

Agenda – Climate Change, Environment and Rural Affairs Committee

Meeting Venue:

Committee Room 3 – Senedd

Meeting date: 7 February 2019

Meeting time: 09.00

For further information contact:

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Legislative Consent Memorandum on the Animal Welfare (Service Animals)

Bill: oral briefing (09.00 – 09.15)

[Legislative Consent Memorandum on the Animal Welfare \(Service Animal Welfare \(Service Animals\) Bill](#)

[The Animal Welfare \(Service Animals\) Bill \(the “Bill”\)](#)

Attached document

Legal Advice Note

1 Introductions, apologies, substitutions and declarations of interest

(09.15)

2 Consideration of Biodiversity – Public Goods Scheme: evidence session with environmental organisations

(09.15–10.15)

(Pages 4 – 40)

Annie Smith, Wales Environment Link

Arfon Williams, Land Use Policy Manager – Royal Society for the Protection of Birds (RSPB) Cymru

Attached Documents:

Research Brief

Paper – Wales Environment Link

Paper – RSPB Cymru



Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales

3 Consideration of Biodiversity – Public Goods Scheme: evidence session with representatives of land managers and users

(10.15–11.15)

(Pages 41 – 56)

Anthony Geddes, National Manager for Wales – Confor

Rachel Lewis–Davies, Environment / Rural Affairs Adviser – National Farmers' Union Cymru (NFU Cymru)

Charlotte Priddy, Policy Officer – Farmers' Union of Wales (FUW)

Attached Documents:

Paper – Confor

Paper – NFU Cymru

Paper – FUW

4 Paper(s) to note

(11.15)

4.1 Correspondence from the First Minister of Wales to the Llywydd regarding the scrutiny of Brexit – related legislation

(Pages 57 – 59)

Attached Documents:

Correspondence from the First Minister of Wales – 11 January 2019

4.2 Correspondence from the Minister for Environment, Energy and Rural Affairs to the Chair regarding the Legislative Consent Memorandum for the UK Fisheries Bill

(Pages 60 – 65)

Attached Documents:

Correspondence from the Minister for Environment, Energy and Rural Affairs – 22 January 2019

Break (11.15 – 11.25)

**5 Motion under Standing Order 17.42 (vi) to resolve to exclude the public from items 6 and 7 of today's meeting
(11.25)**

**6 Biodiversity – Public Goods Scheme: consideration of oral evidence
(11.25–11.35)**

**7 Legislative Consent Memorandum for the UK Fisheries Bill: consideration of draft report
(11.35–12.30)**

Document is Restricted

Agenda Item 2

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Summary of WEL recommendations

1. The Welsh Government's proposed public goods scheme should reward activity beyond legal requirements and contain biodiversity objectives that focus on:
 - restoring priority species and habitats, and more habitat everywhere
 - tackling pollution
 - climate change mitigation and adaptation
 - targeted action at a landscape scale
2. The scheme should be fully integrated with and help to deliver existing Welsh Government legislation and policy, in particular the Nature Recovery Action Plan (NRAP) and the Sustainable Management of Natural Resources (SMNR), but wider Government action is needed.
3. The scheme should be robustly monitored, with biodiversity outcomes to be measured over time and to include monitoring of rare and vulnerable species.
4. The Welsh Government's Nature Recovery Action Plan needs to be more ambitious, with SMART objectives, and should include actions for marine biodiversity.

Q1. How could the Welsh Government's proposed public goods scheme, set out in Brexit and Our Land, be applied to restore biodiversity

1. Wales Environment Link (WEL) welcomes the Welsh Government's proposed change of direction for land use and management in Wales, with the clear indication that future payments will need to be focused on the payment of public money for the delivery and care of public goods.
2. We welcome the recognition by the Welsh Government that the Common Agricultural Policy (CAP) has not delivered a sustainable future for Welsh land or land managers, and the ambition to break the link between the levels of public subsidies a farm business receives and the level of commodity production achieved, and / or the size of that business. As we face catastrophic loss in biodiversity and environmental degradation (as demonstrated in the State of Natural Resources Report¹ and recognised by the Committee) continuing with the current status quo is not an option.
3. We strongly support the introduction of a public goods scheme that promotes biodiversity protection and enhancement, protects our soils and air quality, abides by the Water Framework

¹ Natural Resources Wales. (2016). State of Natural Resources Report. Chapter Three. Accessed from: <https://naturalresources.wales/media/679417/chapter-3-state-and-trends-final-for-publication.pdf>

Directive (WFD)², Bathing Water Directive and Marine Strategy Framework Directive³ and addresses climate change mitigation and adaptation. All of these aspects are important for healthy, thriving, connected ecosystems and biodiversity.

4. Biodiversity underpins our ecosystem services and the functioning of the environment, as well as being essential for our emotional well-being and providing a range of utilitarian benefits (ecosystem services). Yet the 2016 State of Nature report highlighted that nature remains under increasing pressure across Wales. Work to inform the report also identified that intensive agriculture has been, and remains, the biggest driver of biodiversity decline across the UK: agriculture occupies 70% of UK land and 85% of Welsh land⁴.
5. Declines in pollinators in recent decades have been dramatic, and are already known to be affecting the health of ecosystem services. The repercussions of continued declines in key groups of pollinators for agriculture and the health of our environment would be profound. Declines in farmland birds are also a particular concern, as shown in the RSPB's State of Birds in Wales 2018 report⁵, as is the increasing fragmentation of our native woodlands. Rural pollution, such as sediment and nutrients from agriculture practices affects rivers and bathing waters in Wales and both macro and ^{6 7 8}micro plastics from diffuse pollution often end up on Welsh beaches. The health of Wales' marine environment is, therefore, clearly linked to agricultural activities, necessitating a truly ecosystem-based approach to the design and implementation of biodiversity measures, from catchments to the Welsh offshore area median line.
6. Previous Public Goods type schemes (e.g. Tir Gofal and Glastir) designed to benefit biodiversity have met with varying success and have largely failed to maintain and/or restore priority species. There are many reasons for this, including scheme popularity, the overly prescriptive nature of interventions and inadequate provision of advice and guidance. To address these failings, we believe future initiatives must be more inclusive of farmers and land managers and, where appropriate, adopt a more flexible approach to decision making and delivery, based on results and outcomes at the appropriate scale. For biodiversity, the appropriate scale includes being large enough to provide the full ecological requirements to support viable populations of target species, which is typically landscape scale, especially for highly mobile species. Ongoing and appropriate advice and guidance will be essential in securing successful outcomes.
7. The Welsh Government must take account of the last three decades of experience, including independent recommendations to improve scheme design and delivery⁹ so that it can develop a public goods scheme, supported by an effective regulatory baseline, which proves popular

² Currently, only 37% of Wales water bodies under the WFD are in good or better ecological status, with a poor ambition to increase this to 42% of water bodies at good status by 2021.

³ The WFD's coastal water bodies physically overlap with parts of the MSFD's marine waters.

⁴ National Assembly for Wales. (2018). [Research Briefing: The farming sector in Wales](#).

⁵ Bladwell S, Noble DG, Taylor R, Cryer J, Galliford H, Hayhow DB, Kirby W, Smith D, Vanstone A, Wotton SR (2018) The state of birds in Wales 2018. The RSPB, BTO, NRW and WOS. RSPB Cymru, Cardiff.

⁶ [Luca Nizzetto](#)^{***}, [Martyn Futter](#)[§], and [Sindre Langaas](#) (2018) Are Agricultural Soils Dumps for Microplastics of Urban Origin? *Environ. Sci. Technol.*, 2016, 50 (20), pp 10777–10779

⁷ <https://ieep.eu/uploads/articles/attachments/3a12ecc3-7d09-4e41-b67c-b8350b5ae619/Plastic%20pollution%20in%20soil.pdf?v=63695425214>

⁸ De Souza Machado, A., Kloas, W. et al. 2018. Microplastics as an emerging threat to terrestrial ecosystems. *Global Change Biology*, 24 (4): 1405-1416

⁹ WAO & Glastir Evaluation

with farmers and other land managers. This should result in the appropriate management of habitats and be an effective means of aiding the recovery of priority species.

8. To achieve these aims we propose that a future public goods scheme, designed to restore and maintain biodiversity, will require the following elements:
 - **A robust regulatory baseline.** To ensure that payments for public goods secure value for money by being made on a foundation of effective regulation, with a particular focus on the continued application of the polluter pays principle.
 - **Widely available land management payments.** Available to all farmers and land managers to address challenges such as declining farmland wildlife, degraded soils and climate change, amongst others. Given lessons from previous ‘broad and shallow’ schemes, securing value for money should be a particular focus and payments should only be made for activities that go beyond legal requirements. For biodiversity, this would include payments for (a) existing good habitat management essential for restoring and maintaining wildlife populations and/or (b) appropriate (new) management for the same reasons.
 - **Payments for more targeted and complex interventions in targeted landscapes.** Restoring and creating habitats including woodland, recovering priority species and improving the condition of designated sites, will necessarily require more intensive, targeted effort (often at scale).
9. As we leave CAP and are able to create an entirely new support system **we particularly advocate for a system that supports field officer facilitation** in a range of situations. These should include facilitating targeted larger scale multi-site and multi-objective planning of new woodland and site tailored agroforestry options, including a good hedgerow scheme. Local facilitators should have significant influence on directing and assigning funding. We need a simplified, robust and informative process, unlike existing agri-environment schemes with their inflexible options and criteria and complex application processes.
10. To help frame this and target resources and investment, local nature recovery maps, which show ecosystem service opportunities, can be used in combination with more advanced tools, and primary and secondary data. **The government must include targets and milestones** and design the public goods scheme to deliver these. WEL has long advocated the introduction of biodiversity targets and we are currently undertaking more detailed work on what these targets should look like. The public goods scheme should reward delivery towards achieving a set of robust biodiversity targets.
11. To be effective **a future public goods scheme must be adequately funded to meet objectives.** RSPB, National Trust and the Wildlife Trusts have already established that Wales will require a minimum of £210 million per annum to enable Welsh Government to meet biodiversity and wider environmental commitments¹⁰. Much of this would be paid to farmers and other land managers in return for appropriate land management. WEL believes farmers should be able to access the Public Goods and Economic Resilience Schemes, and that the two schemes should combine to help farmers maximise the biodiversity value of their land and produce food (and other commodities) as efficiently as possible.

¹⁰ (2017), Matt Rayment. Assessing the costs of Environmental Land Management in the UK.

Q2. How could the various existing Welsh Government policies and legislation for biodiversity restoration be applied in the design and implementation of the proposed public goods scheme

12. The Welsh Government is committed to halting and reversing the decline of biodiversity as part of the UK, as signatory to the International Convention on Biological Diversity. This is also outlined in key Welsh Government policy such as the Natural Resources Policy (NRP) and the Nature Recovery Action Plan (NRAP)¹¹.
13. The new principles and scheme framework for future land management has enormous potential as a key mechanism¹² to make progress towards achieving the Government commitment to halt and reverse biodiversity decline and ensure the status of this essential ‘public good’ is improved. It should be developed so it can make a substantial contribution to statutory Nature Recovery objectives as set out in the NRAP (specifically objectives 2, 3, 4 and 5¹³) and towards achieving the SMNR (SMNR) by enhancing the resilience of ecosystems of which the status of biodiversity is an underpinning factor¹⁴. This means ensuring resources and outcomes direct land managers towards taking positive action for the recovery of Wales’ biodiversity.
14. There are two specific areas where a future land management scheme needs to ensure Welsh Government, NRW, public authorities and a range of other stakeholders can work proactively together to achieve the objectives in the Nature Recovery Action Plan. Land managers need to be given the financial support, skills, advice and direction to help them appropriately manage habitats and provide for species’ needs with the aim of:
 - improving the condition of biological protected site¹⁵ features which are on or adjacent to their land, and
 - improving the population and range status of section 7 species and habitats across Wales, outside of protected areas.
15. NRW identifies the significant potential of the future land management scheme to deliver the necessary action on the ground to help improve condition of our species and habitats, and goes as far as setting itself an organisational goal in its biodiversity strategy, to – *“Encourage the development of a funding framework for agriculture and forestry post-EU exit that has at its core the maintenance and enhancement of biodiversity and ecosystem resilience, and provide support and expert advice to the Welsh Government to enable that to happen.”*¹⁶

¹¹ Welsh Government (2015) The Nature Recovery Plan for Wales. <http://gov.wales/docs/desh/publications/160225-nature-recovery-plan-part-1-en.pdf>; Welsh Government (2017) Natural Resources Policy, pp.10. <https://gov.wales/docs/desh/publications/170821-natural-resources-policy-en.PDF>

¹² Evidence in the NRW (2016) N2K LIFE Programme report shows how important grazing and other agri related management action is for SPA and SACs. Actions (in the PIPs) are all designed to “making significant progress towards favourable conservation status for Summary report, pp.10-13 - https://cdn.naturalresources.wales/media/674546/nrw28788-life-natura-2000-report-december-2016-update_english_spreads.pdf?mode=pad&rnd=130970726370000000

¹³ I.e. future land management must directly help to achieve Objective 2 – Safeguard species and habitats of principle importance; Objective 3 – Increase the resilience of the natural environment by restoring degraded habitats and habitat creation; Objective 4 – Tackle key pressures on species and habitats; Objective 5 – Improve our evidence, understanding and monitoring.

