

Environment and Sustainability Committee

Meeting Venue:

Committee Room 3 – Senedd

Meeting date:

Wednesday, 11 June 2014

Meeting time:

09.20

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



For further information please contact:

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Committee Clerk

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Agenda

Informal pre-meeting (09:20 – 09:30)

1 Introductions, apologies and substitutions

2 Climate Change – Round Table Discussion (09:30–10:30) (Pages 1 – 9)

James Byrne, Wildlife Trusts Wales

Jessica McQuade, WWF Cymru

Lila Haines, Oxfam Cymru

Gareth Clubb, Friends of the Earth Cymru

Break (10:30–10:40)

3 Climate Change – Round Table Discussion (10:40–11:40)

Peter Davies, Chair, Climate Change Commission for Wales

Dr. Lorraine Whitmarsh, Cardiff University

Iestyn Davies, FSB

Sharon Hopkins, Cardiff and Vale Health Board

Clare Sain-ley-Berry, WCVA

4 Papers to note (Pages 10 – 11)

Minutes of the meeting held on 21 May

Natural Resources Wales – Further information following 7 May meeting (Pages 12 – 15)

E&S(4)-15-14 paper 1

Marine policy in Wales – Response from the Minister for Natural Resources and Food to follow up letter May 2014 (Pages 16 – 20)

E&S(4)-15-14 paper 2

Agenda Item 2

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Agenda Item 4

Environment and Sustainability Committee

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This meeting can be viewed on Senedd TV at:

http://www.senedd.tv/archiveplayer.jsf?v=cy_400000_21_05_2014&t=0&l=cy

Concise Minutes:

Assembly Members:

Alun Ffred Jones AM (Chair)
Mick Antoniw AM
Russell George AM
Llyr Gruffydd AM
Julie James AM
Julie Morgan AM
William Powell AM
Antoinette Sandbach AM
Joyce Watson AM

Witnesses:

Leanne Bird, Ceredigion County Council
James Byrne, Wildlife Trusts Wales
Ceri Davies, Executive Director, Knowledge, Strategy and Planning, Natural Resources Wales
Catrin Evans, Neath Port Talbot County Borough Council
Julia Korn, Ecosystems and Biodiversity Adviser, Natural Resources Wales
Steve Lucas, Bat Conservation Trust
Katie-jo Luxton, RSPB Cymru
Rebecca Sharp, Neath Port Talbot County Council

TRANSCRIPT

View the [meeting transcript](#).

1 Introductions, apologies and substitutions

1.1 Apologies were received from Gwyn Price. There were no substitutions.

2 Roundtable discussion on biodiversity – State of Nature partners

2.1 The witnesses responded to questions from members of the Committee.

2.2 Ms Luxton agreed to provide details of which 2 recommendations made by the previous Sustainability Committee in its report on biodiversity in 2011 had been completed.

2.3 James Byrne agreed to provide a paper on the effect on puffins in Pembrokeshire.

3 Roundtable discussion on biodiversity – Natural Resources Wales and local authorities

3.1 The witnesses responded to questions from members of the Committee.

3.2 Julia Korn agreed to provide an update on Natural Resources Wales' data hub.

4 Papers to note

4.1 The Committee noted the minutes.

5 Letter from the Minister for Natural Resources and Food – Sustainable Land Management : Follow up from 1 May meeting

5.1 The Committee noted the letter.

Natural Resources Wales response to question from Mick Antoniw AM on number of prosecutions

"I would like to ask you another specific question on prosecutions, which you referred to in your report. I would like to ask about the actual numbers in terms of enforcement. There were 209 prosecutions; how does that compare with previous years?"

Environment and Sustainability Committee, 7 May 2014.

