW to periodically publish, and lay before the Senedd, a report which formally reviews Governmental delivery against its environmental obligations are crucial. One of the key functions of the OEP is their publication of an annual progress report under Section 28 of The Environment Act 2021. This report, to which the government must respond within a specified timeframe, provides a very useful independent and authoritative assessment of the government's progress in improving the environment, and a Welsh version of the report would provide a very valuable means of verifying the progress made by the Welsh Ministers in relation to all of its environmental targets, highlighting any issues that may still need to be addressed.

B1. We recommend that the general purpose of the OEGW is rethought and simplified to focus on what the public expects its role to be: ensuring the effectiveness of environmental law, and delivering a high level of environmental protection and the improvement of the natural environment.

B2. This purpose must be enhanced with powers for the OEGW to collaborate and consult with other bodies including the OEP, ESS, JNCC, and the Climate Change Committee.

B3. The Bill must provide the OEGW with powers to periodically scrutinise Governmental delivery of the environmental objective, Section 6 powers to maintain and enhance biodiversity, and the biodiversity targets. clause 11 should include a requirement for the OEGW to monitor and report on progress towards meeting these objectives, including by enshrining duties to scrutinise Governmental strategies, action plans, budgets, and policies periodically.

B4. The OEGWs powers to scrutinise the effectiveness of environmental law must also be clarified in clauses 11, 12, and 13.

C. Review of compliance notices and the review committee

The Bill currently enables public authorities to ask the OEGW to undertake a review of a compliance notice. The review process requires the OEGW to pass the decision on notices to a 'review committee', which will include "at least" two people appointed from a list maintained by Welsh Ministers. This could weaken the OEGW's authority and must be amended.

C1. The review committee would effectively curtail the OEGW's most effective enforcement powers and undermine its independence. The review process must be redrafted to be undertaken by an internal committee made up entirely of OEGW members or members of staff; reflecting the processes used by other enforcement bodies to review their decisions at a preliminary stage. For example, the OEGW could conduct reviews with individuals not involved in the initial decision, or by co-opting an independent member to observe the process could meet calls for objectivity while maintaining the OEGW's authority.

C2. There is also a further question regarding how the review process, as outlined would work in regards to the laying of an urgent compliance notice which must be resolved on an expediated basis.

D. Resourcing

The Bill provides no safeguards on the process for deciding the resourcing of the OEGW. The UK Government has a statutory duty to provide the OEP with a ring-fenced five-year indicative budget. There is a further power in the Environment Act 2021 to enable the OEP to highlight any under-resourcing to the Westminster Parliament (paragraph 16, Schedule 1). Similar safeguards must be applied in the Welsh Bill.

D1. A duty for Ministers to protect funding, a multi-annual finding commitment, and a power for the OEGW to report on its funding to the Senedd would help secure the OEGWs independence for the long term.

E. Appointments and Strategy

The appointment of the OEGW's board members lies almost entirely in the hands of Welsh Ministers. A greater oversight role for the Senedd should be considered to further safeguard the OEGWs independence in this context.

E1. The CCEI committee should make further reflections regarding how the independence of the process to appoint the OEGWs board members can be secured. For example, by ensuring Senedd Members are involved in all stages of the selection process, including setting the bar for applications and their sifting. MSs should also form a plurality on interview panels at all stages.

E2. Schedule 2 sets out a long list of requirements which the Welsh Government is proposing must be included in the OEGW's strategy. While some of these are helpful – for example, providing clarity on how the OEGW plans to work with bodies such as the Future Generations Commissioner and the Auditor General for Wales – the list is overly prescriptive and should be reduced, to avoid giving the impression in law that the OEGW's strategic direction and priorities are being set by Welsh Ministers.

F. Ensuring that the OEGW has sufficiently robust enforcement powers

We agree that the OEGW should adopt an escalatory approach to enforcement, working collaboratively with public authorities to resolve compliance concerns before resorting to formal action. This mirrors the approach taken in other countries in the UK. However, for this approach to be effective, the system will need to contain a sufficiently robust deterrent. We have questions about the strength of the proposed

High Court review (clause 19) and the absence of an explicit power for the OEGW to intervene in proceedings brought by other parties.

It is of further serious concern that there is no provision in the Bill for people to make formal complaints or representations to the OEGW if they feel an environmental law has been broken, nor on how the OEGW would handle such representations.

We recommend:

F1. The Bill must be amended to include the right for any person to make complaints or representations to the OEGW if they believe that a public authority has failed to comply with environmental law. The Bill should also set out the broad process that will be followed, which builds on the collaborative processes of the IEPAW, to clearly demonstrate the process available to secure accountability for breaches in environmental law.

