



Cynulliad Cenedlaethol Cymru **The National Assembly for Wales**

Y Pwyllgor Amgylchedd a Chynaliadwyedd **The Environment and Sustainability Committee**

Dydd Mercher, 24 Mehefin 2015
Wednesday, 24 June 2015

Cynnwys
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Cofnodir y trafodion hyn yn yr iaith y llefarwyd hwy ynndi yn y pwyllgor. Yn ogystal, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

These proceedings are reported in the language in which they were spoken in the committee. In addition, a transcription of the simultaneous interpretation is included.

Aelodau'r pwyllgor yn bresennol
Committee members in attendance

Jeff Cuthbert	Llafur Labour
Russell George	Ceidwadwyr Cymreig Welsh Conservatives
Llyr Gruffydd	Plaid Cymru The Party of Wales
Janet Haworth	Ceidwadwyr Cymreig Welsh Conservatives
Alun Ffred Jones	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Julie Morgan	Llafur Labour
William Powell	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
Jenny Rathbone	Llafur Labour

Eraill yn bresennol
Others in attendance

Rhodri Asby	Pennaeth Newid Hinsawdd a Pholisi Cyfoeth Naturiol, Llywodraeth Cymru Head of Climate Change and Natural Resource Policy, Welsh Government
Helena Bird	Pennaeth Ansawdd yr Amgylchedd Lleol a Rheoli Grantiau, Llywodraeth Cymru Head of Local Environment Quality and Grants Management, Welsh Government
Steve Cook	Rheolwr Strategaeth Perygl Llifogydd, Cyfoeth Naturiol Cymru Manager of Flood Risk Strategy, Natural Resources Wales
Ceri Davies	Cyfarwyddwr Gweithredol Gwybodaeth, Strategaeth a Chynllunio, Cyfoeth Naturiol Cymru Executive Director for Knowledge, Strategy and Planning, Natural Resources Wales
Dr Haydn Davies	Cydgynullydd, Gweithgor Cymru UKELA Joint Convenor, UKELA Wales Working Party
Prys Davies	Dirprwy Gyfarwyddwr yr Is-adran Ynni, Dŵr a Llifogydd, Llywodraeth Cymru Deputy Director, Energy, Water and Flood Division, Welsh Government
Andy Fraser	Pennaeth Rhaglen Adnoddau Naturiol, Llywodraeth Cymru Head of Natural Resource Management Programme, Welsh Government
John Guess	Uwch gyfreithiwr, Llywodraeth Cymru Senior Lawyer, Welsh Government
Dr Victoria Jenkins	Aelod, Gweithgor Cymru UKELA Member, UKELA Wales Working Party
Yr Athro/Professor Robert Lee	Cydgynullydd, Gweithgor Cymru UKELA Joint Convenor, UKELA Wales Working Party
Graham Rees	Dirprwy Gyfarwyddwr y Môr a Physgodfeydd, Llywodraeth Cymru

Emyr Roberts	Deputy Director, Marine and Fisheries, Welsh Government Prif Weithredwr Cyfoeth Naturiol Cymru Chief Executive Natural Resources Wales
Jasper Roberts	Dirprwy Gyfarwyddwr yr Is-adran Gwastraff ac Effeithlonrwydd Adnoddau, Llywodraeth Cymru Deputy Director, Waste and Resource Efficiency Division, Welsh Government
Carl Sargeant AC/AM	Aelod Cynulliad, Llafur (y Gweinidog Cyfoeth Naturiol, a'r Aelod sy'n gyfrifol am y Bil) Assembly Member, Labour (Minister for Natural Resources, and the Member in charge of the Bill)
Sarah Williams	Prif Ymgynghorydd, Cyfoeth Naturiol a Rhaglen Ecosystemau, Cyfoeth Naturiol Cymru Principal Advisor, Natural Resources and Ecosystems Programme, Natural Resources Wales

Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol
National Assembly for Wales officials in attendance

Alun Davidson	Clerc Clerk
O. Gwyn Griffiths	Cynghorydd Cyfreithiol Legal Adviser
Nia Seaton	Y Gwasanaeth Ymchwil Research Service
Adam Vaughan	Dirprwy Glerc Deputy Clerk

Dechreuodd y cyfarfod am 09:06.
The meeting began at 09:06.