¹⁴ Sanderson Bellamy, A. (2018) ‘The relationship between biodiversity and ecosystem resilience’, in Sanderson Bellamy, A. and Galliford, H.J. (eds), Biodiversity and the area-based approach in Wales. How can the sustainable management of natural resources (SMNR) framework deliver nature recovery? (Cardiff, UK: Cardiff University and the Royal Society for the Protection of Birds), pp. 68–84. <http://bit.ly/SPRIareastatements>

¹⁵ Species and habitat features of nationally and internationally important sites - SSSI, SPA, SAC and Ramsar sites in particular.

¹⁶ NRW (2018) Vital Nature. Making the connections between biodiversity and the people and places of Wales

16. In addition, NRW has a key role in facilitating biodiversity recovery through a landscape scale approach – i.e. development of Area Statements to implement the priorities in the Natural Resources Policy. The NRP identifies the scale and challenge of addressing biodiversity loss and how important it is to “build on our network of protected sites”¹⁷ to maintain and enhance ecosystem resilience and achieve SMNR. This work should include mapping of ecological networks in both the marine and terrestrial environments, and work to enhance the condition and coherence of Wales’ network of protected sites, as key measures.
17. Land management schemes have the potential to bring together public, private and third sector bodies and individuals to work on common aims to maintain and enhance habitat and species condition. WEL is calling for the public goods scheme to make spatial targeted interventions to restore and enhance the resilience of ecosystems and the services they provide in line with the SMNR requirements of the Environment (Wales) Act – including, but not limited to, increasing biodiversity; reducing carbon emissions; increasing ecosystems’ resilience to climate change and improving air and water quality.
18. The effectiveness of land management actions is enhanced where it is informed by on-farm advice. This advice should refer to Environment Network Plans and Area Statements to ensure connectivity and ecosystem resilience. To successfully deliver an ambitious land management policy for the environment, guidance will be necessary to convert research into restoration of the natural environment into workable policy. Managing land for wildlife can be complicated, and land managers who have access to expertise do better than those who do not^{18 19}. The government needs to recognise the importance of this specialist advice in caring for the environment in a future policy. There is an opportunity for the Welsh Government to outsource some of the advisory elements to environmental non-government organisations (NGOs) working to the framework and objectives of the scheme.

Nature Recovery Action Plan

19. The Welsh Government’s Nature Recovery Action Plan (NRAP) is a critical vehicle for restoring biodiversity and wider natural processes through cross-government activities. As such, its objectives should be one of the drivers for designing measures in the public goods scheme. However, as it stands currently, the NRAP is neither ambitious nor focused enough on implementation to have a real impact and ensure the recovery of Wales’ marine and terrestrial environments. As it currently stands, the Welsh Government has chosen to separate out ‘marine’ from terrestrial biodiversity within Part 2, the Action Plan, creating two separate action plans. Such disconnected working practices and ethos do not demonstrate an ecosystems-based

NRW’s strategic steer for biodiversity to 2022, pp.16. <https://cdn.naturalresources.wales/media/686482/vital-nature-final-230718-english.pdf?mode=pad&rnd=131792283550000000>

¹⁷ Welsh Government (2017) Natural Resources Policy, pp.10. <https://gov.wales/docs/desh/publications/170821-natural-resources-policy-en.PDF>

¹⁸ Department for Environment, Food & Rural Affairs. (2013). Review of Environmental Advice, Incentives and Partnership Approaches for the Farming Sector in England.

¹⁹ Boatman, N., Short, C., Elliot, J., Cao, Y., Gaskell, P., Hallam, C., Laybourn, R., Breyer, J. & Jones, N. (2015). Agreement scale monitoring of Environmental Stewardship 2013-4: assessing the impact of advice and support on the environmental outcomes of HLS agreements.

approach to SMNR. These concerns continue to be raised with officials, as such an approach reinforces historic, siloed ways of working on the natural environment.

20. Whilst disappointed and concerned at the lack of integration in the marine and terrestrial plans, we are pleased that the Welsh Government has recognised that the Plan needs to be more ambitious. It is currently working with stakeholders (including WEL members) to 'refresh' the Plan's actions. It is critical that this 'refresh' serves to increase the plan's ambition and deliver upon the legislative imperative of the Environment (Wales) Act 2016 to halt biodiversity loss and restore our ecosystems.
21. Our view is that this can be achieved in a number of ways. First, **it is critical that the actions it contains are SMART** (Specific; Measurable; Achievable; Relevant; and Time-bound). This currently is not the case, given that the present iteration is a list of government activity, without any evidence to demonstrate why that activity is capable of contributing to the objective to which it is aligned; how it will do so; by when; by whom; and what mitigation steps should be enacted should it not be successful. Shortly before Christmas, WEL presented a proposal to the NRAP Implementation Group to change the structure to reflect these requirements. This was agreed by the group and we look forward to developing these actions in the coming months.
22. Equally, the Plan needs to be prioritised. As the State of Nature Report highlights, Wales is one of the most nature depleted nations on Earth and we are on the verge of missing our international biodiversity commitments yet again. We all have a responsibility to reverse this decline, both for our own well-being and that of future generations. We need to do so urgently, as we are at a tipping point where recovery may no longer be possible. In response the Government needs to prioritise action so it maximises the benefits they bring. Therefore, **the Plan needs to identify where the Government can deliver the greatest benefits** and focus on their delivery.
23. **It is essential that the Plan addresses all the drivers of biodiversity decline**, as identified in Chapter 2 of the State of Natural Resources Report (SoNaRR). It also needs to have clear milestones and target outcomes against which it can measure its progress, and ultimate success or failure. Currently it is unclear how the Welsh Government sees its actions contributing to specific international commitments (such as Aichi targets). This could be improved by mapping international commitments onto the Plan, and using this process to identify whether any gaps exist which jeopardise the Plan's capacity to deliver upon the WFG and Environment Acts. If such gaps exist, the Plan should be ambitious enough to develop new targets in order to faithfully enact Wales' bespoke legislation.
24. It is our view that having an NRAP which is robust and effective will enable the public goods scheme to be more successful and better integrated. It will better enable the Welsh Government to identify actions it can deliver across all its departments, and those of other organisations it can support. If the 'refresh' process is successful and embraces the points made above, it could also serve as a best practice example to support the design and implementation of the proposed public goods scheme. We therefore encourage Assembly Members to scrutinise the final, refreshed version of the NRAP.

The Woodland Strategy

25. The Welsh Government's Woodland Strategy contains many good aspirations and gives a clear indication of the direction of travel sought, for example, that all Plantations on Ancient Woodland Sites on the Welsh Government Estate are prioritised for restoration. We suggest that achieving these objectives requires commitment to targeted delivery plans, both within the Woodland Strategy and NRAP.
26. We support the commitment in the Woodland Strategy, and previous recommendations by CCERA, that the public forest estate should continue to be managed to the independently audited UK Woodland Assurance Scheme (UKWAS), and that further adoption of this standard by the private sector should be encouraged. An alternative to the UK Forest Standard (UKFS), which we believe to be inadequate, could be to make UKWAS certification a necessary condition of funding under the public goods scheme.

The Welsh Government's Forest Estate

27. The Welsh Government and NRW have a considerable opportunity and responsibility to manage their own land to reverse biodiversity decline. The intention to do this is set out in many policy statements including the Woodlands for Wales Strategy. We think a much higher priority must be given to the practical delivery of good intentions, including the commitment to substantive delivery targets. Areas where particular focus is needed to meet published commitments to address biodiversity loss include:
 - Delivery of the commitment to restore PAWS and improve the condition of priority native woodland and open habitats on the Welsh Government woodland estate.
 - Meet the commitment to ensure that woodlands on the estate play their full role in improving environmental quality, particularly water and soil resources, at a local and catchment level in Wales.
 - Meet the commitment to restore priority open habitats such as deep peat on the estate.
 - Address the deficiencies exposed by the UKWAS certification audits of the estate.
 - Provide reports demonstrating timely and significant progress in these areas.

What lessons can be learned from the Glastir Monitoring and Evaluation Programme (GMEP) to ensure effective monitoring and evaluation of schemes to support the restoration of biodiversity. How should the new Environment and Rural Affairs Monitoring and Modelling Programme (ERAMMP) be designed and implemented effectively for this purpose?

27. We welcome an evidence-based approach to public goods to facilitate transparency and confidence in interventions. We would like to highlight the complexities involved in developing a robust methodology to determine output values and would strongly advise collaboration with academic, private sector and environmental stakeholders to develop this as soon as possible. The State of Natural Resources Report will be an ongoing source of important monitoring information, so it is important for this report to be developed so that it is a useful resource.
28. The consultation on Brexit and Our Land did not suggest any targets for the proposed environmental outcomes or public goods. Without targets, associated milestones and timeframes, it will not be possible to know how we are performing, where we can improve, or

where to target funding. Therefore, the Welsh Government must include targets and milestones, including biodiversity targets, and design the scheme to deliver these. Using existing data and tools can help frame numeric targets to ensure that resources and effort is targeted to the best effect.

29. The new Environment and Rural Affairs Monitoring and Modelling Programme (ERAMMP), is being implemented as a successor to the Glastir Monitoring and Evaluation Programme (GMEP). However, earlier Welsh agri-environment schemes (AES) were also the subject of monitoring programmes between 2009 and 2012, with separate components focusing on ecosystem services, habitats and species. The results of species monitoring have recently been accepted as a peer-reviewed article in the Journal of Applied Ecology.
30. The approach taken by GMEP towards species monitoring differed from earlier monitoring in two key respects. Firstly, it employed a re-surveying strategy, allowing for changes over time to be detected, and enabling the effects of AES management to be more confidently attributed. We are very much in favour of this. Secondly, it did not target dedicated field work to species of conservation concern; rather, it developed indices of taxonomic groups, and reported habitat quality. This latter approach is correct when carrying out a national monitoring programme, as scarce species are more difficult to detect unless sampling design is sufficiently sophisticated and intensive.
31. Nevertheless, we strongly recommend that ERAMMP takes account of scarce species. The ecological needs of some species are imperfectly known, and effects other than habitat quality (for example, predation pressure) may mean that measures of habitat quality may not accurately reflect the impact of AES on the species they are intended to benefit. Planning and carrying out a species-focused monitoring programme in Wales has been possible in the past, and should form part of ERAMMP. This would be additional to the existing survey methods used by GMEP: considering the amounts paid in agricultural subsidies, a small fraction of these resources for effective monitoring should be considered an investment rather than a cost.
32. There can be two different purposes to monitoring, one being to track the status of biodiversity in general, and the other to ascertain whether public goods scheme interventions are achieving the objectives set for them. There is a danger that focusing on the latter can create a situation in which scheme interventions are judged to be successful in their own narrow terms (e.g x km of new hedge established) but fail to achieve the wider purpose of stopping biodiversity decline.
33. Monitoring that focuses on demonstrating recovery on individual sites whilst on-going decline continues at national level reflects a failure in policy. This is a problem of either unclear objectives (or wrong objectives) or post-rationalising monitoring outcomes.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales, most of whom have an all-Wales remit. WEL is a respected intermediary body connecting the government and the environmental NGO sector in Wales. Our vision is a healthy, sustainably managed environment and countryside with safeguarded heritage in which the people of Wales and future generations can prosper.

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



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Y Pwyllgor Newid Hinsawdd, Amgylchedd a Materion Gwledig | Climate Change, Environment and Rural Affairs Committee

Ymchwiliad Bioamrywiaeth | Biodiversity Inquiry

Ymateb gan : Y Gymdeithas Frenhinol er Gwarchod Adar

Evidence from : Royal Society for the Protection of Birds (RSPB) Cymru

Headline points:

- We welcome the proposed Public Goods Scheme. There is a clear case for this, based on environmental/biodiversity need and value for money.
- A significant increase in funding is needed to achieve Welsh Government's environmental commitments via land management including restoring biodiversity.
- The best examples of agri-environment and woodland grant schemes provide a proof of concept for an expanded and more ambitious future environmental land management programme for Wales. Better targeting, good quality advice, evidence-based interventions and buy-in from farmers and land managers are all required to deliver the necessary 'step change' to drive landscape scale environmental improvements.
- Investment in monitoring and evaluation, including for focal species is essential to understand the effectiveness of future policy interventions.
- A new Public Goods Scheme is only one way for Welsh Government to meet its biodiversity commitment, other measures include maintaining and enforcing environmental standards and protections, completing Wales' designated site networks, securing an ambitious Nature Recovery Action Plan, for land and sea, and establishing statutory targets or milestones to drive cross government action.
- We expect Area Statements to identify spatial priorities for delivery against the challenges, priorities and opportunities set out in the Natural Resources Policy. This includes reversing biodiversity decline and building resilient ecological networks.

RSPB Cymru's response:

Almost 90% of Wales is farmed. How this land is managed has a huge impact on biodiversity and the essential public goods nature provides society, including drinking water, carbon sequestration as well as our ongoing capacity to produce food.

