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Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: MA/JJ/2233/23

Llyr Gruffydd MS
Chair
Climate Change, Environment and Infrastructure Committee
Welsh Parliament
Cardiff Bay
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1 September 2023

Dear Llyr,

Thank you for sending me the Climate Change, Environment and Infrastructure Committee Report published on 14 July 2023 in relation to the Environment (Air Quality and Soundscapes) (Wales) Bill (“the Bill”).

Please see my response in Annex 1 below to the set of recommendations within the report. I have also written today to the Chair of the Legislation, Justice and Constitution Committee and the Chair of the Finance Committee to set out my response to their recommendations.

Please note I have been able, in this case, to provide a response to most of the recommendations in the report in advance of the General Principles Debate. However, normal practice is for Ministers to provide an explanation of the Government’s response to the recommendations in each Committee report during the Stage 1 debate and in most, but not all, circumstances provide further detail through a formal letter. This response does not indicate a future departure from this practice.

I look forward to continuing to work with Members as the Bill progresses through the Senedd process.

Yours sincerely,

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Minister for Climate Change

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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.

Annex 1

Response to Recommendations within the Climate Change, Environment and Infrastructure Committee Report which was published on 14 July 2023 in relation to the Environment (Air Quality and Soundscapes) (Wales) Bill (“the Bill”)

Recommendation 1.

The Committee recommends that the Senedd supports the general principles of the Bill.

I support this recommendation.

Recommendation 2.

The Minister should bring forward amendments at Stage 2 to include measures aimed at reducing air pollution from agricultural emissions and improving air quality.

I agree with the Committee that Welsh Ministers should provide information on action required to reduce air pollution from agricultural emissions. However, whilst I agree with the spirit of this recommendation, I do not think an amendment to the Bill is necessary as the national air quality strategy will outline the policies and cross-Government and sector measures to achieve our objectives for cleaner air in Wales. This will include action to ensure any new air quality targets are met.

Alongside this, we have a wide range of work already underway to reduce agricultural pollution and its impact on our environment. Further details on the action we are taking can be found at Annex 2.

Recommendation 3.

The Minister should use the Bill to encourage active travel. As a minimum, we expect the Minister to bring forward amendments at Stage 2 to ensure the Bill provides for the promotion of active travel as a means of reducing air pollution from vehicle emissions and improving air quality.

The Section 8 ‘Duty to Promote Awareness of Air Pollution’ is a broad duty which enables us to take targeted action relating to a range of pollutants and sources including active travel. Discussions are ongoing on potential options for giving effect to this recommendation in a way which works within the policy intention and scope of the Bill.

Recommendation 4.

The Minister should bring forward amendments at Stage 2 to address the fact that the references to ‘Secretary of State’ in section 80 of the 1995 Act have resulted in confusion for the end user of the legislation because, in relation to Wales, it is the Welsh Ministers that are under a duty to prepare and publish a national air quality strategy, and to review that strategy.

Whilst I agree this is a point that would benefit from clarity, there are many references to ‘Secretary of State’ on the statute book with regard to older legislation which need to be read in conjunction with applicable Transfer of Functions Orders and relevant provisions contained within the Government of Wales Act 2006. Making a change to the Secretary of State references in section 80 would create inconsistency and confusion. I can, however, commit to clarifying this point in the Explanatory Memorandum and/or the Explanatory Note.

Recommendation 5.

The Minister should bring forward amendments at Stage 2 to place a duty on the Welsh Ministers to make regulations setting air quality targets for all pollutants covered by the World Health Organisation Air Quality Guidelines, and for ammonia. This should supplement, rather than replace, the discretionary power to set targets for any matter relating to air quality in Wales. Regulations must be made no later than three years after the day on which the Act receives Royal Assent. If the Minister is minded to accept this recommendation, we would be content for the Welsh Ministers to have a power to make regulations to amend the list of pollutants set out on the face of the Bill.

I am currently unable to respond to this recommendation as this is a significant change from the current duties in relation to air quality targets in the Bill, with wide ranging cross-Government and sector impacts. In addition, factors including potential financial, health, environmental, economic and socio-economic impacts must be assessed. I can assure you that we are in the process of considering it fully. I will write back to you separately on this matter in due course.