Cyflwyniad, Ymddiheuriadau a Dirprwyon
Introductions, Apologies and Substitutions

- [1] **Alun Ffred Jones:** A gaf i'ch croesawu chi i gyd i'r pwyllgor yma y bore yma? Rydych chi'n gwybod y rheolau ynglŷn â'r larwm tân —dylem ddilyn yr ystlyswyr allan. A wnewch chi ddiffodd eich ffonau symudol? Rydym ni'n gweithredu yn ddwyieithog ac mae cyfieithiad ar gael. A oes unrhyw un eisiau datgan buddiannau? Mae Joyce Watson yn ymddiheuro ac rydym yn credu, efallai, bod Mick Antoniw hefyd yn absennol, gan ei fod ym Mrwsel.
- Alun Ffred Jones:** May I welcome you all to the committee here this morning? You all know the rules in terms of the fire alarm—we should follow the ushers out. Please turn off your mobile phones. We operate bilingually and interpretation is available. Does anyone want to declare any interests? Joyce Watson apologises and we think, maybe, that Mick Antoniw will also be absent, as he is in Brussels.

09:07

Bil yr Amgylchedd (Cymru)—Cyfnod 1: Sesiwn Dystiolaeth 1
Environment (Wales) Bill—Stage 1: Evidence Session 1

- [2] **Alun Ffred Jones:** Pwrpas y sesiwn hon ydy cymryd tystiolaeth gan y Gweinidog a'i swyddogion ar egwyddorion cyffredinol
- Alun Ffred Jones:** The purpose of today's session is to take evidence from the Minister and his officials on the general principles of

Bil yr Amgylchedd (Cymru). Mae'r holl ymatebion ar gael fel atodiad i bapurau'r cyfarfod, ac mae'r Gwasanaeth Ymchwil wedi paratoi briff. Rydym yn croesawu, wrth gwrs, y Gweinidog yma y bore yma—Carl Sargeant. Diolch yn fawr i chi am ddod gerbron. Weinidog, a ydych chi am wneud datganiad i ddechrau?

the Environment (Wales) Bill. All the responses are available as an attachment to the papers of the meeting, and the Research Service has prepared a brief. We welcome, of course, the Minister here this morning—Carl Sargeant. Thank you very much for attending. Minister, would you like to make an opening statement?

[3] **The Minister for Natural Resources (Carl Sargeant):** Good morning. That'd be really helpful, Chair, if I may.

[4] **Alun Ffred Jones:** One question: do you have advisers?

[5] **Carl Sargeant:** We do. We've got several advisers and they are on their way.

[6] **Alun Ffred Jones:** Okay, that's fine.

[7] **Carl Sargeant:** If that's okay with you.

[8] **Alun Ffred Jones:** When they arrive, I would like them to just declare who they are and their responsibilities, for the record.

[9] **Carl Sargeant:** Yes, of course. Thank you, Chair.

[10] Some opening remarks, if I may—thank you, Chair, for the opportunity to do that—I thought it would be useful, on the basis that this is quite a large, encompassing Bill, and helpful, following the letter I sent to committee, to outline the broad nature of the Bill. I think what was important for us was just to demonstrate to you that we can't deal with the environmental impacts in isolation; that's why there is a large, broad position for the Bill, which has to be taken together—in terms of separate elements being brought together in the Bill. That's partly the reason Natural Resources Wales was set up as an environmental agency, to bring together activities to work on the environment and that's why this Bill complements the agency's work alongside the Well-being of Future Generations (Wales) Act, which is now in place. I suppose, in terms of opening remarks, that would be it for me, but if I may introduce my officials at this point, Chair. Rhodri?

[11] **Mr Asby:** Rhodri Asby—I work on climate change and natural resource policy in the department of natural resources for the Minister.

[12] **Mr Fraser:** Good morning—Andy Fraser, head of natural resource management in the department of natural resources.

[13] **Alun Ffred Jones:** You don't need to touch the mics.

[14] **Mr Guess:** John Guess—senior lawyer, legal services, environment team, Welsh Government.

[15] **Alun Ffred Jones:** Diolch yn fawr. Thank you. Obviously, we'll be concentrating on the first Part of the Bill initially, which will take quite some time.

[16] Llyr, wyt ti am ddechrau'r Llyr, do you want to start the questions? cwestiynau?

[17] **Llyr Gruffydd:** I just want to start by asking: section 3(2) of the Bill sets out the

objective of the sustainable management of natural resources, and I'm just interested in understanding why that is different to the resilience goal in the Well-being of Future Generations (Wales) Act.

[18] **Carl Sargeant:** That's a really useful question to open. My opening remarks were about the broad nature of the Bill and the environmental actions within it. What we've tried to do is frame the Environment (Wales) Bill on the principle of the whole of the future generations Bill, whereas the resilience goal is just one element of the future generations Bill—or Act, I should say. Therefore, what we've done here is take into account what the general principles of this Bill are, and how they're attributed to all of the wellbeing goals in the future generations Act, and that's why they look different—because we're trying to apply them across the whole of the goals as opposed to just the one.