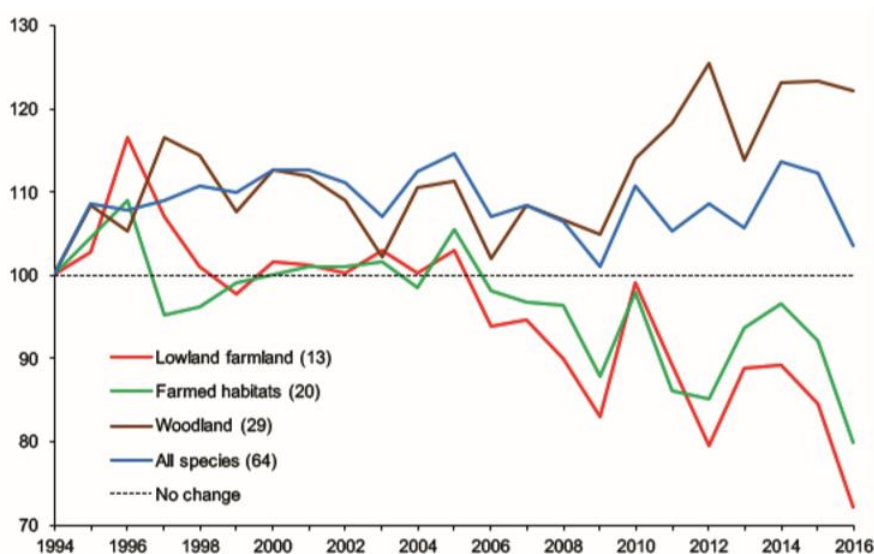
1. Wales' first State of Natural Resources Report (SoNaRR) states that **none of Wales' ecosystems, on which we all depend, are resilient**¹; the ongoing decline in native species and habitats is a clear signal of this. The State of Nature 2016² highlights the extent of these biodiversity declines including:
 - **56% of UK species monitored have declined and**
 - **1 in 14 species in Wales is threatened with extinction with 57% wild plants, 60% butterflies and 40% birds in decline**³

¹ Natural Resources Wales. 2016. The State of Natural Resources Report, 2016.

² State of Nature 2016

³ State of Nature 2016

- Both reports cite agricultural change as a key factor in the state of our ecosystems. State of Nature 2016 cites a study led by the RSPB Centre for Conservation Science that reviewed drivers of change across 400 UK species, and found that **agricultural change (with an overwhelmingly negative impact) and climate change (with a mix of positive and negative impacts) were the biggest drivers of change**⁴.
- The recently published State of Birds in Wales 2018⁵ provides further evidence of the worrying state of Welsh biodiversity and opens with the following headline, **'Long-term monitoring shows that the numbers and distributions of almost a third of Welsh birds are declining significantly'**. Ongoing declines of farmland birds are of particular concern, as illustrated by the following graph taken from the report:



The species driving this decline (curlews, greenfinches, starlings, yellowhammers, kestrels and rooks) use a range of habitats in different ways, indicating that their causes of individual declines are likely to be very different⁶.

- RSPB Cymru welcomes Welsh Government's proposal to use a Public Goods Scheme** as a key mechanisms to reverse the decline of biodiversity in Wales. In a recent survey commissioned by RSPB Cymru **65% of people said they would support a sustainable food and farming system that's good for nature**.⁷
- The concept of 'public goods' in the context of agriculture policy is well established and are identified as those things that farming and land management can provide, but which the market does not deliver⁸. It is the 'publicness' of these goods – the extent to which they are non-rival and/or non-excludable – which makes them difficult or in some cases impossible to secure through markets.
- Biodiversity is a particularly 'pure' public good, given the fact it is often nearly completely non-rival and non-excludable.** As a consequence of this, and the fact the current rates of

⁴ <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0151595>

⁵ Bladwell S, Noble DG, Taylor R, Cryer J, Galliford H, Hayhow DB, Kirby W, Smith D, Vanstone A, Wotton SR (2018) The state of birds in Wales 2018. The RSPB, BTO, NRW and WOS. RSPB Cymru, Cardiff.

⁶ Bladwell S, Noble DG, Taylor R, Cryer J, Galliford H, Hayhow DB, Kirby W, Smith D, Vanstone A, Wotton SR (2018) The state of birds in Wales 2018. The RSPB, BTO, NRW and WOS. RSPB Cymru, Cardiff.

⁷ Source – Celtic Charity Awareness Monitor, May – June 2018, nfpSynergy. Base 1000 adults 16+, Wales

⁸ Cooper, T., Hart, K. and Baldock, D. (2009) The Provision of Public Goods Through Agriculture in the European Union, Report for DG Agriculture and Rural Development, Contract No 30-CE-0233091/00-28, Institute for European Environmental Policy: London.

decline present an urgent challenge, biodiversity frequently features prominently in assessments of the strength of the intervention logic for using public money to secure public goods from farming and land management.

7. Prioritising biodiversity delivery through a new sustainable land management policy will be essential if Welsh Government is to meet its commitments and deliver on legal frameworks (discussed further below) to reverse biodiversity decline and establish resilient ecological networks essential to maintaining nature and society. Indeed, **it is not an exaggeration to say that nature's recovery depends upon the design of the new land management policy.** However, a number of other measures are also necessary to secure this objective. Some of these measures are listed below, and touched upon throughout this response. We would be happy to provide additional information about our thoughts on any of these.
8. Other measures necessary to meet Welsh Government biodiversity commitments:
 - **Ensure Brexit does not lead to a lowering of environmental standards and protections.** This means both securing core **environmental principles** and robust arrangements for **environmental governance and enforcement** in domestic law, and ensuring the process of 'domesticating' EU legislation, via statutory instruments, **does not result in any lessening of existing legal requirements.**
 - **Complete Wales' designated site networks** on land and sea and secure their proper protection, management and monitoring.
 - Undertake habitat restoration and creation to **enhance the connections between special sites and priority habitats**, and create **wider resilient ecological networks** providing vital benefits to people and nature.
 - Create **a specific fund to bring back species that are declining towards extinction** in Wales, and finance monitoring and research to increase our understanding of future trends for Welsh species.
 - Address the huge resource gap for delivery of Wales' ambition for nature, e.g. through **re-investing revenues from the natural resources of the government estate (timber and renewable energy) into NRW's natural resource management functions**, and by identifying synergies and opportunities for integrating nature's restoration into other key areas of the Welsh Government budget, such as **preventative approaches to support mental and physical health.**
 - Secure **an ambitious Nature Recovery Action Plan**, for land and sea, that enables all government departments to plan their contribution to nature restoration, and
 - **Establish statutory targets or milestones to drive cross government action.**

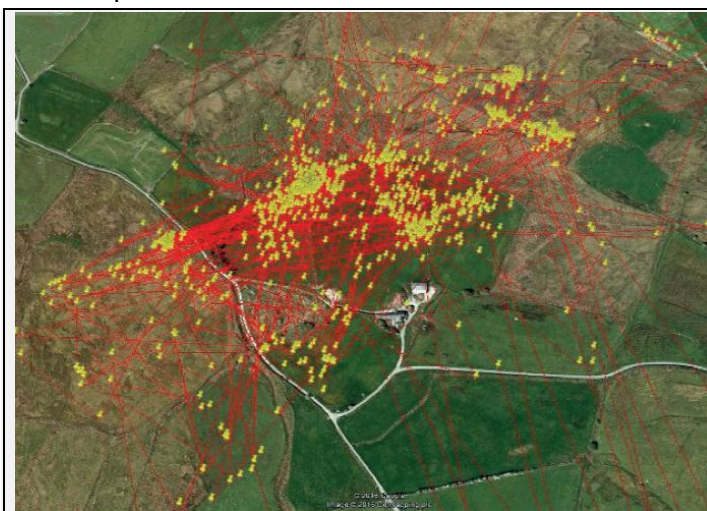
Question 1: How could the Welsh Government's proposed Public Goods Scheme, set out in Brexit and our Land, be applied to restore biodiversity?

9. **The importance of the wider legislative framework.** To be effective a future Public Goods Scheme **must operate within a wider legislative framework that successfully enshrines new**

arrangements for environmental standards and governance, and secures core environmental principles, such as *polluter pays* in Welsh law. This framework must also include **new statutory targets or milestones for nature's recovery** (which the Public Goods Scheme will help meet) that would enable Government and public bodies to be held to account over the delivery of the variety of policies affecting the management of the environment, and provide a check on effectiveness.

10. **Building on experience from previous Agri-Environment Schemes (AES).** Previous Public Goods type schemes (e.g. Tir Gofal and Glastir) designed to benefit biodiversity have been met with varying success. **Whilst they have had some positive impact on habitats they have largely failed to maintain and/or restore priority species⁹.** There are several reasons for this including scheme popularity, overly prescriptive interventions and inadequate provision of advice and guidance. To address these failings, we believe **future initiatives must be more inclusive of farmers and land managers and, where appropriate adopt a more flexible approach to decision making and delivery based on results and outcomes at the appropriate scale.** For biodiversity, the *appropriate scale* means being large enough to provide the full ecological requirements to support viable populations of target species, typically landscape scale, especially for highly mobile species such as curlew – see box 1. Ongoing and appropriate advice and guidance will be essential in securing successful outcomes.

Box 1: GPS tracking data showing the usage of different habitats by breeding curlews at field and landscape scale:



In 2016 RSPB and BTO used GPS to track 3 breeding male curlews near Ysbyty, Migneint. The results show how wide ranging the birds are with individual territories ranging from 40 hectares to 4000 hectares. One bird regularly overnights 3 km away from his daytime roost.

See State of Birds in Wales 2018 for the full report.

11. Despite limited success to date, **RSPB Cymru believes that the concept of *agri-environment as a means of restoring/maintaining biodiversity is sound (see box 2).*** To establish an effective Public Goods Scheme Welsh Government must build upon the last three decades of experience and act on independent recommendations to improve scheme design and delivery¹⁰. For the sake of clarity, we believe a future Public Goods Scheme, designed to restore and maintain biodiversity, requires the following elements:

⁹ CEH, 2016. Glastir Monitoring and Evaluation Final Report.

¹⁰ Wales Audit Office. 2014. Glastir.; Joyce, I. Radley, G. and Williams, A. 2016. Glastir Advanced Evaluation

- **A robust (enforced) regulatory baseline**, with the continued application of the polluter pays principle, above which payments for public goods will be made to secure value for money.
- **Widely available land management payments**. Available to all farmers and land managers to address challenges such as declining farmland wildlife, degraded soils and climate change, amongst others. Given lessons from previous ‘broad and shallow’ schemes, securing value for money should be a particular focus and payments should only be made for *additionality*. For biodiversity, this would include payments for (a) continuing existing good habitat management (beyond that required by regulation) essential for restoring and maintaining wildlife populations and/or (b) appropriate new management for the same reasons.
- **Payments for more targeted and complex interventions**. Restoring and creating priority/complex habitats, recovering priority species and improving the condition of designated sites will necessarily require more intensive, targeted effort.

12. Whilst RSPB Cymru supports outcomes/results based payments we also believe that actions/prescriptive based payments (that secure value for money) remain important, particularly to achieve high-level uptake. It’s likely that delivery of a future Public Goods policy for biodiversity will require a combination of both approaches.

13. To be effective an ambitious future land management programme incorporating public goods (biodiversity) delivery will have to include:

- A **degree of targeting**, to ensure that management interventions are at the right scale, and in the right place for a given objective^{11 12}.
- Investment in **expert, trusted advice**^{13 14 15}, central to securing value for money and the buy-in of the farming and land management community.
- A **strong evidence base** as to the effectiveness of different management interventions¹⁶, and the scale at which they need to be deployed.
- Ensure **collaborative action** where appropriate, to secure outcomes at the required scale. This approach will be essential in securing the full ecological requirements of many species, particularly highly mobile ones.
- Investment in **monitoring and evaluation**, including for focal species to understand the effectiveness of any policy intervention, and to drive constant improvements in design and delivery.
- **Farmer buy-in**¹⁷ as a prerequisite to success, that can drive uptake even where the management interventions are challenging and ambitious.

Box 2: The following case study illustrates the effectiveness of the approach described above in securing positive outcomes for nature:

¹¹ Perkins, A.J. (2011). Adaptive management and targeting of agri-environment schemes does benefit biodiversity: a case study of the corn bunting *Emberiza calandra*, *Journal of Applied Ecology*, 48 (3), pp 514-522

¹² Wood, T. J. et al (2015) Targeted agri-environment schemes significantly improve the population size of common farmland bumblebee species, 24, 1668–1680

¹³ Defra (2013), Review of Environmental Advice, Incentives and Partnership Approaches for the Farming Sector in England.