Recommendation 6.

If the Minister is unwilling to accept Recommendation 5, she should:

- **bring forward amendments at Stage 2 to place a duty on the Welsh Ministers to make regulations setting air quality targets for nitrogen dioxide and ammonia. Regulations must be made no later than three years after the day on which the Act receives Royal Assent; and**

I am currently unable to respond to this recommendation as this is a significant change from the current duties in relation to air quality targets in the Bill, with wide ranging cross-Government and sector impacts. In addition, factors including potential financial, health, environmental, economic and socio-economic impacts must be assessed. I can assure you that we are in the process of considering it fully. I will write back to you separately on this matter in due course.

- **commit to address any data/evidence gaps that may be a barrier to setting targets for all remaining pollutants covered in the WHO AQG. She should also commit to report back to the Senedd on progress towards the development of targets annually after the Act receives Royal Assent.**

I accept this part of the recommendation. As I have set out in Committee, we already have an extensive evidence project underway to consider the case for setting targets referenced in the World Health Organisation air quality guidelines. This recommendation highlights the need for an evidence-based approach to developing new targets.

Recommendation 7.

The Minister should bring forward amendments at Stage 2 to provide that regulations to set a PM_{2.5} target must be made no later than two years after the day on which the Act receives Royal Assent.

I resist this recommendation as laying regulations within two years of Royal Assent is not achievable. My officials gave an oral briefing to the committee and provided a written technical briefing to the committee in June which explains the necessity of the three-year timeline. This project has wide ranging cross-Government and sector impacts. In addition, factors including potential financial, health, environmental, economic and socio-economic impacts must be assessed. We must also ensure appropriate time is made available for engagement, consultation, scrutiny by the Senedd and drafting of the regulations.

Recommendation 8.

The Minister should bring forward amendments at Stage 2 to provide that air quality targets set under the Bill may be long-term targets but need not be. The purpose of this is to enable the Welsh Ministers to set interim targets a trajectory towards a long-term target, and to set short-term targets for newly emerging pollutants.

I agree it is important for Welsh Ministers to have powers to set interim targets and we already have existing powers to do this, the same as we do for any short-term air quality target. Therefore, the Bill does not need to be amended to provide for this. These interim targets can be statutory or non-statutory, to demonstrate a trajectory towards compliance with longer-term targets.

In addition, when setting and reviewing targets under the framework, the Bill requires Welsh Ministers to seek advice from relevant experts and have regard to scientific knowledge. There are a range of existing types of air quality target which depend on the nature of the pollutant. The need for any interim target, the form it should take and when it should apply would be expected to form part of this initial and on-going advice.

Recommendation 9.

The Minister should bring forward amendments at Stage 2 to provide that the Welsh Ministers must have regard to the latest World Health Organisation Air Quality Guidelines when setting air quality targets.

World Health Organisation (WHO) air quality guidelines will be considered as part of Welsh Ministers' duty under the Bill to have regard to scientific knowledge when setting targets. The WHO by the nature of its remit, periodically issues health-based recommendations to assist governments and civil society in reducing human exposure to air pollution and its adverse effects. Air Quality Guidelines are not legally binding standards; however, they do provide us and other countries with an evidence-informed tool, which they can use to inform legislation and policy. It is intended that Governments should consider their unique, local conditions when utilising the guidelines, as well as the feasibility of achieving the guidelines, and the non-health related costs. The committee will be aware of the duties Welsh Government must adhere to when developing regulations. For example, our well-being of future generations duties. The requirement to "have regard" to scientific knowledge on air pollution when making the target regulations means the WHO Guidelines will be used exactly as the WHO intends them to be used.

The supporting documentation to the Bill, including the Explanatory Notes, make it clear the WHO air quality guidelines will be taken into account when targets are being developed. For these reasons I do not think an amendment is required.

Recommendation 10.

The Minister should bring forward amendments at Stage 2 to include a requirement on the Welsh Ministers to consult relevant stakeholders before making regulations to set air quality targets. Statutory consultees should include (but need not be limited to) those listed in new section 87(7B) of the Environment Act 1995 (to be inserted by section 12 of the Bill).