[19] **Llyr Gruffydd:** But the difference means, for example, that there's no direct reference to biodiversity, so how does that definition that you've set out in the environment Bill take account of biodiversity?

[20] **Carl Sargeant:** I don't see that the absence of a word in there means we don't take that into account. The fact is that the Well-being of Future Generations Act has to take into the principle of wellbeing all the principles of the goals, and how they're applied across the public services. So, biodiversity is part of that, and there are already duties in place on public bodies around biodiversity anyway.

[21] **Llyr Gruffydd:** Isn't a healthy biodiversity situation key to resilient ecosystems and what we're trying to achieve here?

[22] **Carl Sargeant:** Absolutely. But I don't see that that's prohibitive in how we've presented the Bill. There is a direct link to the Well-being of Future Generations Act, the difference being that it's not attributed to one goal of resilience; it's attributed to all the goals of the future generations Act.

[23] **Mr Asby:** If it helps, the abiotic and the biotic are covered by the definition of 'natural resources', so that would mean all components of biological diversity.

[24] **Llyr Gruffydd:** But that's not explicit in the objective here?

[25] **Mr Asby:** Well, it's explicit in terms of the definition of 'natural resources', and then obviously the sustainable management of natural resources is how that's done. So, it would be covered.

[26] **Llyr Gruffydd:** Okay.

[27] **Alun Ffred Jones:** Okay. There's reference, obviously, to the ecosystem approach, and it has been suggested that the definition in the United Nations Convention on Biological Diversity should be part of the Bill. Why have you rejected that? Why have you not done that?

[28] **Carl Sargeant:** The drafting of this Bill has been very complex in that the proposal—. We've done lots of work in consultation and behind the scenes to make sure that we have considered the fullness of ecosystem management. We believe that the definitions that are presented within this Bill are accurate, and will fully reflect the protection and management of the natural landscape, as we seek to do. We of course listen carefully to committees' recommendations, but we believe that we are in a position of presenting a Bill that is complete and is actually delivering on what we are seeking to do in a wholesome manner.

[29] **Alun Ffred Jones:** Diolch yn fawr. Jeff.

[30] **Jeff Cuthbert:** Can I just move on a little bit to the issue of the state of natural resources report? The Bill does not appear to include minimum requirements on what that report needs to contain. Perhaps you'd like to comment on that. How indeed, then, the report will inform the area statements that need to be produced, and indeed the link that there may be between the state of natural resources report and the future trends report that will have to be produced under the future generations Act?

09:15

[31] **Carl Sargeant:** Okay. Thank you, Jeff, for your question. These are very technical areas. I've got some great support with me today, so they'll help me as we go through this journey of explaining some of these reports and some of the links, if they may, Chair. On the Bill, as regards minimum requirements of the natural resources report, I agree that it's really important the legislation is clear on what's being proposed, and NRW must assess the state of natural resources and they must assess the extent to which sustainable management of natural resources is being achieved, but meeting this duty must be read in conjunction with the new NRW purpose in section 5. So, they are clearly linked there, and as the production of the report will become one of NRW's new functions in its delivery, they will be required to apply the principles that form a part of the new purpose. So, I recognise that it doesn't include minimum requirements, but there is a requirement to do this, and that's linked in section 5.

[32] How do they link with the other reports? The state of natural resources report essentially will serve as an evidence base to underpin the national natural resources policy, and, therefore, also the area statements as well. So, as we've plotted these out, it might be helpful for us to give committee a note, actually, or a flow chart of how they interlink with each other—just a more simple diagram in terms of how they operate. That's something we'd be happy to provide to committee for your considerations. It's exactly the same as the state of the natural resources report and the future trends report with the Well-being of Future Generations Act.

[33] The future trends reports must include relevant data from Welsh Ministers, and this could be from the state of natural resources report. So, again, picking up the data that are in one and using them in another is a critical aspect of that. We didn't feel the need for this to be on the face of the Bill, but we absolutely will provide more detail as we move forward on this in terms of the relationships between all of those actions. And that's why I thought it might be useful for us to send a note to committee on how they interact with each other.

[34] **Jeff Cuthbert:** I think that would be useful, Minister, because, clearly, we want to be satisfied that the environment Bill, to be enacted in due course, and the Well-being of Future Generations Act complement each other and do not contradict in any respect. And you can give us the assurance that that is the case and that, indeed, the note you send us will clarify that.

[35] **Carl Sargeant:** I think it's been really helpful, Chair—. I say 'really helpful'; it's been quite a task for this department. Actually, we had the three Bills. I use them as jigsaw pieces, effectively, and we've got the final picture developing now. My team have been tasked to work very closely with all of the officials on the planning Bill, future generations Act and the environment Bill on how the Bills overlay and complement each other. I must say, being in the same department has been much easier than perhaps if they weren't.