¹⁴ Lobley M, Saratsi E, Winter M, Bullock JM. (2013) Training farmers in agri-environmental management: the case of Environmental Stewardship in lowland England. *Int. J. Agric. Manag.* 3, 12–20. (doi:10.5836/ijam/2013-01-03

¹⁵ Jones N, et al. (2015) ES quality assurance programme, 2013/14: Assessing the role of advice and support on the establishment of HLS agreements. Natural England Contract Reference LM0433

¹⁶ Mountford, J.O. & Cooke, A.I. (editors), Amy, S.R., Baker, A., Carey, P.D., Dean, H.J., Kirby, V.G., Nisbet, A., Peyton, J.M., Pywell, R.F., Redhead, J.W. & Smart, S.M. 2013. Monitoring the outcomes of Higher Level Stewardship: Results of a 3-year agreement monitoring programme. Natural England Commissioned Reports, Number 114

¹⁷ Lastra-Bravo, X. B. et al (2015). What drives farmers’ participation in EU agri-environmental schemes?: Results from a qualitative meta-analysis, *Environmental Science & Policy*, 54, pp 1-9

Nant Ffrancon Twite Recovery Project - RSPB Cymru, National Trust, British Trust for Ornithology, Snowdonia National Park Authority and six farm businesses are co-operating to change farm practices and encourage the flowering and seeding of meadow plants to provide adequate food for the local population of twite, a small finch that is a very scarce breeding bird in Wales. The key delivery mechanism is Glastir and by working with local farmers the project has been successful in establishing a mosaic of habitats across participating farms, which collectively secure the right types and amounts of habitats to support the species. Individual farms, operating in isolation could not achieve this outcome. Key to success has been the involvement of the farmers from the beginning to ensure management for nature is integrated with their wider business models and the provision of appropriate advice and guidance throughout the delivery phase of the project¹⁸.

14. **Supporting High Nature Value (HNV) farming:** In developing future policy to help restore and maintain biodiversity consideration must be given to how best to support High Nature Value (HNV) farming (and associated extensive, mixed grazing systems) so that these farms can continue to provide and manage valuable habitats for wildlife, many of which are designated as Sites of Special Scientific Interest (SSSIs) - see map below. HNV farming is typically found in the uplands and other marginal parts of Wales, is usually the most economically vulnerable and at greatest risk from policy change. **However, whilst many HNV farms struggle to make money when meat production is the only objective this type of farming could benefit significantly from a policy that rewards public goods (including biodiversity) delivery** as highlighted by the following maps¹⁹. The maps show that the uplands are well placed to benefit from a Public Goods scheme, **however opportunities extend right across Wales**, especially in relation to biodiversity where losses have been most significant in lowland areas²⁰.

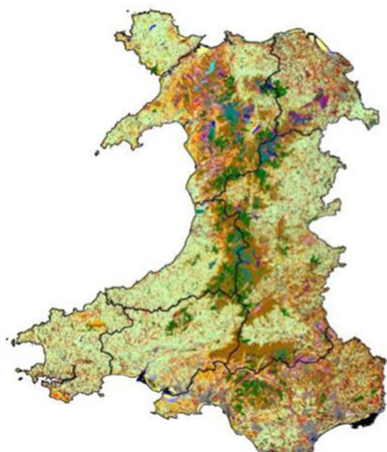
¹⁸ Similar approaches have been used elsewhere in the UK to reverse population declines for Cirl Buntings in Devon and Cornwall, Stone Curlew in East Anglia and Corn Crake in the Hebrides.

¹⁹ Biodiversity areas highlighted have additional, diverse public goods value, &/or the potential to deliver public goods e.g. water management, carbon sequestration etc.

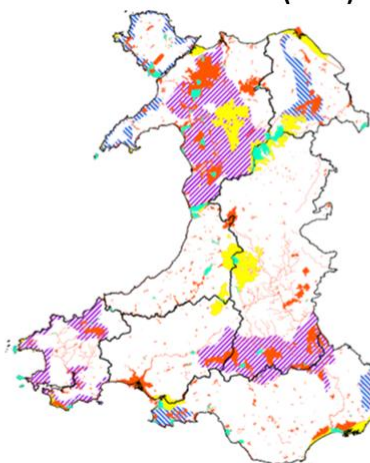
²⁰ State of Nature 2016 and State of Birds in Wales 2018.

Maps showing the correlations between High Nature Value farming and biodiversity:

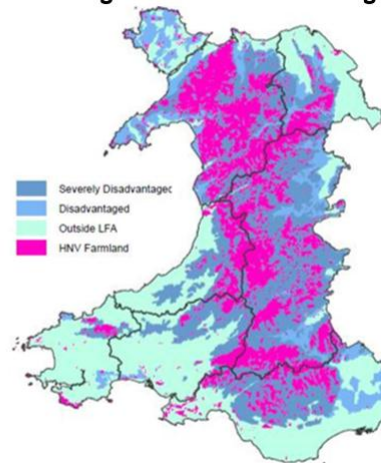
Land classification (habitat areas)



Protected sites (SSSIs)



High Nature Value Farming



15. **Adequate funding for a Public Goods Scheme.** To be effective a **future public goods scheme must be adequately funded** to meet objectives. RSPB, National Trust and the Wildlife Trusts have already established that Wales will require a minimum of £210 million per annum to enable Welsh Government to meet biodiversity and wider environmental commitments²¹. Much of this would be paid to farmers and other land managers in return for land management that secures desired outcomes including helping restore and maintain biodiversity.

16. **Public investment in restoring and maintaining biodiversity will also secure wider benefits for society and help Welsh Government meet other international, environmental commitments such as climate change and water quality.** For example, the restoration/management of habitats such as blanket bog and woodland will help mitigate climate change through carbon storage and sequestration and aid water management, both quality and flow. **Securing wider natural resource benefits will also ensure we maintain our capacity to produce food for this and future generations.** RSPB Cymru also believe farmers and other land managers should be able to access both the Public Goods and Economic Resilience Schemes, and that **the two schemes should combine to help them maximise the biodiversity value of their land and produce food (and other commodities) as efficiently as possible.**

²¹ (2017), Matt Rayment. Assessing the costs of Environmental Land Management in the UK.

Question 2: How could the various existing Welsh Government policies and legislation for biodiversity restoration be applied in the design and implementation of the proposed Public Goods scheme?

17. **The legal and policy framework for biodiversity in Wales identifies spatial priorities which the Public Goods scheme must make a major contribution to delivering if it is to support the recovery of Wales' nature.** These include Sites of Special Scientific Interest (under the Wildlife and Countryside Act 1981, as amended), Special Protection Areas/SPAs and Special Conservation Areas/SACs and Ramsar sites (wetlands of international importance that are treated in the same way as SACs and SPAs). These are all sites designated for their nature conservation importance, with bespoke conservation objectives and legal requirements for their protection, management and monitoring.
18. **The management and monitoring of designated sites is chronically under-resourced and in many cases they are failing to meet their objectives.** For example, the SoNaRR reports that only a quarter of SAC habitats are in a favourable condition and the condition of SAC and SPA species features on sites in Wales, as reported in 2013, remains mostly unfavourable (55%)²². Natural Resources Wales' 'LIFE Natura 2000 Programme for Wales: Summary Report'²³ costed priority management actions to bring all Natura 2000 sites into favourable conservation status at just over £120m. There has been no condition assessment of Wales' nationally important sites for biodiversity (Sites of Special Scientific Interest) since CCW's 'Rapid Review' in 2006, and **the budget for management agreements to enable land managers to enhance the status of protected site features continues to diminish.**
19. In addition to protected sites, **we expect Area Statements (under the Environment (Wales) Act) to identify spatial priorities for delivery against the challenges, priorities and opportunities set out in the Natural Resources Policy (which include reversing biodiversity decline and building resilient ecological networks).** For example, this may mean identifying key opportunities for habitat restoration or creation to enhance ecosystem resilience (by creating larger areas of habitat, enhancing connectivity between existing important areas), or key areas for focused actions to address declines in priority species (species listed under section 7 of the Environment (Wales) Act). Box 3, below, provides information about a RSPB commissioned research on biodiversity and the area based approach.
20. As noted in our answer to question 1, **we expect payments to be widely available under the future public goods scheme, and accompanied by a robust regulatory floor. The impact of this should be to enhance ability of nature to thrive throughout the countryside, and to reduce the pressure on protected sites resulting from surrounding land management.** The more complex and targeted interventions funded by the public goods scheme should be guided by the spatial priorities set out above. This will make it a vital new source of funding to contribute to the delivery of Wales' commitments and ambitions for biodiversity and resilient ecosystems, which our legislation recognises as key to socio-economic resilience and well-being.

²² <https://naturalresources.wales/media/679581/chapter-3-state-and-trends-final-for-publication.pdf>

²³ Natural Resources Wales, 2016. LIFE Natura 2000 Programme for Wales: Summary Report.

Box 3: RSPB commissioned research considering how to secure biodiversity benefits via Area Statements:

RSPB Cymru commissioned the Sustainable Places Institute at Cardiff University to produce a research report on **Biodiversity and the area-based approach in Wales**²⁴. The research included a stakeholder workshop, and a key finding was that biodiversity needs and priorities are not automatically visible to participants, highlighting the need for expert input and direction. The report identified the following principles for the preparation of Area Statements which have been welcomed by NRW:

- ensure that existing biodiversity priorities and objectives across land and sea are understood by all involved as integral to achieving SMNR
- support the delivery of SMNR at local level, while communicating how it links to national policy
- catalyse action through strong local leadership
- secure effective coordination and communication between stakeholders, and SMNR and biodiversity specialists
- use appropriate tools to visually represent data to facilitate understanding of the spatial linkages between biodiversity, ecosystem services and priority actions
- widen and deepen stakeholder participation to ensure it is meaningful and give the time needed to build strong relationships and understanding

21. It's important to highlight an critical current source of funding for nature that is at risk as a result of Brexit: the EU Life Nature fund. **LIFE is the EU's main fund for ambitious species recovery and environmental projects. Its budget for 2014-2020 is £3.1bn.** The fund provides for targeted work necessary for species and habitat recovery, LIFE projects are directed at major strategic environmental goals and therefore tend to be funded at scale (£1-4million per project), **allowing it to tackle large-scale issues and create significant change. UK environment projects receive c.£20 million per year from LIFE.** Since 1992 a total of 249 UK projects have been co-financed, a total investment of €585 million, of which €272 million has been contributed by the EU. This includes €127 million in LIFE grants for 71 nature conservation projects. **20 of these nature and conservation projects took place in Wales with a total value of over €85 million.** Many of our biggest species and habitat recovery projects of the past 25 years have been built upon LIFE funding. LIFE is the only fund dedicated to this work and while other funds (such as the diminishing Heritage Lottery Fund (HLF)) can support this work through match-funded projects, they cannot replace them. **The loss of this fund will significantly reduce critical action to meet biodiversity commitments.**

Question 3: What lessons can be learned from the Glastir Monitoring and Evaluation Programme to ensure effective monitoring and evaluation of schemes to support the restoration of biodiversity. How should the new Environment and Rural Affairs Monitoring and Modelling Programme be designed and implemented effectively for this purpose?

22. **Agri-Environment Scheme Monitoring between 2009 – 2012.** Agri-environment schemes in Wales have employed various methods of monitoring. The results of AES species monitoring between 2009 – 2012 have recently been accepted as a peer-reviewed article in the Journal of

²⁴ RSPB Cymru, Cardiff University. 2018. Biodiversity and the area-based approach in Wales How can the sustainable management of natural resources (SMNR) framework deliver nature recovery?

Applied Ecology²⁵. The monitoring included components that focused on ecosystem services, habitats, species and included dedicated field work to survey a range of taxa: arable plants, grassland fungi, bats (six species), butterflies (three species), birds (five species), and terrestrial mammals (two species), with AES sites selected on the basis of the presence of prescriptions predicted to be beneficial to the taxa in question. This spatial approach predated the use of resurveying used in GMEP. **The results indicated limited benefits of AES management, although taxa dependent on arable habitats were more likely to be more abundant or species-rich in farms or fields under AES agreements than non-AES farms or fields.**

23. **Glastir Monitoring and Evaluation Programme.** The approach taken by GMEP towards species monitoring differed from this earlier monitoring in two key respects. **Firstly, it employed a re-surveying strategy, allowing for changes over time to be detected,** and enabling the effects of AES management to be more confidently attributed. We are very much in favour of this. **Secondly, it did not target dedicated field work to species of conservation concern; rather, it developed indices of taxonomic groups, and reported habitat quality.** This latter approach may be understandable when carrying out a national monitoring programme, as scarce species are more difficult to detect when sampling sites are randomly located.
24. **Nevertheless, we strongly recommend that ERAMMP takes account of scarce species.** The ecological needs of some species are imperfectly known, and effects other than habitat quality e.g. predation pressure, may mean that measures of habitat quality may not accurately reflect the impact of AES on the species they are intended to benefit.
25. **Planning and carrying out a species-focused monitoring programme in Wales has been possible in the past, and should form part of ERAMMP. This would be additional to the existing survey methods used by GMEP: considering the amounts paid in agricultural subsidies, a small fraction of these resources for effective monitoring should be considered an investment rather than a cost.**
26. Finally, we also recommend that the design of the new public goods scheme should include more specific aims/objectives for species. This would allow monitoring to evaluate the scheme against targets, rather than non-specific aspirations. These aims need not be onerous or unrealistic, but they would assist in providing an honest appraisal what we hope to provide through public funds.

