Cyswllt Amgylchedd Cymru | Wales Environment Link

Consultation Response for the draft Environmental Principles and Integrating Environmental Protection Statement

11th September 2026

Introduction

Wales Environment Link (WEL) welcomes the publication of the draft Environmental Principles and Integrating Environmental Protection Statement (the Statement). Following the UK's departure from the European Union, Wales has been missing the environmental principles from our governance framework. In 2018, the Welsh Government made a commitment to enshrine the principles in Welsh law. Our members have been calling for the integration of the environmental principles into Welsh law since, and we are extremely pleased to mark this Statement as a significant development in Welsh environmental law.

The implementation of the principles and integration duties is a chance to deliver a step change in how policy is made to avoid further environmental damage and reverse biodiversity decline. In this context, the Statement is an opportunity for the new Welsh Government to indicate its environmental ambitions, and respond to the critical findings of the Climate Change, Environment, and Infrastructure Committee (2021-2026) and Audit Wales; both of whom highlighted that the nature emergency has not received the priority it urgently requires from Ministers and Public Authorities.

In this response, we will outline how the environmental principles could be implemented and integrated effectively. The Statement should help guide the effective integration of environmental principles across all Ministerial policy making. . The duties in section 3 and section 4 of the Act go further than other UK legislative frameworks as they relate directly to the principles and have a stronger standard of 'special regard'. This is particularly welcome, as is the extension of the duties to Natural Resources Wales (NRW), which again is a stronger and more direct approach than the other jurisdictions. Our response aims to help ensure that the duties on Welsh ministers and public authorities live up to their potential and are applied

transparently and effectively, which will lead to better policy decisions being made that help to protect and restore biodiversity in Wales.

Question 1

Do you think that the draft Statement clearly explains the environmental objective?

This section of the Statement explains the environmental objective clearly and also makes clear that this does not apply to NRW's duties, which are instead related to its general purpose. We do however feel that wording in paragraph 28 could be strengthened from simply saying that a high level of environmental projection requires "more than a 'do minimum' approach". This wording does not reflect the high level of ambition indicated in other parts of the Statement and should be reworded to reflect the need for a "robust and ambitious approach" as indicated earlier in the paragraph.

We welcome the links made to the impact of environmental protection and the achievement of the objective on human health. Stronger links could be made between the positive impact of improvement of the environment on human health and well-being, as well as positive impacts from preventing environmental harm.

We also welcome the clear explanation of how the outcomes link to the achievement of the environmental objective, and that these outcomes are complementary, mutually supportive and not exhaustive. We particularly welcome the explanation of the relationship of the objective to the well-being goals: i.e. rather than diluting the importance of environmental protection, s1(1)(a) makes clear that protecting and improving the environment is integral to well-being and sustainable development. Further, the identification of relevant environmental targets and their connection to achieving the objective is also helpful and clear.

Question 2

Do you think that the draft Statement clearly explains the environmental principles?

2.A. Clarification of Duties for Ministers, Natural Resources Wales, and Public Authorities to reduce confusion and enable delivery

We welcome the decision to break down the Statement to 4 Parts. The Statement could further clarify the duties and responsibilities of public authorities under the Act, and how these apply differently to the Ministers, NRW, and to other public authorities.

To clarify the interpretation, Part A could provide a chart, table, or other visual description for how the duties apply to different authorities. Further, the descriptions of the prevention and precautionary principles include step by step applications which may vary across authorities, but the rectification at source and polluter pays principles don't have this step-by-step description. We understand the reasons for that different approach but suggest that this is explained more clearly in the Statement.

Finally, the Statement could provide an illustrative list of authorities bound by the duties in the Act, to provide clarity when reading the Statement. We are pleased to read paragraph 173, which encourages non-devolved bodies to take the same approach as devolved authorities in applying the principles. However, we also urge the Welsh Government to recognise in the Statement that, in future, the ideal solution is for these bodies to be bound by law to implement the duty.

Recommendation

The statement must be clarified to ensure it is accessible and easy to use by Ministers, NRW, and public authorities. This could be done by:

- To clarify the interpretation, Part A could provide a chart, table, or other visual description for how the duties apply to the different authorities.
- The statement could refer to an illustrative list of authorities bound by the duties in the Act, to provide clarity as to which authorities are captured by the duties.