[36] **Alun Ffred Jones:** Which one of these will come first, then—the future trends report or the state of natural resources report?

[37] **Carl Sargeant:** The future trends report will be with the commissioner, and that will be—. Is it a five-year reporting process?

[38] **Mr Fraser:** Yes.

[39] **Carl Sargeant:** It's a five-year report, so the first one will be the future trends report.

[40] **Alun Ffred Jones:** Does that have a timetable? Can you remind me? Does it come out at the end of a Government's period or at the beginning of a Government's period?

[41] **Carl Sargeant:** Twelve months before the end of a Government period.

[42] **Alun Ffred Jones:** So, that will inform the state of natural resources report?

[43] **Carl Sargeant:** Yes.

[44] **Alun Ffred Jones:** But there's no reference in this Bill that it should take note of the future trends report. There is no direct reference there—no link.

[45] **Carl Sargeant:** There isn't a direct reference, is there?

[46] **Mr Asby:** No. There is a reference but it's not a direct reference because, of course, as a function of NRW to produce the state of natural resources report, then it would have to undertake that function by applying the principles that are also set out in the first part of the Bill and, obviously, one of those principles is to look at the relevant evidence, of course, and one of those components will have to be the future trends report.

[47] **Carl Sargeant:** I think one of the difficulties, Chair, is, because it's starting off—. One has to come first, unfortunately. It'll get easier when the reports are in place because it'll be a natural process then to take data following reports as we move forward. It's just that we are at a place in time where we have to start this process and it's just that this report will come first.

[48] **Alun Ffred Jones:** So, just remind me, the future trends report will not come out until the end of the next period of the Government, the next Government, so it will be at the end of that period, or—.

[49] **Mr Asby:** No. It will be before the next session, before the next Assembly session. So, we're working on the compilation of the first future trends report now.

[50] **Alun Ffred Jones:** So, it's going to come out at the end of this year or the beginning of next year.

[51] **Mr Asby:** We're working on the compilation of the report.

[52] **Carl Sargeant:** Being realistic, Chair, how comprehensive that will be this time round will—. It's certainly worth doing, but it will not be as comprehensive as it would have been if it was for a full term of Government, because the commissioner will just not be in place.

[53] **Alun Ffred Jones:** Okay. Russell George.

[54] **Russell George:** I wanted to ask some questions, Minister, around the national natural resources policy. It would be useful if you could clarify what the national natural

resources policy will contain and, apart from area statements, what are the steps the Government is likely to take to implement it?

[55] **Carl Sargeant:** Thank you, Russell. The natural—natural—the national natural resources policy will set out, by Welsh Ministers, priorities for managing our resources sustainably at a national level, as it says on the tin. It will better inform how our natural resources, and the services they provide, can contribute to sustainable economic growth and development. It will include policies on actions needing to be taken in relation to mitigation and adaptation of climate change, outline how the sustainable management of Wales's natural resources will benefit society, socially and economically, as well as the environment, and support the goals outlined in the Well-being of Future Generations (Wales) Act 2015. Apart from area statements, you asked me about steps Welsh Government is likely to take to implement the NNRP. Area statements are produced by Natural Resources Wales, as the Member will know, to implement the national policy, but Welsh Ministers won't leave it at that position. If there are areas of Wales that aren't covered by area statements, the Welsh Ministers will still be under an obligation to implement the national policy around there, despite area statements being void from particular areas if that's the case.

[56] **Russell George:** And what overall objectives or strategic policies do you intend to, if any, consolidate in the natural resources—natural—the national natural resources policy?

[57] **Carl Sargeant:** I had the same problem. [*Laughter.*] The NNRP will set out the priorities for managing the resources, as I mentioned earlier on. The state of natural resources report, essentially, will serve as the evidence base for us and will outline how the management of Wales's natural resources will provide all those benefits, as I mentioned earlier. But it's important for us to retain some flexibility in the legislation, because it will be informed by the evidence at the time and by the 'State of Nature' report as well. So, as I said earlier on, there are several reporting actions by different bodies that interlink. It will be useful for you for my department to provide you with a note on how exactly they link, just to give you some clarity on that.

[58] **Russell George:** And are you satisfied that the production of the NNRP—I'll start calling it that, I think—will be funded from within existing budgets?

[59] **Carl Sargeant:** Yes, I am.

[60] **Alun Ffred Jones:** Can you explain again the timeline here between the future trends report, then the policy and then the NNRP, is it? What comes first, what comes second and what comes third, and what's the relationship between them?