Whilst I support the spirit of this recommendation, I do not consider an amendment is necessary. The Welsh Government has already committed to consulting before making such regulations and I restate that commitment here. There will be a full public consultation before making regulations setting long-term targets. These regulations are also subject to the affirmative procedure, so are subject to Senedd approval before being made.

Recommendation 11.

The Minister should bring forward amendments at Stage 2 to ensure the Bill provides for regular reporting to the Senedd on progress towards the delivery of air quality targets. This could be achieved by including a duty on the Welsh Ministers to report annually to the Senedd on progress. This should complement rather than replace the reporting and review provisions set out in sections 5 and 6.

The Committee is asked to note that in addition to the reporting requirements in sections 5 and 6 of the Bill, section 7 places a specific duty on Welsh Ministers to make arrangements to collect data about air quality in Wales to enable them to monitor the progress towards meeting targets set and ensure the data is published. This is a further example of how we will be transparent in showing progress towards meeting new targets set under the Bill.

Further, the national air quality strategy already outlines the policies and measures to achieve our long-term objectives for clean air.

In saying this, I recognise the Committee's desire for regular reporting. If the target has been met, I also acknowledge the Bill is silent on any further reporting requirements. In policy terms, I do not think it would be right for compliance reporting and the provision of data to end once a target has been met. I am therefore proposing to make an amendment which will ensure the Welsh Ministers will be under a duty to maintain any standard achieved by virtue of any target set under the Bill. In addition, I propose that Welsh Ministers will be under a duty to ensure that reporting requirements are in place in relation to their duty to maintain standards. I have also given a commitment to report annually on the national air quality strategy.

I think the combination of these duties will provide the right balance of reporting before, during and after the date by which targets must be met.

Recommendation 12.

The Minister should bring forward amendments at Stage 2 to ensure the Welsh Ministers must have regard to the latest World Health Organisation Air Quality Guidelines when reviewing targets in accordance with section 6.

As stated in my response to Recommendation 9, the WHO air quality guidelines are and will be considered as part of Welsh Ministers' duty to have regard to scientific knowledge when setting targets. However, it is important to note that the WHO's air quality guidelines are neither standards nor legally binding criteria. Governments should consider their unique, local conditions when utilising the guidelines.

The Bill as drafted requires Welsh Ministers to have regard to scientific knowledge on air pollution, which would include the WHO air quality guidelines. The supporting documentation to the Bill, including the Explanatory Notes, makes it clear the WHO air quality guidelines will be taken into account when targets are being developed. For these reasons I do not think an amendment as recommended is required.

Recommendation 13.

The Minister should:

- **clarify the timescale she is working towards for extending and enhancing existing air quality monitoring capabilities;**
- **provide further details on how data collection will be improved for the purpose of setting and monitoring progress towards air quality targets; and**
- **provide an update on progress towards the development of the national air pollution monitoring and assessment service for Wales, including a revised timetable for implementation of the service.**

I accept this recommendation. The National Targets framework requires Welsh Ministers to put in place arrangements for data collection to assess progress made towards targets once they have been set, and to ensure the data is published. Closely related to the duty to collect and publish data, the Clean Air Plan for Wales includes the commitment to develop and implement a national Air Quality Monitoring and Assessment Service for Wales.

The Explanatory Memorandum and Regulatory Impact Assessment describes at pages 84 – 91 the anticipated costs and timescales in relation to air quality monitoring, modelling and reporting capabilities necessary to measure, assess and report on compliance with specific targets. Decisions on monitoring technologies and siting will be evidence-based and directed by independent expert advice to ensure the data best represents progress towards the targets set. Where it is possible, we would like the extended networks to inform existing local and national legislative regimes to support coherent actions taken because of the measurements.

The Service is being considered and developed alongside the air quality monitoring requirements. We are working closely with Natural Resources Wales, Public Health Wales, local authorities, the Clean Air Advisory Panel and other partners in the consideration and development of the Service and enhanced air quality monitoring in Wales.

Recommendation 14.