2.B. The Welsh Government must provide examples for how the Statement will apply in practice

Providing practical examples for how the Statement will apply in practice will help Ministers, NRW, and Public Authorities correctly interpret and implement the required duties. This could be written into the Statement or into an additional Toolkit, or existing guidance which Ministers, NRW, and Public Authorities are required to use. WEL has drafted some potential examples which are included in the annex to this response.

Recommendation

- The Welsh Government should publish case studies alongside the Statement to illustrate how the duties could be applied by Ministers, NRW and Public Authorities. If Welsh case studies are limited, case studies from other countries, or hypothetical scenarios that illustrate how the principle could be used, should also be considered. Some of WEL's examples fall into this category of illustrative hypothetical cases.

2.C. Application of the prevention principle

The prevention principle should be used to prevent environmental damage by pursuing a different policy where risks are identified. Furthermore, prevention relates closely to the precautionary and rectification at source principles, although this is not evidenced in the text. Particularly, reference to the precautionary principle could be made in paragraph 45 and developed in paragraph 46.

Recommendations:

- The Statement must be explicit that the prevention principle is about designing a policy so as to avoid or prevent environmental harm (it should not lead directly to considerations of how to mitigate harmful effects). Preventing harm is always better than fixing it once harm has occurred.
- The Statement should relate prevention to the other principles, particularly pointing out how the precautionary principle can aid in the selection of the best option to avoid environmental harm.

2.D. The definition of the precautionary principle

The wording from the Statement is taken from the 1992 Rio Declaration, though this is not stated anywhere in the text. This is a definition that has been critiqued as being unduly narrow, especially in light of all the further developments since 1992. It only says that scientific uncertainty should not be used to delay cost effective measures. It does not require action because a risk exists. Other definitions go further, including versions used within the EU that would stop a policy going ahead where harm is possible and there is scientific uncertainty, or that focus on enabling precautionary action rather than just not delaying it.

The EU definitions focus more on refraining from an action or policy where there is uncertainty about the risk, such as on the EU website EUR-Lex:

> 'The precautionary principle is an approach to risk management, where, if it is possible that a given policy or action might cause harm to the public or the environment and if there is still no scientific agreement on the issue, the policy or action in question should not be carried out.'

Another EU definition from the European Parliament website focuses more on encouraging precautionary measures to be taken (or a precautionary approach to be adopted) in the face of scientific uncertainty:

> 'The precautionary principle enables decision-makers to adopt precautionary measures when scientific evidence about an environmental or human health hazard is uncertain and the stakes are high.'

Recommendation

- The Statement should acknowledge that the Rio definition is one interpretation among several rather than the only possible one. The text on the precautionary principle should be revised to make it more compatible with the approach taken by the European Union.

2.E. Further comments on precautionary principle relating to the 'climate change' threshold for its consideration in decision making

Paragraph 51 states the precautionary principle is regarded as a framework for decision making to prevent environmental degradation, 'particularly in the case of high impact events, such as, for example, climate change.' Further, the threshold for applying the principle is 'a plausible risk of serious or irreversible' damage (para 53). In contrast, the EU uses the threshold of 'unacceptable risk', which is a lower threshold for action. The principle, as outlined in the 'Communication on the Precautionary Principle' by the European Commission in 2000, is particularly relevant to the management of risk. In this section we consider that further examples of high impact events, and examples of serious or irreversible damage, are needed. Other examples should include impacts on important biodiversity areas, threats to species and serious pollution incidents. This would improve clarity for public authorities about the types of harm they need to consider.

2.G. The Polluter Pays Principle

WEL believe the application of the polluter pays principle will have a positive impact on reducing pollution across the Welsh landscape and seascape if applied in a robust and effective manner and welcome the Welsh Government's commitment to strengthen this. We think the Statement should recognise that pollution can occur from multiple sectors or sites, in a landscape of mixed responsibilities and regulations. The Welsh historical context relating to diffuse agricultural pollution and chemicals could provide examples of this, particularly in paragraph 67, which discusses complex cases. We would support the Statement including overt recognition of the Welsh context and that Ministers will need to provide guidance on how the principle will be utilised in complex cases.