F2. The OEGW should have a power to intervene in the High Court, and the Welsh Government must include an explicit power to enable the OEGW to intervene in proceedings brought by other parties in the Bill (which the OEP and ESS are empowered to do).

F3. Further clarity is needed on the nature of the process for seeking an order from the High Court (clause 19). This route is different to the other governance bodies, who have access to judicial review, and we would prefer the body to have powers to undertake judicial review.

F4. There's a question regarding whether the remedies that can be awarded under the High Court process are the same as the remedies offered by judicial review. We would welcome clarification on this point.

F5. If fines are pursued as a remedy, there must be legislative commitment to ensure the money remains in Wales and is invested in environmental remediation.

4. What are your views on the Bill's provisions (set out according to Parts below), in particular are they workable and will they deliver the stated policy intention?

Part 3 - Biodiversity targets, etc (sections 33 to 38)

WEL welcomes this framework for developing statutory biodiversity targets, but it must be strengthened to ensure the Bill delivers the clarity, certainty, and ambition required to halt and reverse biodiversity loss and restore nature in Wales. Without strengthening the framework, WEL are concerned we will not meet the moment and implement the changes required to halt and reverse biodiversity loss in Wales. We require the Bill to deliver a target framework reflective of the urgency of the nature crisis which requires immediate remedial action.

To deliver an ambitious targets framework, the Bill must:

A. Include a provision for a near-term, 'headline' species abundance target

Due to the delay in bringing forward this legislation, it is almost certain the 2030 targets will not be met. Rather than abandoning the 2030 targets, the Bill must stipulate a requirement for a near-term, 'headline' target to reverse the decline in species abundance by 2035.

There is precedent for this elsewhere in the UK – the Westminster Environment Act 2021 included a specific requirement for the UK Government to set (in secondary legislation) a target to halt the decline in species abundance in England by 2030.

We suggest in Wales, the 'headline' target should require species abundance to be at least as high in 2035 as it is in 2025, and show an increasing trend. The trajectory required to meet this target would lead to species decline being halted by 2030 – aligning with the UK Government's target for England.

This would go some way to meeting the CCEI committee's call for the Bill to include a 'headline' target. Although it is not possible for a single target or measure to fully reflect the state of Wales' nature (we will need a suite of targets for that), abundance is a key measure of how biodiversity is faring. Without this target in the primary legislation, there is no signal on the face of the Bill of ambition or urgency, with the

current draft implying a wait of four years (from now) for targets to be set, leaving Wales' environmental efforts directionless.

A1. WEL recommend implementing a 'headline' target to reverse the decline in average species abundance across a wide range of taxa by 2035. This would require action for nature to be urgently stepped up and public funds used effectively for nature.

A2. Furthermore, a 'headline' targets to halt and reverse the decline in species abundance would provide a 'north star' for the Bill, as an easy to communicate concept. Acting as the legal equivalent to Net Zero (but for biodiversity), driving immediate action and improving public understanding as to the purpose and importance of the bill and the biodiversity targets.

B. Both short-term, or interim, and long-term targets are needed, including and a long term target for biodiversity recovery by 2050

Just as the Global Biodiversity Framework (GBF) describes both 2030 targets and longer-term, 2050 goals, the Bill should ensure that Welsh Ministers are accountable for delivering interim and long-term targets. Both the interim and the long-term targets should be legally binding, and we suggest that the Bill requires Ministers to set at least one long-term and one short-term target for each priority area. The Bill is silent on the duration of targets and our current reading is that it would be possible to bring forward only short term targets, for example. Having both types of target can help to ensure the longevity of the aims of the Bill across different Senedd terms and future governments.

We recommend:

B1. Long-term targets are required to set out a vision for nature restoration, providing a point (or outcome) to aim for as actions are taken, over many years, to recover and restore biodiversity.

B2. We recommend that the specified achievement date for a long-term target is no less than 15 years after the target is set. The IUCN states they consider long term to

be at least 25 years, and the Global Biodiversity Framework outlines the long term vision for 2050.

B3. Interim or shorter-term targets drive immediate action, create accountability, and serve as good indicators of progress. There should be at least one active interim target in each priority area at any time, ensuring action is not deferred and that Welsh Ministers of every future government can be held to account.

B4. The timescale for the requirement to review the targets must be more specific and regular.

B5. The Bill must provide greater clarity on the OEGW's role in the reviewing of the Welsh Ministers progress towards the targets.