The Minister should bring forward amendments at Stage 2 placing a duty on the Welsh Ministers to report annually to the Senedd on the steps taken to promote awareness of air pollution and progress towards actions set out in the delivery plan. We would be content for this report to be part of the wider annual report on progress towards delivery of the national air quality strategy (see Recommendation 15).

We have already committed to report annually on the national air quality strategy and are expecting the delivery plan to form part of this. Due to the timing of this report however, the delivery plan will need to be reported on separately in the first instance to meet the annual requirement. I am willing to make this commitment in the Explanatory Memorandum but do not agree that an amendment to the Bill is necessary for this purpose.

Recommendation 15.

The Minister should bring forward amendments at Stage 2 to include a duty on the Welsh Ministers to report annually to the Senedd on progress towards the delivery of the national air quality strategy.

I appreciate and agree with the level of importance placed on reporting and transparency by the Committee. However, the Welsh Government has already committed to reporting annually on the national air quality strategy. I am happy to restate that commitment in the Explanatory Memorandum to the Bill.

Recommendation 16.

The Minister should provide further details of how the Welsh Government will monitor and report on compliance with the duty on local authorities and relevant Welsh public authorities to have regard to the national air quality strategy.

I accept this recommendation. We will monitor and report on compliance with the duty on local authorities and relevant Welsh public authorities to have regard to the national air quality strategy through existing mechanisms. We will work closely with local authorities when developing the national air quality strategy and the policies within it. The LAQM regime requires local authorities to submit annual progress reports. Welsh Government will report on the national air quality strategy on an annual basis and we also publish the Air Quality in Wales report.

Recommendation 17.

The Minister should commit to ensuring that any additional costs to local authorities and relevant Welsh public authorities arising from the duty to have regard to the national air quality strategy will be met with an appropriate level of funding.

We have worked closely with local authorities as we developed our Clean Air Plan for Wales and this Bill, and we will continue this close work when developing the national air quality strategy and this includes options for provision of appropriate funding.

Recommendation 18.

The Minister should consider bringing forward amendments at Stage 2 to ensure other NHS organisations, the Office of the Future Generations Commissioner and Public Service Boards are listed as statutory consultees when reviewing the national air quality strategy.

I accept this recommendation and we will bring forward an amendment to reflect this recommendation.

Recommendation 19.

The Minister should commit to keeping the budget allocation for the newly established Local Air Quality Management Support Fund under review.

I accept this recommendation and will commit to keeping the budget allocation for the newly established Local Air Quality Management Support Fund under review.

Recommendation 20.

The Minister should amend the Bill:

- **to place a duty on local authorities to prepare and publish an air quality strategy setting out the steps they will take to improve air quality across their area; and**
- **to enable two or more neighbouring authorities to jointly prepare a strategy to meet the duty outlined above.**

Our statutory guidance already outlines the option for individual or groups of local authorities to develop air quality strategies. By making this a statutory duty we would be adding further burden to local authority resources.

I commit instead to updating statutory guidance and improving the annual progress report process to drive action and encourage join-up across relevant local authority strategies. Corporate Joint Committees also provide a mechanism to ensure air quality is considered in relation to transport and land use planning on a regional basis.

Recommendation 21.

If the Minister is unwilling to accept Recommendation 20, she should commit to strengthening Welsh Government guidance on LAQM to set a strong expectation for local authorities to develop local/regional air quality strategies.

I accept this recommendation. I commit to strongly encouraging local authorities to develop local or regional air quality strategies in our updated guidance.

Recommendation 22.

The Minister should bring forward amendments at Stage 2 to ensure that section 18 of the Clean Air Act 1993 outlines the circumstances where a local authority should declare a Smoke Control Area. If the Minister is unwilling to do this, she should commit to covering this issue in statutory guidance (see Recommendation 23).

I resist this recommendation. I have committed to publish guidance on smoke control and will work with local authorities to understand the information they need for establishing smoke control areas as part of this process. Declaring a smoke control area can have significant implications for individual households and so it is important we have the ability to amend this over time, which the amendment detailed in the recommendation would not allow.

Recommendation 23.

The Minister should bring forward amendments at Stage 2 to place a duty on the Welsh Ministers to issue guidance to local authorities on the exercise of their functions under Part III of the Clean Air Act 1993. The guidance should outline the circumstances where a local authority would be expected to declare a Smoke Control Areas, among other things.