Recommendation

- The Statement should clarify that Ministers will need to provide guidance on how the principle will be utilised in complex and historic pollution cases.

2.H. The principle that environmental damage should as a priority be rectified at source

At present, the principle is interpreted as to be 'considered whenever damage cannot be completely prevented' (para 58). Accidental damage is not mentioned regarding this principle but is considered under the polluter pays principle (para 62).

Members cautiously feel this definition needs to refer to accidental damage, not only anticipated damage, because otherwise the legal threshold for applying the principle might need to demonstrate intent when accidental damage as a result of poor management, policy or failure to foresee risks causes harm. Referring to accidental damage in regard to this principle will demonstrate the clear intent of the principle to rectify all environmental damage at source regardless of intent.

Further reflections include that where pollution or environmental damage occurs, policymakers should be required to consider how policy should change to ensure incidences of pollution or environmental damage are not repeated.

Recommendation:

- Paragraph 58 should include the example of accidental damage as follows - 'The principle… should be considered whenever damage cannot be completely prevented or the risk of damage (including accidental) ruled out.'

Question 3

Do you think that the draft Statement clearly explains how to integrate environmental protection during policy and decision making?

3.A. When must Ministers consider the principles during policymaking

In the Act, Ministers have a 'special regard' duty (3(1)(a)), as well as a duty to 'integrate environmental principles into the making of… policy' (3(1)(b)). This goes further than the UK government legislation. In *R (Rights: Community: Action Ltd) v Secretary of State for Housing, Communities and Local Government [2025] EWCA Civ 990*, the Court of Appeal clarified that the duty (under UK legislation) does not apply simply at the point when a policy is adopted, but when a policy is being formulated and different policy options are being considered. In this instance there had been a breach of the duty because the minister failed to have due regard to the environmental principles policy statement when the policy was initially adopted.

We welcome the emphasis that the Statement places on the need to apply the principles throughout the policymaking process.

Recommendation:

- The emphasis on the need to apply the principles throughout the policymaking process must be retained in the final draft.
- Clarification should be added that applying the duties at an early stage should mean **at the outset** of the policy making process.

Question 4

Do you think that the draft Statement clearly explains how the Welsh Ministers propose to comply with their duty, for the purpose of contributing to the environmental objective, to have special regard to the environmental principles and integrate environmental protection when making policy?

4.A. Assessment process for demonstrating compliance with the duties in regard to policymaking

An assessment process is outlined in paragraphs 120 and 154 for Ministers and NRW to use to demonstrate compliance with their duties. WEL welcomes the requirement for the duty to be applied throughout the policy-making process. We consider the Statement could further strengthen this process by providing a

template for authorities to utilise to demonstrate their application of the duty throughout the process. This would further satisfy the Explanatory Memorandum in 3.107, which requires policymakers to 'carefully assess' the policy, from

> 'the outset and throughout the policy making process, and must include any cumulative or in-combination effects on the environment of a policy, as several negligible effects … may be substantial when considered together.'

By providing public authorities with a template, this will ensure consistent application of the duty across government departments and authorities. We suggest that the Statement could provide more detail on how those tasked with completing assessments are expected to do this.

Recommendations

- A template should be developed for use by Ministers, civil servants, and public authorities to use when assessing their compliance with the duty, to ensure consistent application of the principles by all relevant authorities.
- An example of how the assessment process should apply to policy development processes could be included within the statement.

4.B. Budgets, action plans, and delivery plans defined as policy

Paragraph 92 of the Statement lists what counts as policy for the purpose of the duty, including legislative proposals, strategies, and ministerial statements. Paragraph 108 talks about how the duties should influence Welsh Government budgets, reflecting on policies making up the budget and Strategic Integrated Impact Assessments. The Statement does not mention action plans, or delivery plans.

Budgets are a significant (if not the most significant) policy delivered by the Welsh Government. The decision not to include budgets within the list of policy areas is a significant risk to the effective delivery of the environmental principles, as without special regard to the environmental principles during the budgetary process, financial planning and strategies may neglect or deprioritise important environment matters.