1 April 2013 to 31 March 2014

Total number of prosecutions = 210

The breakdown for this total in terms of **functions** is that there were :-

44 waste prosecutions;

21 water quality prosecutions;

31 fisheries prosecution [this does not include individuals fishing without a valid licence but does include more serious fisheries offences];

113 prosecutions of individuals fishing without a licence; and

1 prosecution for illegal tree felling

In terms of **sentences**, the court has imposed the following in relation to the cases we have prosecuted:-

Fines total = **£214,618**

Total costs awarded to NRW = **£162,526.89**

The following **sentences** were also imposed (non-financial penalties):-

Conditional discharges

- In 5 cases, the court imposed a 12 month conditional discharge and in 3 cases, a 6 month conditional discharge.

Community Punishment Orders

- A 200 hour community punishment order was imposed for one defendant.

Unpaid work/Supervision Orders

- A sentence of 200 hours unpaid work and a supervision order was ordered for one defendant.
- A sentence of 200 hours unpaid work was ordered for two defendants.

- A sentence of 300 hours unpaid work together with a 12 month supervision order.
- A sentence of 250 hours unpaid work.
- A sentence of 150 hours unpaid work.

Forfeiture

- The total number of forfeiture orders made by the court (relating to items used in illegal fishing cases) is 19.

CRASBO

- One defendant was sentenced to a CRASBO (a criminal anti social behaviour order) which prevents him from carrying, accepting, disposing or arranging the disposal of any controlled waste without a licence, an environmental permit or any other lawful authority for a period of 5 years.

Curfew Orders

- One defendant was sentenced to a curfew order for a period of 5 months between the hours of 18.30 and 05.30.

Director Disqualification

- Two defendants were disqualified as directors following conviction for a period of 10 years.
- One defendant was disqualified as director following conviction for a period of 5 years.
- One defendant was disqualified as director following conviction for a period of 3 years.
- One defendant was disqualified as director following conviction for a period of 2 years.

Prison sentences (including suspended prison sentences)

- Suspended prison sentences have been ordered in a number of cases. These include one for 4 months, one for 112 days, two terms of imprisonment for 2 years suspended for 2 years [2 separate individuals], one period of 12 months imprisonment suspended for 2 years, one defendant was sentenced to 10 months in custody, suspended for 2 years, one defendant sentenced to 12 months imprisonment suspended for 12 months, one defendant sentenced to 32 weeks imprisonment suspended for 12 months and one defendant sentenced to 16 weeks imprisonment suspended for 12 months.
- Prison sentences were imposed on 2 defendants. Both were sentenced to 4 years imprisonment on a charge of conspiracy and on a charge of money laundering, a further 12 months to run concurrently.
- Prison sentences were imposed on 2 defendants. Both were sentenced to 6 months imprisonment.

We had 8 cases where defendants were acquitted, in two cases due to our review of the case and an alternative decision taken to offer formal cautions, in another case, 2 defendants were acquitted at court and in 4 cases following trial.

Total number of cautions issued = 23

Total number of enforcement notices issued = 105

Civil Sanctions

We have received three Enforcement Undertakings since the formation of NRW. Two are still under review and one has been completed.

The completed matter is John Liscombe Limited a Company based in Newport. They are a manufacturer and supplier of personal protective equipment. The company registered as a packaging producer for the first time in 2013. During a routine audit of packaging data submissions, NRW identified that the company may have been obligated in previous years. The company had committed offences from 2009 to 2012 in relation to failure to register and failure to recover and recycle.

The company offered NRW an Enforcement Undertaking which included a donation of £9000 to Gwent Wildlife Trust. This amount is made up of an estimate of their avoided costs and a penalty element. The company also paid our costs of £900.

Proceeds of Crime Act : confiscation orders

The court has ordered 6 confiscation orders under the Proceeds of Crime Act 2002 during 1.4.13 and 31.4.14. In these cases, the court has determined that over £3.2million has been made from the illegal waste business in those 6 cases alone. The court has gone on to determine that of the assets available to those defendants, over £550,000 is available to be confiscated. Half of this money is paid to the Home Office and NRW will receive a proportion of the remainder which is to be used in accordance with a Home Office Scheme.