I appreciate the need for guidance powers to enable the Welsh Ministers to issue guidance in relation to the exercise of local authority functions under Part III of the Clean Air Act.

The Bill already contains a provision requiring local authorities to have regard to guidance issued by Welsh Ministers. I have also committed in the Explanatory Memorandum to publishing statutory guidance. Therefore, I do not believe there is a need to create a statutory duty to issue guidance.

Recommendation 24.

The Minister should set out the criteria that will be used to determine whether a local authority should be directed by the Welsh Ministers to declare a Smoke Control Area. The guidance issued to authorities (see Recommendation 22) should clarify this criteria.

I accept this recommendation in principle. While I am unable to confirm these criteria at present, I can commit to doing so when the Smoke Control Area guidance is published, which we have committed to do by March 2025.

Recommendation 25.

The Minister should consider whether and how smoke control coverage could be extended across Wales without adversely impacting on households who rely on solid fuels for heating and cooking.

I accept this recommendation. I can confirm this is an ongoing consideration which will be part of the next steps following legislation.

Recommendation 26.

The Minister should clarify which measures set out in its consultation on reducing emissions from domestic solid fuel burning could be brought forward using existing regulation-making powers and which would require further primary legislation.

I accept this recommendation. When I publish the outcomes of the consultation and our next steps to reduce emissions from domestic solid fuel burning, I will write to the committee with this information.

Recommendation 27.

Before the Stage 1 debate, the Minister should publish the Welsh Government's response to its consultation on reducing emissions from domestic solid fuel burning, including next steps. The response should include a revised timetable for making regulations that is suitably ambitious.

Although I am unable to commit to publishing the summary of responses before the stage 1 debate, I will publish this as soon as possible. I will include this in the information I send to the committee under recommendation 26.

Recommendation 28.

The Minister should bring forward an amendment(s) at Stage 2 to include a duty on the Welsh Ministers to consult before making a trunk road charging scheme for the purpose of reducing or limiting air pollution. Consultees must include those who are likely to be affected by the proposed charging scheme, including the public and businesses.

I fully understand and agree with the importance placed on public consultation by the Committee. In this case, however, a duty to consult would not add value considering the existing imperative to do so. I reiterate my commitment to consult before making a trunk road charging scheme for the purpose of reducing or limiting air pollution.

Furthermore, the Welsh Transport Appraisal Guidance (WelTAG) clearly outlines the importance of stakeholder involvement and public engagement in gathering evidence of the need for an intervention. WelTAG is a collaborative process, requiring the involvement of people who may be affected by decisions whilst gathering evidence on the impacts of proposed options and the consequences of doing nothing.

Recommendation 29.

The Minister should bring forward an amendment(s) at Stage 2 to ensure that net proceeds from trunk road charging schemes made for the purpose of reducing or limiting air pollution are used for the purpose of directly or indirectly facilitating the achievement of policies relating to air quality, including active travel.

I resist this recommendation. Whilst I agree with the principle of using funds for sustainable transport and air quality purposes, hypothecation would have the effect of reducing flexibilities and opportunities to ensure value for money considerations. I believe the process set out in Schedule 2 of the Bill will already enable us to achieve the Committee's intent. This will allow for an appropriate degree of flexibility over how to use the funds to best effect, not unduly constrained by legislation.

To ensure a focus on air quality in budget decision-making, the process provided in Schedule 2 requires an assessment of the expected effect of proposals on air quality. Active travel schemes would be expected to fall within this definition given their capacity to offset polluting emissions from vehicle journeys saved.

Recommendation 30.

The Welsh Government should set out a timeline for the introduction of the regulations to give effect to new levels of fines, including when consultation is due to take place.

I accept this recommendation. The Explanatory Memorandum will be amended to include a timeline.

Recommendation 31.

The Welsh Government should work with local authorities to develop and implement a comprehensive public awareness campaign to educate the public about the harmful effects of idling.