We welcome the statement that the Strategic Integrated Impact Assessment (SIIA) should include an entry on the s3(1) duty. However, we note that there appears to

be a serious disconnect between the state of nature in Wales as described by this draft Statement, and the state of biodiversity described in SIIA of the 2026/27 Welsh Government budget (with reference to a single indicator the SIIA states that, following a period of decline, biodiversity has stabilised. It does not indicate how). Unless this is addressed, the SIIA will not provide an effective means of considering whether the policies in the budget, on the whole, contribute adequately to the environmental objective (including the delivery of biodiversity targets).

We also note the publication of Future Generations Report 2025 by the Office of the Future Generations Commissioner that highlighted the weight of budget allocations *against* the Resilience Wales Goal.

The Act states in 2(3)(a):

> '"policy" includes proposals for legislation, but does not include an administrative decision in relation to a particular person or case;'

The Explanatory Memorandum states the duty will apply to

> 'all areas of policymaking in relation to Wales. This aims to ensure environmental protection is considered across all policy areas, as the greatest damage to the environment occurs in other areas, not from within the framework of environmental policy.' (3.97)

Therefore, we would welcome further thought on how the application of the duties should apply in the budget setting process.

It would also be helpful for the Statement to clarify that action plans such as the River Wye Action Plan are within scope of the duties. This matters because these documents can work in two different ways.

- Sometimes an action plan is written after a policy decision has already been made, and its only job is to set out how that decision will be carried out. In that case it is closer to implementation than policymaking, and the duty may not apply to it.

- Some action plans stand alone, and the action plan itself is where the real choices and prioritisations are made. In that case it functions as policy, and the duty should apply to it directly.

As things stand, the Statement gives no way of telling these two situations apart, so it is unclear whether action plans and delivery plans need to go through the same process as other policy documents.

We recognise that there it may sometimes be difficult to draw a hard distinction between policy and delivery plans and would suggest that the Statement makes clear that in some cases, delivery plans will count as making policy and that authorities must therefore carefully consider whether the duties apply as they prepare such plans.

Recommendations:

- The Principles Statement should require the Welsh Government to assess what aspects of the Welsh budget are subject to the duty, and to apply the duty during the relevant process of budget development.
- The Principles Statement should reflect in paragraph 92 that some 'grey areas' will exist when it comes to identifying whether a matter is considered to be a 'policy' (such as substantial action plans or delivery plans that stand alone and essentially function as policy), and that consideration of the principles will regardless have positive effect on the matter in question.

Question 5

Do you have any comments on how the Welsh Ministers propose to determine whether a policy has no effect or a negligible effect on the environment? If so, please outline them below.

5.A. Method for establishing a policy has no or negligible effect on the environment

The Principles Statement states that the threshold for a policy having no or negligible effect is deliberately low, and that Ministers must record their reasoning when they conclude a policy falls below it. The Explanatory Memorandum of the Act states in para 3.106 that no or negligible is in practical terms 'considered there would be few policies'. The paragraph goes on to state that

> ‘It should therefore be considered rare and exceptional that a policy will have no or negligible effect on the environment so that the duty does not apply.’

The Statement is clear that policy makers will need to demonstrate a careful assessment of ‘any environmental effects and explain and record the reasons for reaching the conclusion that the policy would have no or negligible effect on the environment’ (104).

We welcome the indication that it will be rare for a policy to have no or negligible effect. Publication of the assessments made will be critical to ensure proper application of the duty is upheld. Even if a policy were deemed to have no or negligible effect, it may still be possible to at least consider potential additional environmental benefits due to the Integration Duty. The Statement should encourage this.

The Statement does not say what tool will be used to make that judgement and gives no example of a policy that would or would not cross the threshold. Without this, different departments and Ministers may apply the threshold inconsistently, and there is no way for anyone outside government to check it has been applied properly.

Recommendations:

- To deliver consistent application of the duties, the Statement should explain how Welsh Ministers will approach this threshold in practice and give a small number of examples of policies that would have no or a negligible effect on the environment.
- The Statement should encourage Ministers and NRW to consider if they could deliver potential environmental benefits even when a policy is found to have no or negligible effect on the environment, by applying the Integration Duty.