[61] **Carl Sargeant:** I would be much more confident sending you a note on that, if I may, Chair, just to—

[62] **Alun Ffred Jones:** Well, with all due respect, you're asking us to—well, we have to try and work out the purpose of the Act and how it's going to actually work in practice, and all I'm asking is what's the relationship between these three fairly fundamental elements in a programme that you have presented. Surely, one of your advisers will be able—

[63] **Carl Sargeant:** The future trends report will be the first report out, Chair, when that's established—hopefully, by the end of this term of Government we will have a future trends—

[64] **Alun Ffred Jones:** And that's a Government report.

[65] **Carl Sargeant:** Yes, it is.

[66] **Alun Ffred Jones:** Then what will follow that? Is that the policy—

[67] **Carl Sargeant:** The policy statement will be developed.

[68] **Mr Asby:** Yes, the policy will follow for the new Government, so the statutory commitment comes in so that the new Government, having developed its programme for government, and linked to the Well-being of Future Generations (Wales) Act 2015, would then have to set out clearly its priorities for natural resources and encompassing those natural resources set out in the definition.

[69] **Alun Ffred Jones:** And then there will be the report that will be produced by NRW.

[70] **Mr Asby:** Yes, the state of natural resources report—

[71] **Alun Ffred Jones:** And when do you envisage that in terms of a timetable? Would that come out within a year or—

[72] **Carl Sargeant:** That's a little bit premature on the basis that the Act hasn't gone through yet, Chair, but, as I said earlier on, I'd be more than happy, once the definition—once we do have progressed timelines, I'd be more than happy to provide more detail around that. I wouldn't feel comfortable in giving you dates that may be incorrect. I would be more than happy to write to you with detail.

[73] **Alun Ffred Jones:** Julie, do you want to come in?

[74] **Julie Morgan:** I just wanted to know: does some of this depends on the commissioner being appointed? I know earlier on you said that something was to do with the commissioner, which would produce a report. So, I wondered if you could tell us what is the timescale for the commissioner, and how does that fit in?

[75] **Carl Sargeant:** Yes, on the commissioner, we are looking to go out to appointment very shortly for the well-being and future generations commissioner. When they're in place, that will inform how that report will be created. As I said, it will be the first year for creating that future trends report, which will be by a new commissioner only in place by several months, I expect. But we are expecting that the commissioner will be in place by the early new year.

[76] **Julie Morgan:** And that report will depend on the commissioner.

[77] **Carl Sargeant:** Yes, it will.

[78] **Julie Morgan:** Right.

[79] **Carl Sargeant:** That's why I said these two pieces of legislation are very close to the end of Government, and it's a starting point. Unfortunately, that's—you've got to start somewhere, and these will become much clearer as we move forward, but you've got to start the legislation at some point and that's just where we are in the electoral cycle. The future trends report was always going to be prior to the end of the Government, very similar to the programme for government-type scenario reporting. But it's just that we are at the end of this term of Government.

[80] **Alun Ffred Jones:** Can we turn to the area reports now? The area statements, sorry. You've given Natural Resources Wales quite extensive powers or broad powers in relation to siting, number, geographical scope, form and content of the area statements. Why is that?

[81] **Carl Sargeant:** First of all, the whole purpose—as I said earlier on, NRW was established as an environmental management body. That’s what their role is. I believe they are very effective in doing that and need the tools to enable them to create the management of our natural resources. The Environment (Wales) Bill complements that, and the area statements give them the flexibility, because of Wales being such a diverse area, to look at the whole effects of natural environmental management, which could be—. We’ve been non-specific because it could include a catchment area, a river catchment area, or it could be land-based over another particular area. We just need flexibility in the system for them to apply what is best for that particular region or area. And it’s all about the way that they report that, and will be very transparent.

[82] **Alun Ffred Jones:** And will all of Wales be covered with area reports?

[83] **Carl Sargeant:** Area statements. No, not necessarily. It will be down to NRW as to how they interpret area statements, but, as I said earlier on in response to Llyr, there is still an action whereby Welsh Government will have to take note of the principle of areas that aren’t covered specifically by area statements.

09:30

[84] **Alun Ffred Jones:** The Welsh Government’s preferred option is for the development of 11 to 14 area statements. What is that based on?

[85] **Carl Sargeant:** That was just to help inform the regulatory impact assessment as we went through. Actually, they’re not a target for NRW set by Welsh Government. This will be a function of demonstrating how it could be applied, but it’s certainly something I wouldn’t seek to stop NRW going beyond or less than that, if they thought it was appropriate.

[86] **Alun Ffred Jones:** Do we know what that figure is based on? Is it from discussions you’ve had or what?

[87] **Carl Sargeant:** We did a general assessment. That was just to inform the RIA.

[88] **Mr Fraser:** If it’s helpful, Chair, just in relation to the flexibility and scope of area statements, the scope is fairly flexible to ensure that NRW can not only deliver its suite of regulatory functions that apply to NRW, but also to account for the commitments and priorities set out in the national natural resources policy to give it that flexibility.