This clearly demonstrates that the illegal waste business can undercut and undermine legitimate operators and divert significant sums of monies from legitimate operators in Wales. NRW is demonstrating that it will take a robust approach to illegal waste crime which has enhanced confidence in customers that appropriate action will be taken to eliminate illegal financial gain. It also acts as a significant deterrent to other potential offenders.

1 April 2012 to 31 March 2013

Total number of prosecutions = 258

The breakdown in terms of **functions** is that there were:-

49 waste prosecutions

1 water quality prosecution

48 fisheries prosecutions (this does not include individuals fishing without a valid licence but does include more serious fisheries offences)

160 prosecutions of individuals fishing without a licence

In terms of **sentences**, the court has imposed the following in relation to the cases which were prosecuted:-

Fines total = £152,233.00

Total costs awarded to EAW = £127,150.13

The following **sentences** were also imposed (non-financial penalties):-

Conditional discharges

- In 7 cases, the court imposed a 12 month conditional discharge and in 1 case, a 24 month conditional discharge.

Community Punishment Orders

- A 12 month community punishment order was imposed on one defendant which consisted of 200 hours of unpaid work.

Remediation Orders and Compensation Orders

- One remediation order and one compensation order was made by the courts.

Prison sentences (including suspended sentences)

- One defendant was ordered to serve a 4 month prison sentence for waste offences. Another defendant was sentenced to 6 months imprisonment which was suspended for 2 years for waste offences.

We had 5 cases where defendants were acquitted by the court and we withdrew 5 cases.

Total number of cautions issued = 93

Civil sanctions

During this year, three enforcement undertakings were accepted and completed. Two cases related to packaging waste matters and one concerned a fisheries case. In total, donations of £19,483.83 were made to third parties in Wales and we recovered costs in excess of £4,700.

Jojo Maman Bebe Limited made a £3000 donation to the Wildlife Trust of South and West Wales and BTCV Wales [50/50 split] and paid £790 costs. The Ben Hay Partnership made a £1000 donation to Wildlife Trust of South and West Wales and paid £3227.10 in costs [water quality case]. Roma Medical Aids Limited made a £15,483.83 donation to Woodlands Trust with £750 min costs.

Proceeds of Crime Act: confiscation orders

The court ordered 6 confiscation orders under the Proceeds of Crime Act 2002 during 1.4.12 and 31.3.13. Of those cases, the courts determined that over £11m has been made from the illegal waste business in those cases alone. The court has gone on to determine that of the assets available to those defendants, over £749k is available to be confiscated.

Agenda Item 4.2

Alun Davies AC / AM
Y Gweinidog Cyfoeth Naturiol a Bwyd
Minister for Natural Resources and Food



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref: E&SC 1/05/14
Ein cyf/ Our ref:

23 May 2014

Alun Ffred Jones AM

Chair of the Environment and Sustainability
Committee
National Assembly for Wales

Thank you for your letter of 1 May, in relation to the marine policy inquiry report. As you know, I gave an oral statement on 13 May which was my six-monthly update on marine and fisheries matters. In that, I was able to address many of the points in your letter and to inform you of the progress we have been making. For completeness, I will reiterate some of the commitments in that statement to address the specific points in your letter here.

1.5 We would be grateful if you could provide further detail as to how marine policy is being mainstreamed across your department and the Welsh Government and on how the marine planning process relates to the proposals contained on Positive Planning and the Draft Planning Bill.:

Accept.

During my 13 May statement I thanked the Committee for its continuing work and for offering insight and guidance. I trust that the Committee will recognise how much progress we have made on marine matters in the last year on this significant challenge. I have brought together Marine and Fisheries in Welsh Government to deliver extra capacity, published a Strategic Action Plan and given regular statements to the Assembly on a range of important specific initiatives

I recognise that the effective management of our seas requires proper integration across many policy areas. I have discussed better integrated marine governance with Ministerial colleagues and there is cross-Government support for it. Cabinet colleagues have agreed to establish a Welsh Government Marine Strategic Governance Board to support this. It will be set up before the summer recess. It

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paper

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will also work with UK Government on relevant matters,.