5.B. Publication of the Assessment regarding the Application of the Policymaking Duty

Paragraph 125 states an assessment by Ministers will be published ‘when appropriate’. The paragraph further states

> ‘The assessment may be published as a separate document (such as, for example, a consultation document), or as part of a policy. If the assessment is

published as part of a policy, it should be clearly indicated so that it is easily identifiable and accessible.'

NRW is subject to the same transparency requirements in relation to the duty and the Statement sets the same expectation that assessments will be published 'when appropriate' (para 158).

WEL are concerned that the 'when appropriate' wording could lead to a lack of transparency and accountability regarding the application of these important duties. To meet the intention of the Act, Ministers and NRW should be required to publish their assessments except for in exceptional circumstances.

Recommendations:

- The Ministers and NRW should be required to always publish their assessment of whether a policy has no or negligible impact on the environment.
- If there needs to continue to be an exception for special /exceptional circumstances – it needs to be made clear what these could be.
- If Ministers and NRW determine the assessment shouldn't be published, they should publish an explanation in an annual report to the Senedd, and wherever the policy is laid.
- Assessments should be published in a consistent format, which could be as part of the policy under consideration or as a separate document. This could be done utilising a standard template.

Question 6

Do you think that the draft Statement clearly explains how to comply with the duty on NRW to have special regard to the environmental principles and integrate environmental protection when making policy, and how this relates to NRW's general purpose?

The Statement will only be effective if it is widely understood and used by government departments and public authorities. WEL would welcome the publication of an assessment to ascertain, evaluate, and budget for the consequential impacts to NRW of implementing its responsibilities under the Act. Following a long-term downward trend in funding, and restructuring resulting in the loss of many jobs, we would welcome assurance from the Welsh Government that

the organisation will be sufficiently resourced to undertake its responsibilities under the duty. These will include discharging its functions in line with the duty and providing Ministers with advice regarding how a policy will impact on the environment.

Question 7

The Environmental Governance Act requires certain public authorities, for the purpose of contributing to the environmental objective, to have regard to the environmental principles and integrate environmental protection when carrying out functions in connection with the assessment of plans and programmes under the 2004 Regulations.
Do you think that the draft Statement clearly explains how to comply with that duty?

We think that the draft Statement does explain this clearly, but we think that further clarity could be provided by updating SEA guidance and ensuring that this refers to the Statement.

Question 10

Do you have any comments on the draft Statement which have not been covered by the above questions?

10.A. Implementation

The implementation of the duties should happen as soon as practicable to meet the requirements of the Act. The Statement does not need to be completed and accepted to start to deliver against Part 1, and this is a positive opportunity to begin to deliver against the principles aims and objectives.

We would welcome Ministers and their Departments taking steps to highlight how they're applying the environmental principles duty at this early stage of government as soon as practicable and are happy to offer our support and further information and guidance in order to help this work begin.

To aid effective implementation, the Statement could:

- ensure SEA guidance refers to the Statement, ensuring public authorities and those discharging the duties are aware of their responsibilities,

- require robust monitoring and evaluation by Welsh Government departments of how the Statement is being applied and practically informing policy,
- embed the principles in civil service training and awareness raising programmes and initiatives before the legal duty commences,
- publish examples and case studies of how environmental principles have been used in policy making as helpful aids to interpretation,
- appoint a Senior Responsible Owner, or equivalent, in every department and NRW with responsibility for environmental principles,
- report annually to the Senedd, with contributions from all departments and public authorities, on how environmental principles have informed policy making and improved environmental outcomes, and
- establish a clear process for engaging stakeholders on environmental principles.

Annex – Environmental Principles Case Studies

Example: Sewage Sludge Reform

A range of measures for sewage sludge reform have been consulted on in the Welsh Government's Green Paper (Shaping the Future of Water Governance in Wales). In this document, the Government committed to adopting an upstream approach to reduce the impacts of pollutants on water quality, yet the options for sludge fail to consider how an upstream approach could be achieved. Moving sludge to the Environmental Permitting Regulations regime will improve oversight of sludge contamination and increase reactivity to emerging contaminants. However, this approach focuses on the actors at the end of pipe.