²⁵ <https://besjournals.onlinelibrary.wiley.com/doi/full/10.1111/1365-2664.13329>

Agenda Item 3

Y Pwyllgor Newid Hinsawdd, Amgylchedd a Materion Gwledig | Climate Change, Environment and Rural Affairs Committee

Ymchwiliad Bioamrywiaeth | Biodiversity Inquiry

Ymateb gan : Confor | Evidence from : Confor

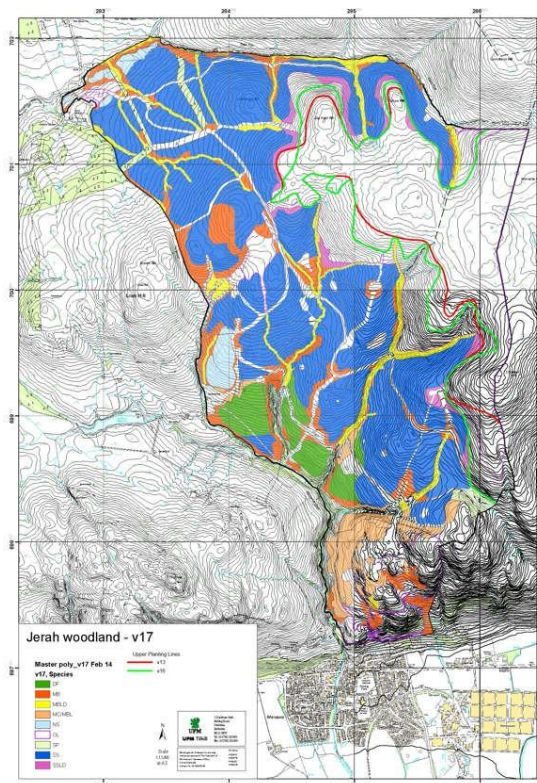
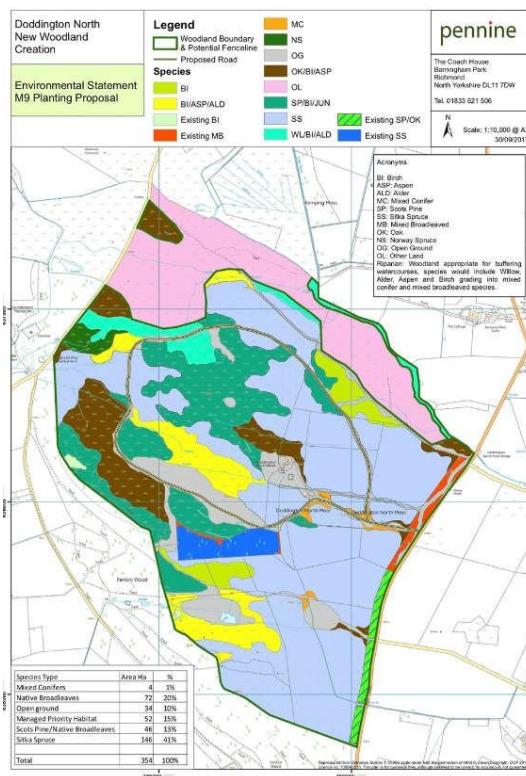
Confor: Promoting forestry and wood (www.confor.org.uk) is a not-for-profit membership organisation which represents 1500 sustainable forestry and wood-using businesses across the UK. Confor represents the whole forestry and wood supply chain and focuses on strategic issues vital to the success and sustainable future of the sector.

In Wales, Confor works with businesses, Assembly Members, government departments and relevant stakeholders to increase understanding of forestry and timber and to remove barriers to new woodland creation in Wales, resulting in larger, healthier, better-managed and more productive forests and woodlands for multiple benefits.

The biodiversity value and potential of forestry

Forestry quickly diversifies an agricultural landscape, and restores a historically-deforested landscape closer to its natural state while remaining economically productive.

Under the UK Forestry Standard, all new productive forests, as well as existing forests when they are restocked, are required to include a minimum of 25% of their area managed for biodiversity. This includes a minimum of 10% diverse conifer, 10% open space and 5% native broadleaves.



Two new productive forestry projects: Doddington North Moor in England (2017, left) and Jerah in Scotland (2015, right), showing the diverse habitat network created by a new forest.

In reality, site constraints usually mean the biodiversity element is larger than this. New forests planted in England and Scotland in recent years (such as the examples above) have allocated 40-50% of the site to biodiversity management. Forests in Wales would conform to the same standards, but unfortunately no applications to plant new productive forests of any size have been approved in Wales for many decades.

The majority of timber-producing woodlands in Wales are independently certified to the FSC standard, developed in conjunction with WWF and RSPB.

Productive forests create some of our richest micro-habitats including:

- **Edge habitat:** Margins, where one land use meets another, are some of the richest and most important for wildlife. As the maps above show, modern forests create numerous edges between forests of different ages and species and with open areas.
- **Deadwood:** forest management for timber production accelerates the accumulation of deadwood in the forest by leaving a proportion of standing and fallen deadwood at thinning and harvesting.
- **Dynamic habitat:** A forest's coupes succeed quickly from one habitat-type to another: 'pseudo scrub' of young trees, closed-canopy creates deep shelter, thinning creates light, clearfell creates open areas.
- **Freshwater habitat:** A pond, stream or wetland in an agricultural environment is subjected to annual pressures and continuous risk of disturbance or pollution from humans, animals or chemicals. Within a forest, they are hidden and protected from interference for decades at a time, and are able to develop as rich wildlife habitats. At the forest design stage, measures must be taken to enhance their value and improve water quality, by keeping forestry activity at least 10 metres from water features, and implementing measures such as blocking former agricultural drains which accelerate run-off.
- **Native woodland:** In addition to a minimum of 5% new native woodland creation (over 1,000 native trees for every 10 hectares productive planting¹), any existing native woodland on the site is brought under professional forest management. This ensures that any invasive species such as rhododendron are tackled, and signs of pests or disease identified. The forester will also have the experience and expertise to identify opportunities to enhance the native woodland's biodiversity value of which the owner might have been unaware.

There is a perception that productive conifer is of lower biodiversity value than native woodland. This is not the case for woodlands of similar age, and, given the poor management of many native woodlands at present, is often not the case even for ancient woodland. A 2003 UK-wide study recorded 623 different species in upland Sitka spruce forests, a higher total than was recorded in the Oak and comparable with the figures recorded for the Scots pine in the study.

¹ 10 hectares of productive conifer would require a 13.3 ha site to include a 25% diverse element; this would include 0.6 ha native broadleaves, which planted at 1,500 trees per hectare is 1000 trees.

The single biggest threat to biodiversity, both worldwide and in Wales, is climate change. Growing trees and locking up the timber in long-term products such as buildings is the only effective technology we possess for removing carbon from the air, an essential component of any zero-carbon strategy.

How could the Welsh Government's proposed Public Goods scheme, set out in Brexit and Our Land, be applied to restore biodiversity?

While the initial costs of this at the design stage of the forest are covered by planting grants, when these are available, at present any subsequent biodiversity benefits must be met out of the business income of the forest.

Providing more sustained support for these benefits under the Public Goods Scheme would:

- ensure that forestry is not economically disadvantaged by competing land uses which do not provide this added value;
- develop an understanding by both the forest owner and the wider public of the value of the biodiversity in forests, by giving it financial value;
- provide opportunities to monitor and research the value of the biodiversity in productive forests, which at present is poorly documented;
- provide opportunities to create additional value on forestry sites by providing additional funding for specific biodiversity objectives which would not be included in ordinary forest management: for example, grey squirrel control or management of rivers or native woodland.

Large areas of woodland in Wales are at present unmanaged and unproductive. These are largely native and ancient woodland, and should be some of Wales' most valuable biodiversity sites. However, their low economic value means their biodiversity value is reducing due to undermanagement and in many cases the woodland itself is slowly disappearing. For woodlands like these, funding for biodiversity under the public goods scheme is essential to bring them back into professional management and growing biodiversity value.

It is important in considering the proposed public good scheme that an owner or land manager can blend both public good and economic value. In turn the owner should be able to access a blend of economic resilience support and public good payments. This combined access would for example allow projects initially designed to produce productive timber to enlarge their biodiversity element and manage that segment of the forest to a higher standard.

How could the various existing Welsh Government policies and legislation for biodiversity restoration be applied in the design and implementation of the proposed Public Goods scheme?

What lessons can be learned from the Glastir Monitoring and Evaluation Programme (GMEP) to ensure effective monitoring and evaluation of schemes to support the restoration of biodiversity. How should the new Environment and Rural Affairs Monitoring and Modelling Programme (ERAMMP) be designed and implemented effectively for this purpose?

Y Pwyllgor Newid Hinsawdd, Amgylchedd a Materion Gwledig | Climate Change,
Environment and Rural Affairs Committee

Ymchwiliad Bioamrywiaeth | Biodiversity Inquiry

Ymateb gan : Undeb Cenedlaethol yr Amaethwyr (NFU Cymru)

Evidence from : National Farmers' Union Cymru (NFU Cymru)

1. NFU Cymru welcomes the opportunity to respond to the Climate Change, Environment & Rural Affairs Committee Inquiry into Biodiversity.
2. We note this inquiry is intended to explore biodiversity restoration in the context of the proposed Public Goods Scheme and asks:
 - a. How could the Welsh Government's proposed Public Goods Scheme, set out in Brexit and Our Land be applied to restore biodiversity;
 - b. How could the various existing Welsh Government policies and legislation for biodiversity restoration be applied in the design and implementation of the proposed Public Goods Scheme; and
 - c. What lessons can be learned from the Glastir Monitoring and Evaluation Programme (GMEP) to ensure effective monitoring and evaluation of schemes to support restoration of biodiversity. How should the new Environment and Rural Affairs Monitoring and Modelling Programme (ERAMMP) be designed and implemented effectively for this purpose?
3. Firstly, we note in the background narrative provided to the Inquiry, the Committee refers to Natural Resources Wales (NRW) State of Natural Resources Report (SoNaRR) as well as the State of Nature Report produced by environmental NGOs. We would take this opportunity to refer you to the body of evidence presented in GMEP [here](#) which refers to a number of positive trends emerging from this Programme which is one of the most comprehensive monitoring of agri-environment schemes anywhere in Europe. These include:
 - Stable overall plant species richness in woodland habitat but evidence of a decline in arable, improved and habitat land up until 2007 when it appears to have stabilised
 - Recent stability for upland farmland birds and an increase in woodland bird species
 - No further decline over the last 10 years in specialist butterfly species
 - General ongoing improvement in the condition of small streams since 1990 based on macro-invertebrate communities with 80% of streams surveyed through GMEP in good or high ecological condition
 - A significant trend for increasing area of woodland over the last 15 years.
 - An increase in woodland bird indicators
 - Land use, land use change and forestry in Wales has changed from a small GHG source to a sink between 1990 and 2013 as a result of increased carbon storage in vegetation and soils
 - Reductions in nitrogen fertilizer consumption across Wales by approximate 45% between 1990 and 2013
 - A significant decline in available phosphorus for improved land providing benefits for freshwaters
 - The 30 year record of topsoil carbon indicates no decline and there is ongoing recovery of soil acidity – both are positive outcomes.
4. Overall the GMEP Programme findings show an overall picture of stability and some improvement.

5. With respect to how the proposed Public Goods Scheme as proposed in Brexit and Our Land could be applied to restore biodiversity we would make the following points. You are also referred to the NFU Cymru response to the Brexit and Our Land consultation [available here](#).
6. NFU Cymru key principles for future policy include:
 - a. A policy that underpins and secures the continued support of safe, quality, traceable, affordable food for our nation, in the context of future global challenges, must be at the heart of any future agricultural policy
 - b. All farmers must be fairly rewarded for the environmental/public goods they already deliver and will continue to deliver in future for society
 - c. Policies must be simple to administer, easy to understand and target support at those active farmers who take the financial risks associated with food production
 - d. Investment measures are required to ensure that farming businesses are well equipped to face the challenges and maximise the opportunities of a post-Brexit marketplace
 - e. The regulatory regime must be proportionate and evidence-based and policies must be adequately funded to ensure that Welsh farming remains competitive with farmers in the UK, EU and globally
7. In terms of a new agricultural policy for Wales, NFU Cymru proposes a single, integrated, flexible framework based around three cornerstones – productivity, environment and volatility/stability.
8. Farmers manage over 80% of the land area of Wales. Over many centuries farming has shaped the countryside we all now enjoy. Over the past 30-40 years, farmers have carried out a huge amount of work to encourage wildlife, enhance the landscape, benefit soils and water and reduce climate impacts.
9. Every farmer in Wales already contributes and has the potential to further contribute to practical environmental farm management that includes the protection and enhancement of existing features on their farm as well as the maintenance of actively farmed land to support biodiversity, carbon, soils, water and air quality alongside their core food production role.
10. In terms of environment measures, NFU Cymru proposes a farmed environment scheme that is open and accessible to every farmer that wishes to undertake activities that go beyond the regulatory baseline. This scheme should be multi-annual and the ambition should be to have the maximum amount of farmed land under the scheme. The scheme must be developed in genuine partnership with the farming industry and be properly trialled and piloted ahead of roll-out. Detailed assessment of impacts – economic, environmental, social and cultural – are vital prior to any changes being implemented.
11. Complimentary to the farmed environment scheme, NFU Cymru would support the introduction of an advanced scheme for farmers who wish to go above and beyond the measures in the farmed environment scheme. This scheme would be suited to those farming in designated areas or farmers with designated sites on their farm, those with significant natural constraints and those who have been in agri-environment schemes or farming organically for a significant number of years.
12. Future environment support should include a mix of management and capital payments.
13. Given the proportion of land in Wales that is tenanted, special consideration will need to be given as to how tenant farmers can access support in the future.
14. In framing payment for the delivery of public goods related to resilient habitats and ecosystems, NFU Cymru would highlight the need to consider and understand the concept ‘natural environment’. No area of Wales is truly natural in the sense that it has been unaltered by human activity. The vast majority of what is described as the natural

environment is in fact semi-natural vegetation and semi-improved grassland which is reliant on active and continuing land management by farmers.