[89] **Alun Ffred Jones:** You don’t need to touch the mikes.

[90] Does NRW have the capacity to do this in addition to the work it’s doing already?

[91] **Carl Sargeant:** Well, we have regular discussions with NRW on the proposal. If we take a step back, the establishment of this organisation was on the basis of doing things differently. We’ve set up the organisation, we are now providing them with the tools to do the job differently, legislatively. I’ve had, as I said, regular conversations with them around transition from how they do work currently to how they’ll be working in the future. We see that there will be some early transitional costs, which we agree on, but, long term, we hope for and seek savings about doing this work differently anyway. So, yes, I’m confident that the organisation can effectively commit to delivering the Environment (Wales) Bill and the current tasks that they do.

[92] **Alun Ffred Jones:** How will the national natural resources policy be implemented in parts of Wales where there are no area statements?

[93] **Carl Sargeant:** The purpose of the area statements is to facilitate the priorities and opportunities provided in the NNRP. As such, we see that the area statements must deliver on this and, therefore, be reflected in their coverage. However, the Welsh Ministers will still be under an obligation, as I said, to implement the national policy, even if areas aren't covered by area statements. So, there will be an obligation still to deliver on this, regardless of whether there's an area statement there or not.

[94] **Alun Ffred Jones:** So, will they have to make a declaration about those areas not covered in area statements somewhere?

[95] **Carl Sargeant:** To turn the question around, if I may, Chair, there will be a declaration where there are area statements. So, there'll be a natural—. Where they haven't reported as area statements, you can consider that there aren't, if that makes sense. I think you're asking whether they should declare where there aren't area statements.

[96] **Alun Ffred Jones:** Yes.

[97] **Carl Sargeant:** It's the same question the other way around.

[98] **Alun Ffred Jones:** Sorry, am I—. Okay. Julie, sorry.

[99] **Julie Morgan:** No, it's all right; I was only going to ask about that area statement thing.

[100] **Alun Ffred Jones:** Sorry, I took your question.

[101] **Julie Morgan:** That doesn't matter. Shall I go on?

[102] **Alun Ffred Jones:** Yes, please.

[103] **Julie Morgan:** Obviously, it is a jigsaw, as you said, and I think it's quite difficult to grasp, so obviously we'll understand it better, I think, when we see the flows and the interaction. Are you going to provide us with something that shows the actual interaction between the different Bills and Acts?

[104] **Carl Sargeant:** We can do. I think, actually, we provided that with the Well-being of Future Generations (Wales) Act 2015: we provided an overlay about how they interact. I'm more than happy to do that again, too, but I think what I was suggesting before is there are several reports involved in the Environment (Wales) Bill, with different agencies. I think it would be helpful for me to provide you with a flowchart about how they interact and who does what, where. That would be useful for area statements and national policy, just to see where they sit. As opposed to seeing them on paper in written form, actually, we'll do a little whatever it's called—a little map. Another little map.

[105] **Julie Morgan:** That would be great. In your response to the Stage 1 planning report, you said there'd be an amendment linking local development plans and area statements, which I don't think is there at the moment. I wondered if you could explain what's happening with that.

[106] **Carl Sargeant:** Yes, we are looking at that for the next stage, to possibly bring an amendment forward to the Bill.

[107] **Julie Morgan:** So, you are planning to bring that amendment.

[108] **Carl Sargeant:** We are considering that, yes.

[109] **Julie Morgan:** Right, thank you very much.

[110] Then, why are no links made in the Bill between the national natural resources policy and the area statements to the national development framework or any strategic development plans brought forward under the planning Bill?

[111] **Carl Sargeant:** I may just ask one of the team to—

[112] **Mr Fraser:** There's a specific requirement in the planning Bill for the national development framework to take account of Welsh Ministers' policies. That would include the national natural resources policy and would also fit within the wider framework set out in the WFG Act, so there would be consistency there between the two, even though there's not explicit reference in the Bill at the moment.

[113] **Carl Sargeant:** I think that's actually a really important question, because, when you're dealing with the planning system, you have to be able to demonstrate the evidence base you've used to create a plan. By that not being included, it can be considered questionable in terms of the way the plan was developed in the first place. So, you'd have to demonstrate the policies that Ministers are using and how they're interacting with other creation of legislation, including the planning Bill.

[114] **Julie Morgan:** And why is there no reference to the Wales national marine plan?

[115] **Carl Sargeant:** It is exactly the same principle. That's exactly the same, in that it's a ministerial policy that would have to be considered. We don't believe that it needs to be mentioned in the Bill because that's practice.