Applying the environmental principles would lead to improved policy making as the precautionary, prevention and rectification at source principles would ensure decision makers take a more precautionary approach to chemicals that may pose a risk, prevent the pathways by which contaminants enter the sewage system and would enable a more effective response when evidence shows that existing contaminants need to be banned e.g. PFAS. A polluter pays approach could support the introduction of Extended Producer Responsibility so that producers, not water customers or farmers, bear the cost burden of a waste disposal method that is appropriate for the contaminants.

Example - Waste management as outlined in the waste hierarchy in the Council Directive 1008/98/EC of 19th November 1998 on Waste

The Directive establishes a 'waste hierarchy' which places prevention as the most preferred method for managing waste. Prevention is identified as 'measures, taken before a substance, material, or product has become waste, that reduce: the quantity of waste… the adverse impacts of the generated waste on the environment and human health; or the content of harmful substances in materials and products.' Policy interventions that use the prevention principle to manage harmful impacts from waste include extended producer responsibility to control or ban harmful chemicals at source, or to ensure waste streams can be re-used or recycled at the product design stage.

Example – Extended Producer Responsibility (EPR)

Ministers recognise the significant blight of plastic pollution on communities, the environment, and the cost to local authorities. As a result, EPR schemes have been

introduced in the UK. EPR represents a targeted application of the polluter pays principle, transferring the costs of managing products at the end of their life from taxpayers to producers and creating incentives for more sustainable product design and waste management. There are many different producers of plastics, and EPR schemes demonstrate the need to recognise the complexity of the regulatory and enforcement environment when designing policies which require polluters to pay for causing pollution.

Well-designed EPR systems incentivise companies to minimise packaging, improve recyclability, increase recycled content and invest in collection and recycling infrastructure through modulated fees, where producers of difficult-to-recycle packaging pay higher charges than those using recyclable materials. Countries with mature EPR systems, including Belgium, Germany and France, consistently achieve municipal packaging recycling rates above 70%, demonstrating the effectiveness of combining producer responsibility with harmonised collection systems and clear recycling targets.

Example - Data Centres

The duties will apply to policy making on new or rapidly evolving areas such as data centres, which have the potential to cause significant harm through noise and light pollution and high levels of water abstraction and energy use. Applying the duties to policy making on issues such as data centres would ensure that a precautionary approach is taken to development where there is a significant risk of environmental harm and harms are prevented by the introduction of strict sustainability standards and by rejecting new developments that are unable to meet these standards.

Example - River Pollution

Addressing environmental damage or pollution at source is a very welcome principle and has the potential to secure wide ranging change to the state of Welsh rivers. Currently, much of freshwater pollution management is dealt with by end-of-pipe treatment and water companies have obligations for treatment of nutrients, colour, pharmaceuticals, chemicals etc.

In recognising that there is a significant issue with water pollution, Ministers could seek to revise policy in order to deliver a step change in the way pollution is managed, with a focus on taking a more precautionary approach to permitting for waste disposal to the water system, preventing persistent pollutants from entering

watercourses and ensuring that polluters are required to rectify pollution issues, bearing the cost of this under the polluter pays principle, rather than allowing costs to be externalised and passed onto communities, water bill payers and taxpayers. Examples of directions that effective use of the principles could encourage are:

- Catchment-based solutions are prioritised over end of pipe options. Integrated catchment outcomes such as nature-based solutions are implemented under a collaborative approach to protect and improve the environment.
- Policy requires upstream sectors causing pollution to limit or stop polluting activities, rather than implementing end of pipe solutions to pollution.
- Policy outlines that if this is considered unfeasible, the polluter pays principle should be implemented to cover the full costs of treatment by the water company. Policy clearly states the cost of cleaning up pollution should not be borne by water company customer bills.

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.



Swydda 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. Cyf-Gyfarwyddwyr | Cyfarwyddwr | Director: Karen Whitfield
Rhif Elusen Gofrestredig | Registered Charity Number: 1022675