The Welsh Government is committed to joining up the land sea interface and effectively linking marine and terrestrial planning processes. As I mentioned in my statement, I have met with the Minister for Housing and Regeneration to agree a joint approach and my officials are also working with their colleagues in Planning to ensure that both the marine and land planning system join up when appropriate. The marine planning process will take account of the principles set out in our recent consultation document: *Positive Planning: Proposals to reform the planning system in Wales*.

2.3 We ask that you provide us with an update on the progress made by the Welsh Government in reviewing the ICZM strategy and details of how work on ICZM is being fed into work on the marine planning process and work on the Draft Planning Bill.:

Accept.

We are committed to the principles of Integrated Coastal Zone Management. Marine Planning has an important role to play in relation to ICZM. The Welsh National Marine Plan has a legal duty to take all reasonable steps to be compatible with our land plans and we will ensure it does so. My officials have reviewed relevant terrestrial plans that the Marine Plan will need to work with. We will discuss our findings with the Marine Planning Stakeholder Reference Group and also with the relevant planning authorities. Work is underway in the Marine Planning Stakeholder Reference Group to assess the Wales ICZM strategy in the context of the current marine policy framework, which includes marine planning. It will be important to ensure that all relevant planning processes and management approaches take account of ICZM principles.

3.4 Given the scale of this task and the other commitments for marine policy made in the Marine and Fisheries Strategic Action Plan we would ask that you keep the resourcing of these actions under review and keep the Committee updated on progress towards the 2015 target.:

Accept.

I will continue to look across my portfolio to try to release additional resources to make even more effective progress.

I will ensure that we keep the Committee informed of the delivery of key tasks to achieve this target. I plan to give a further six-monthly update on progress on delivery of items in the Strategic Action Plan .

4.4 Given the lack of clarity over the timetable for completion of the assessment, and the length of time available to meet the 2016 target (ecologically coherent network of sites in place by 2016), it would be helpful if you could provide us with confirmation that you are content that this target will be met.

4.5 Additionally, we ask that you provide us with a detailed timetable for the completion of the assessment and actions thereafter to designate any additional sites.:

Accept

I remain committed to ensuring that Wales makes its contribution to a representative and coherent network of MPAs by the end of 2016, and in doing so fulfils its

obligations under the Marine Strategy Framework Directive. I am confident that we will achieve this as Wales' suite of sites already makes a significant contribution to the MPA network.

However, to ensure our contribution to the MPA Network is ecologically coherent we are working closely with Natural Resources Wales, the other UK administrations, their statutory nature conservation bodies and the Joint Nature Conservation Committee to conduct a stocktake of the UK MPA Network. This will enable us to objectively assess our existing contribution to the network and identify whether any gaps exist that we will be required to fill to complete our obligations. This work is currently on schedule to be completed in late Summer 2015. Undertaking a stocktake of all UK MPAs, including existing and planned, is a complex and the teams involved will be developing a project timetable over the Summer and I hope this will be available in the Autumn.

In the meantime we are already working to further enhance our network through additional Special Protection Areas for seabirds and we are also working to see if we can identify Special Areas of Conservation for harbour porpoise.

4.7 We ask you for an update on action to implement this recommendation (engagement with the offshore MCZ process):

Accept

Officials are in discussion with Defra about its considerations for further Marine Conservation Zones. Defra is considering 37 provisional Marine Conservation Zones, some of which are in our offshore waters, for its second tranche of designations. No decision has been made yet as to which sites will be put forward and consulted on in January 2015. We are keeping in very close touch with Defra and will make sure that Welsh stakeholders are fully updated and consulted as soon as there are any concrete developments.

4.10 However, we would be grateful if you could confirm that consultation with stakeholders on the shared principles (for MPA management) will take place and outline the timeline for such consultation.