15. The natural environment should not be presented within the future Public Goods scheme as something that requires 'protection' from agricultural activity. Rather it should be viewed as being conserved by the farming community who have created, shaped and maintained the environment over centuries.
16. There is a need to recognise and value the maintenance of habitats within the Public Goods scheme alongside habitat creation, restoration and enhancement.
17. Significant areas of habitat already exist of Welsh farms. These habitats and their connectivity through provision of well managed hedgerows and streamside corridors and so on must be valued through the future approach. The aim should be to maintain diversity of habitats. This will include improved grasslands and diverse cropping which are all highly important feeding areas for many bird species.
18. NFU Cymru strongly rejects the proposal that future support should only encompass the provision of additional public goods from the land. Farmers alongside their role as food producers have and continue to produce a vast range of goods and services for society. It is important to recognise that many of our most valued species and habitats are the result of active management by farmers, for example, through grazing of livestock.
19. NFU Cymru believes the starting point for the development of any proposed public goods scheme should begin with an assessment of the public goods farmers are already delivering. We would highlight, in the context of possible radical changes to the trading and policy support environment, there can be no guarantee that these baseline public goods will continue to be delivered in the future.
20. More information is urgently needed on the methodology by which public goods, values and outcomes will be determined for public goods. We have concerns that the sheer complexity in identifying outcomes, their proxies and values may limit the inclusion of very important public goods. The basis on which public goods are included in the future public goods scheme may be subject to lobbying pressure and not considered on an objective basis.
21. We foresee that the process by which outcomes for biodiversity and ecosystems will be valued and monitored to be highly complex and difficult. The outcomes for biodiversity and the capacity of farmers to deliver results is likely to be influenced by a range of factors, many of which will be completely outside their control.
22. For example, consideration will be needed of pressures and drivers of biodiversity change at the appropriate spatial scale. Many species on the red list, for example, will be migratory species and subject to pressures outside Wales. A further example of factors beyond the farmers control would be predation which is a significant issue that is contributing to the decline of some species. There will be a need to recognise that effective species management varies from strict protection through to deployment of active control measures where species populations start to increase to unsustainable levels, impacting negatively on their habitat and other species.
23. The timing of inspection for outcomes that are seasonal or weather sensitive is an additional area where farmers could be placed under stress.
24. NFU Cymru believes that the pros and cons of an outcome based approach, therefore, merits further detailed consideration. Whilst the inflexible, prescriptive nature of the Glastir Scheme has proved challenging for farmers, results based approaches have their own advantages and disadvantages. Thus far, such approaches have been for singular priority environmental outcomes as opposed to the delivery of multiple public goods. Results based approaches have, to date, also operated alongside Pillar 1 direct support. Welsh Government, through

proposals, is in very much uncharted territory as a result and great care is needed to ensure that impacts and unintended consequences are fully understood.

25. It is important to recognise that results-based approaches increase the risk for farmers and embed an inherent volatility in the key mechanism aimed at delivering rural resilience.
26. The provision of some public goods is reliant on farming activity and the intrinsic links between public goods and farming activity is an area which requires further exploration. Fundamentally we believe a fundamental principle for moving forward should be the development of a public goods scheme that pays for the public goods and benefits arising from agricultural activity.
27. Whilst the proposed Economic Resilience Scheme has not been made the subject of this Inquiry specifically, we take this opportunity to highlight that investments that improve productivity of farm holdings can often deliver improvements in the environmental performance of the business also.
28. In terms of the existing Welsh Government policies and legislation that should underpin the development of the proposed Public Goods Scheme, we would refer you the Well-Being of Future Generation Act (2015) as well as the Environment (Wales) Act (2016).
29. The Well-Being of Future Generations Act establishes how all public bodies must work to enhance economic, environmental, social and cultural well-being of Wales. The proposed land management scheme must be designed through this lens. Indeed, it our view that it is only through achieving economic resilience that the continued delivery of the range of goods and services provided by farmers will continue to flow. The lack of coherence between proposals in Brexit and Our Land and a wider suite of policy drivers fundamental importance to well-being and the economy of Wales is, therefore, concerning.
30. We are clear that economic resilience underpins environment, social and cultural resilience. The delivery of biodiversity outcomes will be one of many objectives that the future policy will need to secure. We would further highlight that whilst this Inquiry seeks to examine biodiversity and there will be international commitments for Welsh Government in this area, it is also important to note that there will be a range of international and national obligations Wales has to meet and future policy should not be used for the advancement of any one of these obligations over another.
31. The requirement for future agricultural policy to deliver against the Natural Resources Policy is, therefore, concerning and out of line with the wider legislative agenda.
32. The Environment (Wales) Act (2016) establishes the principles of the sustainable management of natural resources and sets out ways of working. We would highlight that the framework established under this Act is still new and not widely understood. The process of developing area statements for example, is at its early stages. There are risks that area statements could result in a post code lottery of support for farm businesses across Wales – areas where public goods delivery is prioritised and areas where food production is prioritised. In our view a scheme that has as its sole objective delivering the Natural Resources Policy cannot be assumed to deliver equal access to all farm businesses.
33. We would be concerned if future public goods approach specified areas, set boundaries, placed restrictions on what public goods can be delivered where. We would highlight that the spatial mapping process underpinning Glastir Advanced has been a significant source of frustration to many farmers who have been denied opportunities to participate in the scheme. Ultimately, the delivery of outcomes for the environment is dependent on farmers wanting to participate in schemes.
34. In terms of lessons that can be learned from GMEP, NFU Cymru would highlight that we have long expressed disappointment that the positive outcomes resulting from the investment of public funds in existing agri-environment schemes like Glastir (highlighted above) have been very poorly communicated or promoted to the public.

35. In reality, farmers who have participated in schemes which have been designed by experts, which are challenging to comply with and which contribute a very limited amount to farm profitability as payments are based on a cost-incurred basis, frequently express frustration that they continue to be criticised for their environmental performance despite doing exactly what they have been told to do. This is an important point as it undermines confidence in participation in future schemes.
36. On the issue of moving beyond 'cost incurred, income forgone' calculations, we would highlight that Welsh Government have stated as fact that the future scheme will not be paid on a cost incurred, income forgone basis. Whilst this would be welcome, at this stage NFU Cymru does not share the same confidence that this will be achievable and 100% certainty is required before progressing.
37. We would highlight that the stakeholder group established to guide the operation of the GMEP programme has not been continued in the ERRAMP programme and we believe that this is a significant omission. A clearer communications plan by which findings can be communicated is also required.
38. Overall we would highlight that farmers in Wales have a long track record of delivering practical environmental action and management at farm level to deliver positive outcomes for biodiversity. Before moving forward, Welsh Government must seek to address the issues and uncertainties set out in this response.
39. NFU Cymru believes that biodiversity obligations have to be balanced with a range of other economic, broader environmental, social and cultural objectives. We are clear that the focus of the future public goods scheme should be on optimising multiple benefits through sustainable agricultural systems.
40. We note the invitation to submit oral evidence to the Committee on Thursday 7th February 2019. NFU Cymru looks forward to giving evidence at this event.

General Comments

1. Welsh farmers have delivered positive public outcomes for the nation for centuries; their historical practices, existing knowledge and expertise has often been dismissed or overlooked, to the detriment of ecosystems, and full consultation with farmers should therefore be undertaken so that the best approaches for biodiversity can be properly identified.
2. Farmers must be fairly rewarded for what they have already delivered, continue to deliver and will deliver in the future. Historically, Wales has been seen as an exemplar in terms of rewarding farmers for delivering public and environmental goods. The Welsh Assembly Government's flagship Tir Gofal scheme was only introduced in 1999 after a seven year pilot, starting in October 1992, looking at the impact of such a scheme on farms in Meirionnydd, Dinefwr and Swansea – areas chosen as representative examples of the wide variety of Welsh landscapes, habitats and farming systems.
3. Any significant changes to rural and agricultural policies should be thoroughly investigated in terms of impacts before considering implementation, given the potential adverse impacts on the 52,000 employed on Welsh farms and 240,200 employed across the Welsh food and drink supply chain.
4. Lessons must be learned from the impacts of prescriptions and approaches which ignore the reliance of ecosystems on agriculture, for example in areas of Wales where prescribed reductions in agricultural activities have led to undergrazing and reductions in ground-nesting bird numbers.
5. Given current enthusiasm for approaches such as wilding, adverse impacts of reductions in agricultural activity around the world areas must also be taken account of. For example, a review in 2014 of 276 studies of the effect of farmland abandonment by the Stockholm Resilience Centre found that while some areas saw an increase in biodiversity, most did not, especially in Europe. Similarly, in Portugal's Coa valley, land abandonment has led to areas previously high in biodiversity becoming overgrown with dense scrub and forest, while in Japan the loss of farming on around 2,700 square kilometres since 1961 has been accompanied by a steady decline in insects, birds, amphibians and plants.

6. Other adverse impacts of idealistic and naive approaches should also be taken into account, such as the extreme animal welfare problems seen in the Oostvaardersplassen wilding experiment.
7. The FUW recognises the importance of connectivity in ecosystems to develop and support nature. Farmers and landowners have made a significant contribution to increasing connectivity through their participation in whole farm schemes such as Tir Cymen, Tir Gofal and Glastir which has brought in large areas of land, hedges and streamside corridors to be managed in a sustainable manner. In the last five years Glastir has helped to create over 500 km of streamside corridors as well as to create and restore over 2,000 km hedgerows.
8. Work done by farmers to protect biodiversity in Wales should be recognised, as should the fact that farming approaches can be tailored to benefit wildlife and biodiversity in ways which increases ecosystem stability in the face of environmental change without reducing the potential for agricultural yield.
9. The FUW fully acknowledge that the Welsh Government and other public bodies have a duty under the Environment (Wales) Act 2016 to promote the resilience of ecosystems and maintain and enhance biodiversity, but would also emphasise the duty of authorities under the Well-being of Future Generations (Wales) Act 2015 to ensure prosperity, resilience, equality, cultures and communities are not compromised.
10. Given the above, the FUW believes that the schemes currently in place in Wales under the Common Agricultural Policy should be evolved to help tackle biodiversity loss, including through the development of a Public Goods scheme, but that a scheme providing financial security for farm businesses and those reliant on agricultural supply chains must also remain in place if severe consequences are to be avoided.
11. The FUW has therefore proposed the creation of a Policy Reform Group on which core stakeholders are represented – reflecting processes put in place by Ministers under previous Welsh Governments when designing new schemes - which would initially be responsible for the creation of a Policy Reform Roadmap setting out how current policies might be carefully evolved into schemes which better meet all of Wales' Wellbeing Goals while minimising risks of undesirable consequences.
12. Such a group would also be responsible for setting key milestones; assessing policy developments in terms of Brexit, trade etc.; undertaking modelling to assess impacts and dangers of policy proposals and assessing the manageability of any changes in terms of Welsh Government resources (*Figure 1*).