[116] **Julie Morgan:** Finally, any additional cost to public bodies from the collaboration due to the overlap of this Bill with the future generations Act—is there going to be additional costs because of that?

[117] **Carl Sargeant:** We think, as we said earlier, there's a transitional cost for NRW for just transforming the way they currently operate from where they were, and we've factored that in the RIA for delivery. We believe that public bodies that collaborate and are implementing the future generations Act, in the longer term, will get savings from this, as I've demonstrated on several occasions where implementation of the Act has already been taken on board by some public bodies. They are seeking better service outcomes, but also cost effective savings as well. So, we think that the law will have some benefits, too. So, actually, the question being, we actually think there'll be some financial savings by implementing this, as opposed to a cost burden in delivery.

[118] **Alun Ffred Jones:** The area statements—what's the purpose of them, what's their function?

[119] **Carl Sargeant:** The area statements will look at a particular mass. We've got three trial programmes in place currently. Again, these are pilot schemes to try to understand how we manage the natural environment better. In the past, that's been considered when we've looked at very specific pieces of land mass or an area, which doesn't generally take into consideration effects elsewhere. The area-based statement will look holistically across a region or an area and, as I said, a catchment area. So, we've got a pilot with the River Dyfi that is looking, from the top to the bottom, at how that interacts and how the actions or issues upstream, where there is a relation to farming practices, may have an impact downstream. So, an area statement would look holistically at an area that can be managed better.

[120] **Alun Ffred Jones:** I understand that, but what's the purpose of it at the end? What do you do with the area statement? Where does it go?

[121] **Carl Sargeant:** That will be part of the reporting process about how NRW and public bodies will therefore then manage that particular area.

[122] **Alun Ffred Jones:** I'm still not clear. What does it feed into?

[123] **Mr Asby:** At a local level, it feeds into the wellbeing plans, and, of course, we made the amendment through the Well-being of Future Generations (Wales) Act 2015 for NRW to be engaged in the public service board and the public service board's consideration of the wellbeing plans, which then of course filter into and inform the local development plan. It becomes a key evidence base of the key issues—those priority issues at a national level and how they impact in that local area, and how that evidence can then inform the wellbeing plans through the public service boards.

[124] **Llyr Gruffydd:** So, it's not, in itself, an action plan as such; it's part of the evidence base.

[125] **Mr Asby:** Yes.

[126] **Alun Ffred Jones:** Is there any reference to this feeding into the wellbeing—are they the local board plans? Is there any reference in this Bill or in any other Bill to this relationship?

[127] **Carl Sargeant:** I'm not sure if it's referenced directly in the Well-being of Future Generations (Wales) Act 2015. I'm not sure if it is. We'll have to check that, Chair. I can't give you an answer.

[128] **Mr Asby:** Here, again, it would also be caught by the general principles that bind under the wellbeing of future generations Act in terms of the issues that are looked at and the coverage of the goals and, in addition, of course, the requirements under this Bill in areas like, for example, the biodiversity duty.

[129] **Alun Ffred Jones:** There's no timetable attached to these area statements, is there?

[130] **Carl Sargeant:** No, there isn't, and it's because of the complexity around this and the changes for NRW that we have to give them some flexibility on the delivery on this. But, what they do have to consider is the national policy framework, which is developed by us. So, they have to comply with that. Part of the compliance is developing area statements. So, it's a journey for them, making sure that they can get this right. I don't think that we should rush them into this. We've got to make sure that the area-based assessment is accurate and reflects the needs of communities.

[131] Can I just go back to the question that you posed before that one, about the relationship with the FG Act? Part of the process for the FG Act is demonstrating compliance with the principles and application of the goals. That is how the Bill will operate too. I think the very first question was: what are the principles of this? It reflects fully the link between this Bill and the wellbeing of future generations Act, about how it's implemented. Part of that is on area statements—understanding how catchment areas, or otherwise, operate, but also communities. That's part of the Act. Consultation is critical in that process—making sure that you are engaging communities. That's why the two questions that you have got there are linked. There isn't a fixed timeline on that because this is complex in terms of doing it in the first place. But, secondly, making sure that we comply with the FG Act, in terms of

consultation and community-based views, will inform the area statements and how they're developed by NRW.

[132] **Alun Ffred Jones:** So, why no reference to how one Act feeds into the other or the relationship?

[133] **Carl Sargeant:** It's not a case of having to—. We don't believe that we are having to reference them on the face of the Bill. They are, by matter of fact, law. The FG Act is a very clear principle for how you have to create your wellbeing plans. Part of those wellbeing plans will be taking evidence—evidence will be provided by area statements, as and when they're appropriate, by NRW. They will be a natural feed-in to that process. They are policy statements of Government. You can't ignore—. It's exactly the same question as Julie Morgan raised earlier on about marine planning. You just can't choose to ignore marine planning—you're creating a plan because it's a Government policy. It is the law, effectively.