B6. When reviewing the targets Ministers should be required to consider whether the targets are delivering against the requirement to significantly halt and reverse biodiversity loss.

B7. When reviewing the targets, Ministers must also be required to review the action plan to ensure consistency between the targets and delivery against them.

B8. Provisions to amend the targets must also ensure targets are not reduced to an extent as to undercut progress made towards meeting the targets. As drafted, future Governments could seek to undermine the delivery against the biodiversity targets by re-setting targets of substantially reduced ambition, resulting in backsliding which nature can't afford.

B9. The Bill must enable targets to be set that would contribute to halting and reversing the decline in biodiversity by tackling the drivers of biodiversity loss. This is necessary because actions like reducing subsidies that allow for harm to biodiversity will be key to reversing biodiversity loss, but may not be able to demonstrate direct increases in species abundance or ecosystem resilience in the very short term.

C. Targets should be set within 12 months of the Bill receiving Royal Assent

The Bill currently requires targets to be set within 36 months of Royal Assent – this timeframe means that targets might not be set until 2029. Given that the target priority areas are based on the GBF 2030 Targets, it would be unacceptable to delay target setting to a point where no measurable progress could be made by 2030. There is a clear risk the urgent change needed to reverse biodiversity loss would be delayed as a result. We call on the Welsh Government to be much more ambitious on its statutory timeframe, particularly because work towards developing the targets is already underway.

C1. Wales' first suite of biodiversity targets must be required within 12 months of the Bill receiving Royal Assent. This timeframe was applied in the UK Environment Act 2021 and targets under that Act were laid within 13 months. Any further delay would present an existential risk to the biodiversity targets and their impact.

D. Targets must address key facets of biodiversity and collectively make a significant contribution to nature's recovery

We need a suite of biodiversity targets, in addition to the suggested specified short term target on average species abundance, to collectively drive action to recover threatened species, transform our protected sites and embed them in resilient ecological networks, and restore ecosystems that provide benefits for people and wildlife. The Bill requires at least one target to be set in each of four priority areas, although in practice we strongly suggest more than one target will be required.

It is welcome that the priority areas refer to species and ecosystems. We will be considering carefully how these address the key measures of species abundance and extinction risk (ensuring that actions focus on threatened and declining species in need of specific nature conservation effort, in addition to wider species abundance that addresses a broad range including common species), and the extent and quality of habitats.

D1. We ask that the priority areas under which targets will be set are defined such that ambitious, outcome-based targets can be set, as these will be the most useful for establishing the long-term trajectory for nature restoration.

D2. We also ask that a requirement be added to the Bill that Ministers must be satisfied that the suite of targets set will significantly contribute to halting and reversing the decline in biodiversity, and ultimately restoring it to healthy and resilient levels.

D3. We are further concerned that the language of "maintain and enhance biodiversity" remains in the Bill despite the continued decline in biodiversity in the 9 years since the Environment (Wales) Act 2016. We have been repeatedly reassured this language is sufficiently strong as to mean restoration of biodiversity. Therefore, we ask the Welsh government to clarify the meaning of maintain and enhance within the legislation as meaning to restore biodiversity to health and resilient ecological levels.

D4. In addition to the duty to review a target if it is not going to be met (or if it has not been met), there could also be a requirement in Clause 33 for Welsh Ministers to review and revise the plan they are required to publish under Section 6(6) of the Environment (Wales) Act 2016 (inserted by Clause 35) which sets out what action they are proposing to take to ensure that the targets are met and when they propose to take that action. If the Welsh Ministers are off track to meeting a target, it is plainly important that the action plan is also reviewed alongside the target to ensure that effective steps can be taken to achieve the target. Furthermore, if the OEGW were required to independently review the progress of Welsh Ministers towards meeting the targets (as suggested above under B3, Part 2), this would enable the Senedd and the public to make a more informed judgement about whether the targets are likely to be met and whether or not the requirement to review the target is therefore triggered.

D5. The duty to have regard to the s7 list of habitats and species of principal importance, in s6B(3) as inserted by clause 33, should be clarified to make clear that this is not the only species that the Welsh Ministers must have regard to, as there are species which are not included on the list which are also legally required to be considered. It should also be clarified how the Welsh Government intends to resolve issues where actions could have different impacts on overall species abundance levels and the abundance levels of s7 species.

E. Public Authorities and the targets

The Bill must provide clarity regarding the requirements on public bodies and government to deliver actions to halt and reverse the decline in biodiversity, and contribute to achieving the biodiversity targets.