Accept

I can confirm that consultation on shared principles for MPA Management has already taken place. In recognition of the need to ensure that our MPAs are well managed the Welsh Government and Natural Resources Wales have agreed a number of shared principles. This includes how we will work together to take forward the work needed to improve the effectiveness of MPA management and ultimately the condition of our MPAs. These principles were shared with members of the Stakeholder Focus Group in December 2013. In follow up to this we have established an MPA Steering Group, which is scheduled to meet in June, who will use principles as the basis for progressing this work. In addition, as this work strand develops we will continue our consult with stakeholders with engagement at a range of levels.

5.1. Concern was expressed to us by the Welsh Fishermen's Association and Bangor Mussels Producers Ltd about the accuracy of the Article 17 report produced by Natural Resources Wales (to comply with the requirements of the Habitats

Directive). We note that NRW has been in discussion with these organisations in order to address their concerns and hope that any outstanding issues have been resolved:

Accept

A number of adjustments were made to the Wales Article 17 Report to take account of the concerns raised and these have been passed on to the JNCC for inclusion in the UK report.

6.4 To assure us (stakeholder engagement), we ask you to confirm:

a) how you are going to ensure that the momentum gained through the review of the MCZ process is not lost;

b) whether you plan to establish a permanent mechanism for engagement; and (if so)

c) the steps you will take to establish such a mechanism.

Accept

I will very shortly announce in a written statement a refreshed approach to external engagement for marine policy. This will ensure that the wide range of groups with an interest in Welsh seas will receive regular information on progress. They will also be able to participate in developing our work; on a task and finish basis. We will build on core representation from existing interest groups to form a strategic group across both marine policy and delivery. I want that new group to build on the positive momentum and input that emerged from the review of our approach to Marine Conservation Zones.

7.4 We intend to keep these data and evidence gathering arrangements under review as they progress and we ask that you keep us informed as these developments take place.

Accept

In order to ensure that marine planning is based on the best available knowledge, my officials have initiated a Strategic Scoping Exercise which will present and review, at a Wales level the evidence of relevance to marine planning. We will share the draft report widely to ensure that all interested parties have an opportunity to comment and contribute to this important evidence base. Building on this, and at the same time, we will share a marine evidence portal that will make available relevant marine spatial datasets to help inform the development of a vision and objectives for the Welsh National Marine Plan. This process work will also then inform the development of a marine evidence strategy for Wales. I will keep the Committee informed as these initiatives progress.

8.2 Now that the consultation (on the monitoring programme for the marine strategy framework directive) has closed, we would be grateful if you could provide an update as to how the monitoring arrangements will be taken forward:

Accept

I will shortly publish our response to the consultation. The monitoring programme will be established by 15th July, which will identify details on how monitoring will take

place. We are working closely with NRW and other relevant organisations to ensure that the monitoring arrangements are in place.

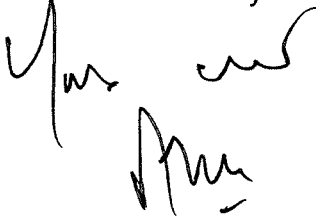
9.1 – 9.3 We are aware of the proposals on Several and Regulating Orders contained in the Environment Bill White Paper.

Although these issues did not form part of our initial inquiry, we were disappointed to hear during the follow-up sessions that the industry did not feel that it had been consulted with or listened to during the development of these proposals.

We ask that due consideration is given to these concerns as you progress with your work to develop proposals for the Environment Bill:

Accept in part

To achieve our targets for sustainable growth of aquaculture over the next 6 years, we need to ensure that we can grant Several and Regulating Orders most effectively. We can best address this through legislative changes planned in the Environment Bill. We consulted explicitly on those as part of the Environment Bill process. My officials are in active dialogue with the mussel farmers as I recognise the need to work with them. There may not be complete consensus on this, but we are certainly in an active and constructive dialogue with the industry. We will continue to work with the industry to find the best ways forward as I remain committed to ensuring that we get the best value for the Welsh economy from this sustainable activity



Alun Davies AC / AM

Y Gweinidog Cyfoeth Naturiol a Bwyd
Minister for Natural Resources and Food