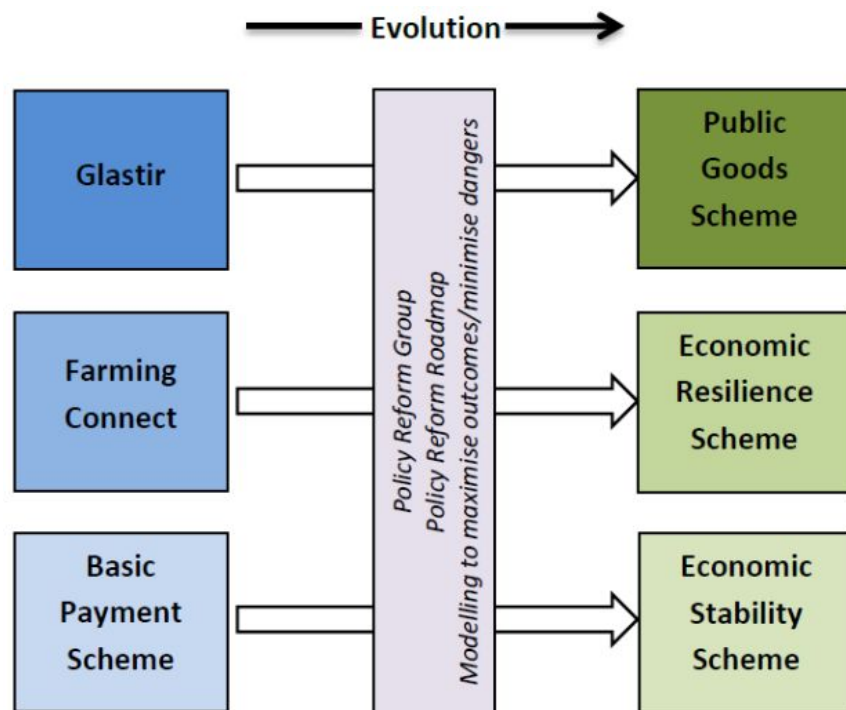


Figure 1

Restoring biodiversity using a public goods scheme

13. Given that the proposal to phase out Direct Payments to farmers and introduce a Public Goods scheme represents the most radical changes to the principles underpinning rural support since the 1947 Agriculture Act, the FUW believes that this warrants detailed and thorough analyses of the potential impacts for Welsh farm businesses, food production, agricultural sectors, local and wider economies, agricultural supply chains, employment and livelihoods, culture and language.
14. The FUW believe that any payment for a public goods type approach should be underpinned by a properly funded tier which is accessible to all farmers in all regions. A universal approach recognises that all farmers in Wales are delivering public goods currently and should have equal opportunity to be fairly rewarded for delivering more public goods in the future.
15. Failure to ensure a baseline tier which provides equal opportunity to all farmers in Wales to deliver public goods as well as rewards farmers for the public goods delivered through current practices at a farm level will inevitably lead to a postcode lottery in terms of access to funding; discrimination against individuals and regions to the extent that large areas suffer major economic impacts; and a loss of engagement with large numbers of farmers who currently provide a wealth of public goods and have the potential to provide much more.
16. The Union would encourage Welsh Government to note that action on biodiversity can be achieved through voluntary approaches and not through additional regulation.

Voluntary approaches should be evidence based and offer solutions that are local to problems.

17. As already brought to the Committee's attention, the FUW is concerned that a thorough legal assessment should be undertaken to assess the compliance of any proposed scheme with World Trade Organisation rules, including Annex 2, Paragraph 12 (Payments under environmental programmes) of the WTO Agreement on Agriculture which states that:
- a. Eligibility for such payments shall be determined as part of a clearly-defined government environmental or conservation programme and be dependent on the fulfilment of specific conditions under the government programme, including conditions related to production methods or inputs.
 - b. The amount of payment shall be limited to the extra costs or loss of income involved in complying with the government programme.

This principle is reflected in EU Common Agricultural Policy Rural Development regulations, under which the Public Good proposals in Brexit and our Land would be illegal.

Given that the proposed Public Goods scheme appears to be a payment under an environmental programme, and that the Welsh Government explicitly state that they wish to make payments which are over and above income foregone and costs incurred, there is significant concern that such an approach would breach WTO rules, or could at least be perceived as doing so, leading to trade embargoes against the UK, and WTO disputes lasting years which would have a severe detrimental impact on Welsh farmers and their overseas markets.

This concern is exacerbated by the recent statement by the Cabinet Secretary for Energy, Planning and Rural Affairs, in response to a Written Assembly Question, that "It is not appropriate at this stage for Welsh Government to seek that confirmation [that the Proposals in Brexit and our Land are compliant with World Trade Organisation rules] as the United Kingdom has not left the European Union and the schemes we propose in 'Brexit and our Land' are yet to be designed."

18. Under Parameter 4 the Brexit and Our Land consultation states that *"...new tools will be required to determine appropriate social values for the outcomes sought, as well as robust methodologies for measuring outcome delivery"*

The FUW acknowledges that while there is a global value for carbon (currently around £15 a tonne), there is no global or UK agreed value for many 'environmental goods' (curlews, yellowhammers, choughs, one litre of cleaned air etc.), so there is a need to develop some form of system for valuing this. Given that England intends to adopt a similar payment for public goods scheme, this also raises questions such as whether certain species have differing public goods values in different areas and regions.

19. As already stated, the Union has concerns about divergence and discrimination between areas. Whilst agri-environment schemes which complement existing direct support payments have worked well on many farms, the fact that they invariably discriminate between farmers depending upon what is present on a farm and/or what area the farm is located in is not disputed.
20. Such divergence and discrimination has existed for the vast majority of such schemes introduced over the past three decades, from Environmentally Sensitive Area (ESA) payments, through Tir Gofal to Glastir.
21. Moreover, thousands of FUW members have direct experience of being unable to access Tir Gofal, Glastir Advanced or other schemes because their farms have not attracted sufficient 'points', either because of the nature of their farming systems and land or the area their farms are in.
22. At present, the majority of CAP funding is paid in a non-discriminatory way, through the Basic Payment Scheme. Brexit and our Land made it clear that under a Public Goods scheme, the payment a farmer may be able to receive will depend on the area they farm in and what is present on the farm – possibly also the degree to which neighbours are willing to cooperate – opening up the potential for huge discrimination between farm businesses in terms of accessing the only payment scheme available to the industry.
23. In addition to directly discriminating between farm businesses, differences between mapping layers and targets could lead to a situation whereby farms which are economically and agriculturally similar must undertake very different actions to access funding which is essential for the business, thereby creating divergence in terms of agricultural production and efficiency, and the contributions made to the local economy.
24. Given the likelihood that the Area Statements introduced under Wales' Environment Act will also dictate the options available to farmers wishing to receive an annual payment, there is also a risk that large areas will lose out on funding because they are perceived as being in areas which are less environmentally valuable than others – leading to significant shifts of funding between areas.
25. FUW Members, many of whom have already been discriminated against under past environmental schemes, and have seen funding shift away from their farms and/or regions as a result of previous direct payment reforms, repeatedly highlight the dangers and inequity of any core scheme which would result in such divergence and discrimination.
26. The FUW has concerns that a number of factors beyond the farmers control must be recognised, such as predation, which is a significant issue that is contributing to the decline of some species. As such, Welsh Government must recognise that effective

species management would need to be implemented when species populations start to increase to unsustainable levels and consequently impact negatively on their habitat and other species.

Existing policies and legislation

27. The FUW recognise the importance of the Well-being of Future Generations Act Well-being goals, and draw particular attention to prosperity, resilience, culture and language, equality, and cohesion. In Wales, around 90% of land is managed by farmers, and these farmers deliver a range of environmental and public goods benefits for society, while also playing a central role in terms of employment, prosperity and culture. As such, an holistic approach must be adopted which recognised the ways in which farmers and agriculture contribute to all well-being goals.
28. Agri-environment schemes in Wales are funded under Axis 2 of the Rural Development Plan. These schemes are designed to provide funding for farmers to manage their land in a way that benefits biodiversity and landscape features, and improve the quality of water and soil. The scheme objectives reflect the government's environmental objectives and a reframing of support to farmers as payments for ecosystem goods and services. The intended outcomes from the Glastir scheme are:
 - a. Combating climate change
 - b. Improving water quality and managing water resources
 - c. Improving soil quality and management
 - d. Maintaining and enhancing biodiversity
 - e. Managing landscapes and historic environment and improving public access to the countryside
 - f. Woodland creation and management
29. The FUW note that farmers have a key role within the State of Natural Resources Report (SoNaRR) report and there is no doubt that they will be vital in delivering many of the key actions outlined in the report. The SoNaRR Report acknowledges the importance of food production in Wales, and the FUW insist that any new domestic policy needs to protect food production in Wales.
30. The Nature Recovering Plan for Wales (NRAP) also recognises that farmers play and have a key role to play in delivering a wide array of goods and services.
31. The NRAP aims to address the underlying causes of biodiversity loss through putting nature at the “heart of [Welsh Government] decision making”. The FUW would argue that a holistic vision would create a more balanced approach to decision making, for example using the well-being goals outlined in the Well-being of Future Generations (Wales) Act 2015.

32. The Welsh Government's National Resource Policy, the publication of which is a statutory requirement from the Environment Act 2016, outlines the opportunities, priorities and risks for the sustainable management of natural resources in Wales. The FUW understand the importance of the priorities outlined in the NRP but emphasize that they must be delivered alongside farming systems which are sustainable both environmentally and economically.

Building on the work of GMEP to shape ERAMMP

33. The GMEP adopted an evidence based approach and the FUW feel this should be championed and built upon.

34. However, it should be noted that in drafting agri-environment agreements, rarely has any account been taken or assessment made of recent and historic farming practices on land which may be delivering significant environmental benefits because of those practices. This is despite many farms having records of practices and changes dating back decades or even centuries.

35. One of the original aims of GMEP when it was launched was to provide fast policy feedback to the scheme so that changes might be modified to improve efficiency and effectiveness. The FUW are unsure to what extent this has taken place, if at all, and would therefore advise that greater transparency is required in terms of what policy changes are being made as a direct consequence of monitoring projects.

36. A number of positive trends were identified in the GMEP report, including national trends showing; "the overall picture is one of stability and some improvement, although some areas for concern remain...there are two to three times more indicators improving (26-30%) than declining (8-14%) in the short and long term, with the remaining 60% showing no change."

37. The Union is concerned that the "new" Environment and Rural Affairs Monitoring and Modelling Programme (ERAMMP) Project is less transparent than was the case for previous approaches to monitoring; and has been set up and is being run with minimal involvement by relevant stakeholders.

38. The FUW is disappointed that there is not an advisory group for the ERAMMP Project. Having sat on the advisory group for the GMEP project alongside other relevant stakeholders, we believe that such inclusion and transparency improved monitoring.

39. The role that the advisory group had on the GMEP project included:

- a. Advising the GMEP project board on programme direction and how to ensure maximum impact
- b. Advising on the delivery of a GMEP communication strategy

- c. Supporting and advising on the development of collaborative activities including emerging and future opportunities, and links with other relevant initiatives and organisations
- d. Identifying additional data and information sources to enhance CMEF reporting requirements

The FUW would therefore question why the ERAMMP project have not taken forward this best practice from the GMEP project.



Eich cyf/Your ref: EJ/CE
Ein cyf/Our ref:FM -/00858/18

Llywodraeth Cymru
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11 January 2019

Dear Elin

I am writing in response to your letter of 4 December to my predecessor as First Minister, regarding the scrutiny of Brexit-related legislation and how to ensure that the National Assembly can play a full part in legislating for Brexit.

The Welsh Government's approach reflects the real and pressing need to respond to the extraordinary circumstances surrounding Brexit, rather than any attempt to limit or frustrate the Assembly's role as a legislature.

I can confirm that the corrections to the legislation made in Wales by the Assembly and the Welsh Ministers, so that the Welsh statute book remains operable at the point of EU exit, are being delivered in up to 50 SIs, to be made by the Welsh Ministers, and are being laid in the Assembly. This will facilitate the full scrutiny of the Assembly and will ensure that the corrections are made in both official languages.

However, it has been necessary to work with the UK Government on other aspects of the process of legislating for Brexit.

It is indeed the case that the Welsh Ministers are seeking delegated powers under three Brexit Bills currently before the UK Parliament, and that we are pursuing this approach in preference, under the circumstances, to bringing forward Bills to the Assembly. I agree that the Legislative Consent procedure set out in Standing Order 29 does not allow Members to carry out the same detailed level of scrutiny that they are able to do for an Assembly Bill. However, when we talk about taking legislative decisions on grounds of efficiency, it must be recognised that this is not just an administrative convenience. We simply would not have

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

been able to bring this volume of legislation before the Assembly in such a compressed time period. The Welsh Government will, as far as is possible in the timescales involved, seek to enable Assembly scrutiny through timely and responsive engagement.

As you know, since May 2016, the Assembly has passed ten Bills (of which one is awaiting Royal Assent), and there are currently four Bills in front of the Assembly for consideration. In terms of subordinate legislation, in a typical year around 150 SIs are laid in the Assembly.

If we had taken the decision that all EU Exit legislation in devolved areas was to be made in Wales, then between September 2018 and March 2019 it would have required an additional 200 SIs and 4-6 Bills to be laid in the Assembly. Even if it were possible to suspend all other business of the Government and the Assembly for this period, the Brexit legislation programme would have required six months of the Assembly's and the Government's time to be spent making more legislation than is normally made in a year in Wales. It would only be possible to pass the necessary Bills in that time by following a fast track procedure which would limit their scrutiny by the Assembly.

I currently expect 140-150 UK Government EU Exit SIs to be made in areas devolved to Wales ahead of exit day, though this number is subject to change as SIs are merged or disaggregated and new ones emerge. Almost all of these will require the consent of the Welsh Ministers through the process set out in the Intergovernmental Agreement.

The Welsh Ministers only consent to the UK SIs where there is no divergence on policy between Wales and the UK, and on that basis the SIs are not politically sensitive. These SIs are for the purpose of making the corrections so that the statute book will be operable at the point of EU exit and are being made by the UK Government, with the consent of the Welsh Ministers.

The Scottish Government is adopting the same approach as we have in Wales with a similar number of SIs being taken forward by the UK Government on behalf of Scotland.