I accept this recommendation. We recognise in our Clean Air Plan that effective communication about air quality to deliver behaviour change is key to protecting the environment and the health of current and future generations. Given the importance of awareness-raising as part of wider action to tackle unnecessary stationary vehicle engine idling, it follows that support should be given to a comprehensive campaign. The Explanatory Memorandum already refers to opportunities to deliver anti-idling campaigns in partnership with local authorities. This can be included within our promoting awareness delivery plan.

Recommendation 32.

The Welsh Government should include a definition of soundscapes on the face of the Bill or, alternatively, in the Explanatory Memorandum.

I accept the second suggestion made in this recommendation. I agree that there needs to be clarity on the meaning of soundscapes but a definition on the face of the Bill would reduce flexibility and not allow us to be responsive to change. I commit to a definition of soundscapes being inserted into both the Explanatory Memorandum and the national strategy on soundscapes itself. This preferred approach is consistent with the oral advice presented to the Committee by the Institute of Acoustics on 11 May.

Recommendation 33.

The Welsh Government should create an expert advisory panel comprising scientific networks, charities, and royal colleges working in the field of soundscapes.

I agree Welsh Ministers should receive expert advice on this subject area, but there is a question of whether the added value of establishing a formal panel (over and above commissioning advice on an ad hoc basis) would outweigh the administrative costs, and whether it would provide the necessary flexibility. We will consider the merits of the proposal in light of responses submitted to the open consultation on the Noise and Soundscape Plan 2023-2028, which closes on 2 October and asks a question specifically on this subject. We will also be taking a close interest in the UK Government's response to the House of Lords Science and Technology Committee's recent recommendation to establish an interdisciplinary, independent advisory panel for noise, as there may be potential for some UK-wide joint working in this area. I commit to updating the Committee on any decisions made in regard to this.

Recommendation 34.

The Welsh Government should set out what additional resources it will provide to local authorities and public bodies to address existing knowledge gaps and enhance their capacity to implement soundscapes policies effectively.

We will not be able to provide a full response to this recommendation until we have fully considered the responses submitted to the open consultation on the Noise and Soundscape Plan 2023-2028 which closes on 2 October, had further discussions with partner organisations, and made decisions in relation to the new TAN 11. I can commit to providing the Committee with an update in the new year when further information becomes available.

Recommendation 35.

The Welsh Government should actively involve key stakeholders in the preparation and review of the National Soundscapes Strategy. The Minister should explain the extent to which key stakeholders were involved in the draft Strategy, which was published for consultation on 26 June 2023.

I accept this recommendation and confirm that the Welsh Government can commit to actively involving key stakeholders in the preparation and review of the National Soundscapes Strategy.

The draft Noise and Soundscape Plan for Wales 2023-2028 is not the first such Plan, and the policies it contains are not new to those already working in this area. The draft Plan we are currently consulting on for 14 weeks is the latest synthesis/update of all existing Welsh Government policies in this area, which are largely already in the public domain and have been the subject of many discussions with relevant stakeholders over recent years. Much of its content should look familiar to those who are acquainted with the Noise and Soundscape Action Plan 2018-2023 and the draft new TAN 11 we consulted on last year, both of which were developed collaboratively with external partners. Consisting largely of already established Welsh Government policies, this updated Plan has not required the same level of co-production with external stakeholders as would a first strategy in a new policy area beginning from scratch, or a revised strategy proposing a fundamental change in policy direction.

The Committee should appreciate that the document itself could not be shared with the full membership of such large organisations as the Institute of Acoustics (IOA) and Chartered Institute for Environmental Health (CIEH) until I had approved it for public consultation. However, a near-final draft was shared with senior individuals within the IOA, Association of Noise Consultants, Noise Abatement Society, CIEH and UK Acoustics Network, including some who have been under contract to the Welsh Government to support us in relation to noise mapping, heat pump noise and soundscape design, and others who have no contractual ties to the Welsh Government, on a trust basis ahead of the public consultation, to check for any show-stoppers or serious omissions. Improvements were made as a result of suggestions received.

The Welsh Government is engaging actively with stakeholders during the 14-week public consultation, including meetings with noise regulators (Natural Resources Wales and local authorities), the Wales Landscape Group, the IOA Welsh Branch, and the CIEH's Noise Management Conference.