E1. We are concerned about the framing of the power to designate public authorities to 'take action to contribute to achieving the target for which they are designated' (Explanatory Memorandum, 3.304) and would welcome clarity regarding this. Does the power to designate a public authority mean those not designated have no responsibilities to contribute to the delivery of the biodiversity targets? We recommend all public authorities are required to deliver and report against the biodiversity targets as a part of their section 6 duties.

E2. What powers have been provided to the OEGW in the Bill to provide enhanced scrutiny to the targets? WEL recommend the OEGW should have powers in the Bill in relation to the evaluation of progress towards the targets and the development of delivery plans.

E3. Environmental monitoring should be included as a standalone statutory duty on Welsh Ministers in Part 3 of the Bill (as it is in Section 16 of the Environment Act 2021) to ensure that progress against the targets is not held back by a lack of monitoring data or by a lack of access to this data. If this was included as a standalone statutory duty, there would be no need to wait 3 years after royal assent for one or more targets regarding the 'quality of evidence to inform decisions relating to biodiversity, access to that evidence and its use and application' (Section 6C(2)(d)) to be set under the targets framework. Rather, work to build up the monitoring capacity could begin immediately.

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

Resourcing

The Bill would need to ensure appropriate resourcing for the OEGW to deliver its functions, and for public authorities to deliver against the biodiversity targets. A five

year funding model, similar to that of the OEPs must be embedded to ensure the body can exercise its functions with certainty.
The experience in Wales has been that biodiversity-related plans do not result in the action required without sufficient resourcing. It's also important to note Professor Steve Ormerod's observation that the capacity to monitor environmental change in the UK is declining, rather than increasing, and that sufficient resources and confidence in the sector will be required for NRW and others to conduct monitoring against biodiversity targets effectively.

Governance gap
There is an unaddressed governance gap remaining in the drafting of the Bill, whereby some public authorities delivering their functions in Wales are not captured by the OEGW or the OEP. This includes, but is likely not limited to Network Rail, The Crown Estate, the Ministry of Defence. Consideration of how these bodies do not fall down the cracks of the devolution arrangement must be made with urgency.

Marine limitations
Part 1 (s3(3)(c)) applies the environmental principles duty to policy affecting the offshore area for policies relating to fishing, fisheries and fish health. In Part 2 (s12(6) states that the OEGW's power to advise Ministers on environmental law applies in the same way. We do not believe there is any reference to the marine environment in Part 3 and we assume therefore that as per Part 1 of the Environment (Wales) Act 2016, this Part extends only to inshore waters. This leaves a question as to how and whether the legislation applies in the offshore area.

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

Explicit powers
Our preference is for explicit powers to address any uncertainty regarding the provisions of the Bill, providing clarity for future governments as to the requirements of the Bill in delivering for biodiversity, ensuring appropriate governance over environmental law in Wales, and the purpose of the environmental principles. We are concerned that without explicit powers, future governments will presume the Bill's implicit powers do not apply, and therefore choose to interpret the Bill's powers in a weak way.

Governance Gap and accountability

The governance gap in relation to the functions of the OEGW and its application to public authorities operating in Wales but who are not devolved could result in public authorities working to different standards, and some not being held to account for failure to uphold environmental law.

High Court Powers

The High Court powers granted to the OEGW, rather than the Judicial Review powers provided to the OEP and ESS could also result in Wales having a weaker system of governance than other nations across the UK in the eyes of the courts, delivering a weaker governance arrangement for Welsh people than others across the UK.

Purpose and Powers of OEGW

The presence of the wellbeing goals in the general purpose, the lack of specific obligations to accept representations from the public, and no powers for the OEGW to intervene in cases brought by others could result in the OEGW failing to fulfil its primary purposes. We do not believe that this is the intent of Welsh Government, nonetheless it could occur as the Bill is currently drafted.

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.

Swyddfa Caerdydd
Tramshed Tech
Uned D, Stryd Pendyris Caerdydd CF11 6BH
F: 07498 228066 | E: enquiry@waleslink.org
Awyrlas: @waleslink.bsky.social

Cardiff Office
Tramshed Tech
Unit D, Pendyris Street, Cardiff CF11 6BH
T: 07498 228066 | E: enquiry@waleslink.org
Bluesky: @waleslink.bsky.social

www.waleslink.org

Cadeirydd | Chair: Roger Thomas || Cyfarwyddwr | Director: Karen Whitfield
Rhif Elusen Gofrestredig | Registered Charity Number: 1022675