Your letter mentions the use of concurrent powers. Decisions on who should exercise powers currently conferred on EU entities after exit are being considered in the context of each SI, depending on the nature of the power in question, and whether factors exist that mean that it is not desirable for an administration to exercise that power without the involvement of another administration. Our default position is that where there is a function within an area devolved to Wales, the relevant function should be conferred on the Welsh Ministers or on an appropriate public body in Wales. However, there are a number of circumstances where the default position may not be appropriate or practical. These are likely to arise, for example, where:

- The cross-border nature of service provision requires close co-operation across both nations, for the benefit of citizens or to avoid placing unnecessary burdens on organisations. This could be due to the way people or goods travel across the border, or the particular geographical features of the border.
- The devolved and non-devolved aspects of policy delivery are so intertwined, that it is not workable for the devolved elements to be delivered without reference to the non-devolved elements, or vice versa.

In these cases, there is a range of options for how functions can be exercised, and Ministers are reaching a decision on each individual UK Government SI following a full consideration of all of the relevant issues. One result of requiring the involvement of both administrations in exercising functions is the creation of concurrent powers.

The Assembly has amended Standing Orders to facilitate scrutiny of the UK EU Exit SIs, to which my officials have responded by laying 76 written statements about them when they are laid in Parliament and also 14 Statutory Instrument Consent Memoranda. I understand that the Constitutional and Legislative Affairs Committee is intending to produce a report on the written statements laid so far. I look forward to receiving that report and to considering any improvements the Committee recommends.

I am copying this letter to the Chairs of the Assembly's committees, the Minister for Finance and Trefnydd and the Counsel General Designate and Brexit Minister.

I hope that the contents of this letter provide reassurance that the decisions made by Welsh Ministers are designed to balance the extraordinary set of demands created by Brexit, and that the Welsh Government remains committed to providing the greatest possible practical opportunities for scrutiny of those legislative actions which have a material, rather than simply technical, purpose. We remain committed, of course, to keeping all this under review and greatly welcome the dialogue on these matters which your letter has prompted.

Yours sincerely

A handwritten signature in black ink that reads "Mark Drakeford". The signature is written in a cursive, slightly slanted style.

MARK DRAKEFORD

Agenda Item 4.2

Ysgrifwr Gŵyls AC AM
Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA(L)/LG/0076/19

Mike Hedges AM
Chair of Climate Change,
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22

January 2019

Dear Mike

Thank you for your letter of 11 January, regarding the Committee's consideration of the Fisheries Bill Legislative Consent Memoranda, and seeking clarification on a number of points.

I have addressed your questions in turn and look forward to discussing the Bill further with the Committee on Thursday.

Question 1. *To what extent does the UK Bill include provisions that are additional to those necessary to establish a legislative UK Framework for fisheries post EU Exit? Which of these provisions could have been included in a future Welsh fisheries Bill?*

The Bill provides a comprehensive suite of fishery management powers for the UK, including a wide range of powers for the Welsh Ministers. For example, Schedule 4 provides Welsh Ministers with the power to create financial assistance schemes in relation to Wales and Schedule 7 provides powers to Welsh Ministers via amendments to the Marine and Coastal Access Act 2009 in relation to the exploitation of sea fisheries resources.

None of these provisions could have been included in a Welsh Fisheries Bill in their current form as the provisions have elements which apply in the Welsh zone beyond Wales for which the National Assembly for Wales currently has no legislative competence. Clause 39 of the Fisheries Bill provides for an extension of the Assembly's Legislative Competence to the offshore area of the Welsh zone.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Question 2. *Which of the powers for the Welsh Ministers were included at the request of the Welsh Government?*

Schedule 4 (Financial Assistance), schedule 6 part 2 (Power to make further provisions: devolved authorities) and schedule 7 (Powers relating to the exploitation of sea fisheries resources) were included in the Bill at the request of Welsh Government.

Further, clause 39 which provides for the extension of the National Assembly for Wales competence in relation to fisheries matters in the Welsh zone beyond Wales, was included at the request of Welsh Government.

Question 3. *What is the rationale for requesting these powers, particularly if the Welsh Government intends to introduce a Welsh fisheries Bill?*

As previously stated, the Assembly does not currently have legislative competence for the area of the Welsh zone which lies beyond Wales. As such these provisions could not have been included in their current form in a Welsh Bill. We are considering bringing forward a Welsh Bill (if necessary) once the Assembly competence applies to the whole of the Welsh zone. This Bill provides important powers for managing our fish stocks and marine environment as we exit the EU. Given the extension of the Assembly's legislative competence will not be guaranteed until the Fisheries Bill becomes law, it is considered prudent to pursue all necessary powers for the Welsh Ministers in the UK Fisheries Bill.

Question 4. *What are the implications for the Welsh Government and the fisheries sector if these powers are not included in the UK Bill?*

If these powers were not included in this UK Bill, Welsh Government would have a narrower range of powers to manage our marine environment and fish stocks than the other Fisheries Administrations. We would not be able to create a modern financial assistance scheme, if desired, which responds to wider considerations than just being for the purpose of the fishing industry. The Fisheries Bill also enables the Welsh Ministers to amend existing fisheries enactments and retained EU law. Without this power, we could be in a situation where other parts of the UK are able to amend the over arching legislation giving their fleets an advantage over Welsh vessels.

Finally it would hamper our ability to effectively manage our marine environment following EU exit.

Question 5. *Schedule 6 includes broad powers for Welsh Ministers to make provision for 'conservation' and 'fish industry' purposes. Why is it necessary to include these provisions in a UK Bill, rather than a future Welsh fisheries Bill which will be subject to the full Assembly scrutiny process?*

These powers will be necessary as we leave the EU, as such it was not feasible to bring forward an Assembly Bill in the timescales available, which would have allowed full Assembly scrutiny. Any Assembly Bill brought forward at this time could also only extend to Wales. The exercise of the powers in Schedule 6 is through Statutory Instrument, both negative and affirmative procedure dependent on the scope of the regulation. As such Assembly scrutiny will be necessary in exercising those powers.

Question 6. *How do the fisheries objectives in clause 1 differ from, and improve on those set out in Article 2 of the Common Fisheries Policy Regulations?*

The provisions contained in Clause 1 of the Bill broadly replicate those in Article 2 of the common fisheries policy, in a way which is operable within a UK legislative framework.

Question 7. *What consideration was given to including milestones and/or targets for achieving the fisheries objectives in the Bill, for example in relation to Maximum Sustainable Yield (as currently included in the CFP)? Will these be included elsewhere, for example, in a JFS?*

Provisions in relation to the Joint Fisheries Statement were developed by UK Government. Discussions in relation to the contents of the Joint Fisheries Statement are on-going and will be informed by the scrutiny of the Bill. It is understood that milestones you mention will be included in the Joint Fisheries Statement.

Question 8 *How will progress towards achieving the fisheries objectives be measured and monitored in Wales? Is there any intention to develop a common approach to measuring and monitoring progress across the UK?*

Discussions around the nature of the Joint Fisheries Statement are ongoing and will be informed by the scrutiny of the Bill and depend on the final provisions of the Act.

Question 9. *Can you explain in detail how the fisheries policy authorities will “act jointly” in relation to the JFS? How will the Fisheries Management Framework Agreement, referred to in the Supplementary LCM, inform this approach?*

The Joint Fisheries Statement will be prepared by officials from across the fisheries policy authorities. Part 1 of Schedule 1 to the Fisheries Bill sets out the procedures to be applied when preparing and publishing the Joint Fisheries Statement. As previously stated, the contents of the JFS are still under discussion. The final contents of the JFS will be informed by the scrutiny of the Bill, engagement with stakeholders, and scrutiny of the relevant legislatures in line with the final provisions of the Act.

The JFS will form the key part of the Fisheries Framework setting out the shared objectives of the UK fisheries policy authorities. This will be underpinned by a range of memoranda of understanding detailing how the policy authorities will work together. These will be supported by effective joint governance mechanisms and suitable dispute resolution mechanisms.

Question 10. *Can you clarify whether the fisheries policy authorities would be expected to consult appropriate legislatures on any revisions to a draft JFS arising from scrutiny of another appropriate legislature, before the final text of a JFS is published?*

The Bill currently does not make specific provision for this. However, I would expect the legislatures to be informed of any changes after the legislatures have considered the statement and, subject to the scale of the changes, we may wish to lay an amended statement for consideration.

Question 11. *While Schedule 1 provides for scrutiny of a JFS by the appropriate legislature before it is published, a JFS will not be subject to the approval of those legislatures. What consideration was given to including such provision?*

The provisions relating to schedule 1 were drafted by Parliamentary Council following instructions from UK Government. Welsh Ministers were not consulted on the instructions. I am not aware of what consideration UK Government gave to this specific point.

Question 12. *Can you explain how and to whom a statement under clause 6(2) will be made? Why is there no formal mechanism in the Bill to this effect?*

In the unlikely circumstances clause 6(2) is engaged in Wales I would expect to issue a Written Statement to the Assembly. Clause 6(2) was drafted by Parliamentary Council following instructions from UK Government. Welsh Ministers were not consulted on the instructions. I am not aware of what consideration UK Government gave to this specific point.

Question 13. *Can you clarify the purpose and intended effect of a SSFS as it relates to Wales?*

- *What are the reserved powers that the SSFS will apply to?*
- *Do you intend to provide comparable detailed objectives that would apply to Wales? If so, when and how?*

The purpose of the SSFS is to cover specific English issues, it would not extend to Wales unless reserved functions are included, for example, the overall setting of the UK's fishing opportunities following coastal state negotiations. I do not believe there is any need for these specific policies to be detailed in a separate statement. The policies relevant to Wales are expected to be included within the JFS as they contribute to the achievement of the fisheries objectives.

Question 14. *Can you clarify whether the Bill, as drafted, provides Wales (and the other devolved administrations) with a right to fishing opportunities? If not, why not?*

The Bill does not provide such a right to the devolved administrations. However, the distribution of fishing opportunities between the UK administrations is not dealt with through legislation but is dealt with administratively.

Question 15. *In terms of fishing quota, the benefit to Wales from the UK's exit from the EU will be marginal. Do you think this is acceptable? What discussion have you had with the UK Government in this regard?*

I want Welsh Fishermen to receive their fair share of fishing opportunities within Welsh waters. The Welsh Centre for Public Policy report '*Implications of Brexit for fishing opportunities in Wales*' clearly demonstrated this is not the case at the moment. However, without a change to the way fishing opportunities are allocated within the UK, this will not change. Any rebalancing of fishing opportunities between the UK and EU following our exit from the EU should be used to redress this imbalance. Discussions regarding the distribution of future fishing opportunities have yet to begin.

Question 16. *On what basis will fishing opportunities in Wales be distributed and what mechanism will be used?*

The basis under which we distribute fishing opportunities in Wales is currently set out in the UK fisheries quota management rules. Allocation of fishing opportunities in the future will be subject to consultation as we work with stakeholders to develop the future fisheries policy referred to in *Prosperity for All*.

Question 17. *Will the Fisheries Concordat need to be reconsidered in light of the provisions in the Bill? If so, in what way?*

The concordat will need to be reviewed in light of EU exit and the creation of a fisheries framework.

Question 18. *Can you clarify whether clause 20 relates to the distribution of fishing opportunities by the Secretary of State (or the MMO) to the UK's four nations, or to the distribution of fishing opportunities by the Secretary of State (or the MMO) to English fishing boats?*

Clause 20 relates to the distribution of fishing opportunities by the Secretary of State, this could be at the UK level or and English level. In relation to the MMO, clause 20 only applies to English fishing boats.

Question 19. *Can you outline your reasons for this? What will this mean in practice?*

During discussions regarding the content of the Bill, officials from the devolved administrations voiced a number of concerns about the inclusion of this provision in the bill. This included the appropriateness of a UK Bill setting allocation criteria for devolved decisions and the risk of an overlap with existing legislation.

Our understanding is in practice, when allocating fishing opportunities, article 17 of the Common Fisheries Policy will not apply to Welsh Ministers. Article 17 sets a requirement to use transparent criteria for the allocation of fishing opportunities, including those of an environmental, social and economic nature. Without Article 17 of the CFP, Welsh Ministers decisions in this area will need to be guided by other legislation, including the Well-being of Future Generations Act.

Question 20. *What consideration did you give to requesting corresponding provisions for sale of fishing opportunities and discard prevention charging schemes for Wales?*

Given the nature and size of the fishing industry in Wales we do not face the same challenges with the landings obligation as other parts of the UK. However, it is my intention to bring forward a Welsh fisheries Bill, and solutions to the landings obligation will be considered appropriately as part of this process. I am still considering the provisions in relation to the sale of quota for a calendar year.

Timetable

The timetable of the Bill is a matter for Parliament and UK Government. I am not in a position to provide the Committee with a timetable for the Bill. I can confirm I will consider the representations made by both committees and, as appropriate, seek further discussions with UK Government to ensure the Bill meets Welsh needs. However, I am aware, with the prospect of the UK exiting the EU in March, the Bill is on an accelerated timetable and as a result further opportunities to influence the Bill may be scarce.



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Gweinidog yr Amgylchedd, Ynni a Materion Gwledig
Minister for Environment, Energy and Rural Affairs

