



Llywodraeth Cymru
Welsh Government

Report on operation of interim environmental protection measures 2023-24

Response to the CCEI Committee report (October 2024)

06/11/24

In October 2024, the Climate Change, Environment and Infrastructure Committee submitted its report on the operation of environmental protection measures. Welsh Government established the role of the Interim Environmental Protection Assessor for Wales in 2021 to bridge the gap between the end of the Brexit transition period and the establishment of a new environmental governance body for Wales. The report includes 9 recommendations. This is the Welsh Government's response to those recommendations.

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Introduction

The Welsh Government is dedicated to continuing to develop and strengthen environmental law in Wales. The environment is the foundation upon which our society and economy are built. It provides us with clean air to breathe, clean water to drink, and fertile land to grow food. It also supports a rich tapestry of biodiversity, which is essential for the health of our ecosystems.

Environmental law is essential in tackling the challenges of climate change, biodiversity loss, and harm to the environment such as pollution.

Whilst Wales does not have a permanent environmental governance body in place, an Interim Environmental Protection Assessor for Wales (IEPAW), Dr Nerys Llewelyn Jones was appointed on 1 March 2021. The role of the IEPAW is to consider issues in relation to the functioning of environmental law in Wales and to submit reports on such issues to the Welsh Ministers setting out recommendations. The IEPAW also provides members of the public with a mechanism to raise submissions about the functioning of environmental law in Wales, consider their validity and as appropriate make recommendations to Welsh Ministers.

The IEPAW role was created to fill some of the environmental governance gap created by the UK's exit from the European Union and has been well received by stakeholders. The IEPAW considers and reports on the functioning of environmental law but does not have the power to investigate and take compliance action against breaches.

The Welsh Government has appointed dedicated staff to provide secretariat support for the Interim Assessor. The IEPAW resourcing has increased with the appointment of two Deputy IEPAW in May. This reflects the Government's commitment to robust Environmental Governance.

The Bill to establish an environmental governance body for Wales signals our clear commitment that action and leadership to tackle the climate and nature emergency remains a top priority for this Welsh Government.

I would like to thank the members of the Climate Change, Environment and Infrastructure Committee for their report on the operation of environmental protection measures and its recommendations. I have set out my response to the report's individual recommendations below.

Response to the 9 recommendations

Recommendation 1

The Cabinet Secretary should engage with the IEPAW to ensure her office has sufficient resources to deal with its workload. This is particularly important to ensure its work is not lost as focus shifts to the transition to the new body.

Response: Accept in principle

I will discuss this recommendation with the IEPAW at our next regular meeting. The Welsh Government is currently exploring options to secure additional permanent resources to enhance the expertise within the IEPAW team. In addition recruitment for additional PhD student placements is ongoing.

Financial Implications: The cost of this additional resource will be met by the existing budget for the IEPAW which had previously been increased to facilitate the provision of extra drafting capacity and specialist and legal support.

Recommendation 2

The Cabinet Secretary should engage with the IEPAW to consider whether staffing arrangements can be put in place, including through secondments, to facilitate the transfer of experience and expertise during the transition period.

Response: Accept in principle

I will discuss this recommendation with the IEPAW at our next regular meeting. The Welsh Government is currently evaluating options for transitioning from interim measures to a permanent governance body. To support this process, the Welsh Government Officials are liaising with the IEPAW and collaborating with the Office of Environmental Protection (OEP), Environmental Standards Scotland (ESS), and our counterparts in DEFRA and the Scottish Government to gather relevant insight.

Financial Implications: These have not yet been quantified. Costs will be established through the development of the Regulatory Impact Assessment for the proposed Bill and any additional costs will be drawn from future budgets.

Recommendation 3

The IEPAW's office should include in its next annual report details of the work it has undertaken to monitor its performance and the impact of its work.

Response: This is a matter for the IEPAW, but I will discuss this recommendation with the IEPAW at our next regular meeting.

Recommendation 4

The IEPAW should keep under review the potential impact of increasing public submissions on the IEPAW's capacity, with a view to making the case for additional resources to manage future demand, if necessary.

Response: This is a matter for the IEPAW. I will discuss this recommendation with the IEPAW at our next regular meeting. Additionally, it will be monitored during the bi-monthly meetings between the Deputy Director Land, Nature and Forestry and the IEPAW as part of the regular performance monitoring process.

Recommendation 5

The Cabinet Secretary should set out a clear and detailed timeline for the establishment of the new environmental governance body.

Response: Accept

The First Minister confirmed the Government's intention to bring forward a Bill to establish an environmental governance body for Wales in his legislative statement made in the Senedd on 9 July 2024. The timing of the body's establishment will depend on the precise timing of the Bill's passage through the Senedd. Additional detailed implementation planning is currently in progress and more detail on the implementation timeline will be shared in due course.

Financial Implications: These have not yet been quantified. Costs will be established through the development of the Regulatory Impact Assessment for the proposed Bill and any additional costs will be drawn from future programme budgets.

Recommendation 6

The Cabinet Secretary should outline specific steps for managing the transition from interim arrangements to the new governance body, and provide clarity on how this will be achieved effectively without a shadow body.

Response: Accept in principle

The Welsh Government is currently evaluating options for transitioning from interim measures to a permanent governance body. As part of this evaluation, the Welsh Government has examined the strategies employed by our counterparts in DEFRA and the Scottish Government to establish the Office of Environmental Protection (OEP) and Environmental Standards Scotland (ESS). It is important to note that our circumstances differ, as we initiated interim measures in 2021.

I will continue to discuss transition at my regular meetings with the IEPAW and my officials will continue their regular dialogue.

Financial Implications: Not yet quantified. Costs in addition to the IEPAW will be established through the development of the Regulatory Impact Assessment for the proposed Bill and any additional costs will be drawn from future programme budgets.

Recommendation 7

The IEPAW should produce and publish a “lessons learned” report, based on her experience of the interim arrangements, to inform the transition to a permanent governance body. The Welsh Government should commit to publishing a response to the IEPAW’s report.

Response: Accept in principle

This is a matter for the IEPAW. I will discuss this recommendation with the IEPAW at our next regular meeting. Welsh Government officials will consider any report as part of the planning for implementation of the permanent governance body and publish a response.

Financial Implications: None

Recommendation 8

The IEPAW should ensure that its next annual report sets out details of how it is feeding into establishment of the new body.

Response: This is a matter for the IEPAW. I will discuss this recommendation with the IEPAW at our next regular meeting.

Financial Implications: None

Recommendation 9

The Cabinet Secretary should ensure that Welsh Government officials engage with the OEP and ESS to inform the development and smooth transition to the permanent environmental governance arrangements in Wales.

Response: Accept

The Welsh Government has been actively monitoring developments at the Office of Environmental Protection (OEP) and Environmental Standards Scotland (ESS). Officials are and will continue to collaborate with OEP, ESS, and our counterparts in DEFRA and the Scottish Government to gather relevant insights to ensure the planning and transition are managed as effectively as possible.

Financial Implications: None