The first national soundscapes strategy to be developed after the Bill becomes an Act will be due in 2028 and will be produced by the next Welsh Government. Our current consultation not only seeks views on this year's draft Noise and Soundscape Plan, but it also suggests that if skills and experience relating to soundscape increase over the course of the next five years, a revised national soundscapes strategy in 2028 could be more ambitious in terms of its expectations of practitioners than the one we are consulting on this year. The views being gathered from key stakeholders now will inform the noise and soundscape policy development of both this and the next administration and help shape the strategy that will be produced under this Act in 2028.

Annex 2

Tackling Agricultural Pollution in Wales

The following is information on a range of measures we have to tackle agricultural pollution in Wales and its impact on our environment:

Control of Agricultural Pollution Regulations

The Water Resources (Control of Agricultural Pollution) (Wales) Regulations 2021 (the CoAP Regulations), which came into force on 1 April 2021, are based on long-standing good practice recommendations designed to prevent agricultural pollution.

While the primary aim of the CoAP Regulations is to reduce water pollution, the measures are designed to avoid pollution swapping and to prevent or minimise increased losses of nutrients to the environment, which includes ammonia. By taking this approach, the CoAP Regulations deliver against a wide range of Wales' international and domestic responsibilities and provide a holistic response to environmental challenges related to ammonia emissions.

The CoAP Regulations include the following measures:

- Nutrient Management Planning;
- Sustainable fertiliser applications linked to the requirement of the crop;
- Protection of water from pollution related to when, where and how fertilisers are spread; and
- Manure storage standards;

The CoAP Regulations must be reviewed at least every four years. Each review of the regulations will continue to consider losses of nutrients to the environment, including ammonia. The Welsh Government has committed to giving further consideration to proposals received for alternative measures, submitted under Regulation 45, as part of the next 4-year review. The proposals received include measures which may be beneficial for reducing ammonia emissions from agricultural activities.

Habitats Regulations Assessment, Environmental Permitting and Town and Country Planning legislation

The Habitats Regulations Assessment process under the Conservation of Habitats and Species Regulations 2017 determines if an environmental permit application or an application for planning permission could negatively impact recognised protected European sites, including by ammonia emissions. The impact of the permit or permission could be on or near the designated European site. It could also be applied at feeding areas used by a species from a designated European site.

If it is determined a permit or permission could negatively impact these sites the application for a permit or permission must be refused, unless there are ways to avoid or mitigate any potential impact.

An environmental permit is required under the Environmental Permitting (England and Wales) Regulations 2016 if a farm has more than 40,000 places for poultry, more than 2,000 places for production pigs (over 30kg), or more than 750 places for sows.

Agricultural developments which release ammonia include:

- Poultry Farming: includes chickens, turkeys, guinea fowl, ducks, geese, quails, pigeons, pheasants and partridges reared or kept in captivity for breeding, the production of meat or eggs for consumption, or for restocking supplies of game.
- Pig farming: all types.
- Dairy farming: all types.
- Beef farming: all types.
- Anaerobic digestion and associated activity: open storage of feedstock and digestate.
- Slurry stores: all types.
- Use of urea for nitrogen oxide reduction.
- Landspreading: if a farm is required to carry out a habitats regulation assessment (HRA), Environmental Impact Assessment (EIA), or are within close proximity to a sensitive site then landspreading must be included in the assessments of impacts.

When manure or slurry are applied to land with no demonstrable benefit to the soil or crop growth, or when they exceed the nutrient requirements of the crop, they are considered waste. Also manure and slurry used in a treatment process, or stored prior to a treatment process, for example composting or Anaerobic Digestion (AD), is waste. These operations are subject to the Environmental Permitting (England and Wales) Regulations 2016 and require an environmental permit or exemption. If any harm is caused to the environment or human health at any point through the collection, storage or use of manures or slurry they become waste.

Under the Environmental Permitting (England and Wales) Regulations 2016, it is an offence to cause or knowingly permit a discharge of poisonous, noxious or polluting matter or solid waste matter into controlled waters, including groundwater and surface waters, unless permitted by Natural Resources Wales.

Part 2 of the Code of Good Agricultural Practice (CoGAP) is a Statutory Code under section 97 of the Water Resources Act 1991. While a farm does not have to follow the advice given in Part 2, Natural Resources Wales may take into account if it has when deciding on enforcement action following any water pollution incident. While this does not apply to any advice given purely to minimise air pollution risks, much of the advice related to reducing water pollution is also beneficial in reducing ammonia emissions. In 2019, the Code of Good Agricultural Practice was supplemented by guidance on reducing ammonia losses from agriculture in Wales. The 2019 guidance reflects the UNECE Framework Code for Good Agricultural Practice for Reducing Ammonia Emissions.

National Air Pollution Control Programme

In February 2023, a revised UK National Air Pollution Control Programme (the NAPCP) was issued in accordance with the requirements of the National Emission Ceilings Regulations 2018. The NAPCP sets out measures and analysis for how emission reduction commitments established by the Regulations, including for ammonia, can be met across the UK.

The NAPCP details the policy options selected for further consideration to comply with the emission reduction commitments in Wales, in relation to agriculture:

- Low emission application of fertiliser/manure on cropland and grassland
- Improved livestock management and rearing installations

- Improved animal manure/waste management systems

The Welsh Government is actively considering whether additional measures are necessary to achieve further reductions in ammonia emissions, taking account of uptake of relevant Sustainable Farming Scheme measures and results of the Control of Agricultural Pollution Regulations.

Knowledge Transfer

In April 2021, an online tool was launched to help farmers cut ammonia emissions. The tool contains the guidance from the CoGAP on reducing ammonia emission to present practical advice on steps farmers can take to lower emissions.

Rural Schemes

The Welsh Government operates a range of rural schemes which enable farms to undertake activities which have the potential to reduce ammonia emissions, including grants for yard covering, the environment, woodland creation and agricultural diversification.

Sustainable Farming Scheme

The Welsh Government is currently developing future support for agriculture following withdrawal from the European Union, to replace the Common Agricultural Policy (CAP). The Sustainable Farming and our Land consultation and the Agriculture (Wales) White Paper set out how Sustainable Land Management (SLM) will be the overarching principle for future agricultural policy and support. The proposed Sustainable Farming Scheme (SFS) will replace the current Basic Payment Scheme.

The fundamental change will be that the level of payment will be linked to the actions which a farmer carries out to deliver the SLM outcomes, one of which is “clean air”.

The SFS will do this by:

- Giving farmers up-to-date advice on how to lower ammonia emissions through the Knowledge Exchange and Innovation Programme (Farming Connect).
- Rewarding farmers for farming practices which lower ammonia emissions.
- Supporting collaborative approaches for farmers to deliver actions to lower ammonia targeted to where they will have the most benefit to ecosystems.

The Welsh Government has set a target to plant 43,000 hectares of new woodland by 2030, and 180,000 hectares by 2050 to meet the ‘balanced pathway’ set out by the United Kingdom Climate Change Commission. Work has begun to develop a National Forest for Wales. The National Forest will create areas of new woodland and help to restore and maintain some of Wales’ irreplaceable ancient woodlands. In time, it will form a connected network running throughout Wales, which will bring social, economic and environmental benefits. Last year the Deputy Minister for Climate Change led a deep-dive exercise into how we can remove the barriers to planting trees in Wales. This identified a series of actions, including a new funding scheme for woodland creation and an industrial strategy to coordinate the timber supply chain and construction sectors.

Farmers will play a big role in helping to achieve the tree planting targets and doing so in a way which delivers against multiple SLM outcomes such as clean air and resilient ecosystems. Strategic tree planting next to sources of ammonia such as slurry lagoons and

livestock buildings or buffering sensitive sites such as ancient woodlands from ammonia sources have been shown to intercept or disrupt the deposition of ammonia. These options will be supported through the SFS. The Woodland Opportunity Map, a GIS tool which indicates where new woodland creation would maximise ecosystem benefits, has been updated and now includes a data layer showing areas where new woodland creation would intercept ammonia deposition which has been shown to have a detrimental effect on habitats. Woodland proposals in areas of higher ammonia emissions within the map receive a higher score, which contributes to their likelihood of being selected for planting grant.