[134] **Alun Ffred Jones:** Well, the statements will have to be produced, but we don't know where and we don't know when. It's difficult to see how that then has legal powers in terms of the wellbeing plans. Obviously, you think that they will be considered, but there's no reference there to it. Anyway, that will come out in the wash, no doubt. William Powell.

[135] **William Powell:** Good morning, Minister. I'd like to turn to the critical area of NRW's statutory purpose. Section 5 of the Bill, as drafted, amends section 5 of the establishment Order and also amends NRW's purpose to 'seek to achieve' as opposed to 'seek to ensure' sustainable management, as you'll be aware. Could you explain why it's been drafted in that way?

09:45

[136] **Carl Sargeant:** My legal team tell me that the terminology is appropriate and right for that process. I'm sure you'll have a view on that, but, as we always do in committee processes, sometimes the terms are challenged. We believe it's appropriate in the way we've developed the Bill and accurate to what we are seeking to achieve in there, but the legal team on this committee may have a differing view, which we will clearly reflect on if you make reference to it.

[137] **William Powell:** Okay, thank you, Minister. We look forward to teasing that out as we go forward. Also, could you explain why section 4(5) of the establishment Order, which limited NRW's purpose to delivery within its existing legislative framework of duties, is to be removed by section 5 of this Bill?

[138] **Carl Sargeant:** I think I'm right, and the legal team will—. I think it's redundant, but the legal team will give you a fuller explanation, if I may.

[139] **Mr Guess:** Yes, the answer, I think, is in the new draft, in article 4 of the establishment Order. It says expressly in 4(1) at the end, 'in the exercise of its functions', and the clear implication of that is that they can't then use the power to exercise new functions they can't currently exercise. So it's drafted expressly into 4(1) in the new version, which makes the old 4(5) redundant, we say.

[140] **William Powell:** Okay, that's helpful. It would be really useful to us if it could be set out more clearly how the Bill before us intends to actually address, and I quote, 'the weakness' in the existing legislation framework governing NRW that's been identified in the explanatory memorandum?

[141] **Carl Sargeant:** Okay. I'll give that some more thought. I thought we'd been pretty

explicit in what we are trying to achieve here. I think that, logically and historically, you look at the three bodies that have come together to make NRW, and they were all operating very separately under very separate pieces of legislation, in a way, in a very piecemeal way. I think it was at the Constitutional and Legislative Affairs Committee that I said that, at a point in time, a Government may wish to consolidate a lot of the environmental legislation that is out there—there is a raft of legislation out there. It would just be far too big for us to do it in this Bill, I think what we're doing here is shaping a new organisation, giving them the tools, more comprehensively, and that's why people have said that even this Bill is quite large, but, actually, we think it's critical that we bring things like climate change, biodiversity and waste all together to give NRW the tools to do the job currently. But, if we look at it much more broadly in environment legislation, I think, at some point in time, we probably would need to have an environmental consolidation Bill for Wales, but it's certainly not in this term of Government.

[142] **William Powell:** No capacity. Minister, to what extent do you feel that NRW is currently handicapped in the carrying out of its functions by the nature of the current legislative framework and the complexity of it? And to what extent have appeals been made to you from NRW and other stakeholders to take this matter forward?

[143] **Carl Sargeant:** I don't think I'd use the wording that this 'handicaps' the organisation in terms of what they do, but I think that what we are seeking to achieve with this piece of legislation is giving them a better opportunity to discharge their duties. We've brought these three organisations together; it has been quite a challenge to do that. I mean, they're culturally different, and we brought them together to create one body. We are now providing them with the toolkit that they were ultimately established to deliver on, and that's why the sustainable management of Wales is within the duty of this organisation, and this Bill will consolidate some of the reasoning behind what they do and how they do it better. So, I don't think it handicaps them in doing the job, but I think they could do it better with this tool.

[144] **William Powell:** Good. Finally from me for now, maybe this question again relates to legal niceties, but could you please clarify why the Bill amends section 5 of the establishment Order to require NRW to have regard to Welsh Government guidance in discharging its general purpose, instead of its functions, and whether there is something of substance in that kind of change that's being brought forward?

[145] **Carl Sargeant:** I think the reason for this was NRW was under no duty to deliver this purpose, and that's why we've amended this Bill, in order that they now are.

[146] **William Powell:** So, that makes that more explicit.

[147] **Carl Sargeant:** Yes.

[148] **William Powell:** Okay. Thank you. Thank you, Chair.

[149] **Alun Ffred Jones:** Russell, did you want to come in?

[150] **Russell George:** Thank you, Chair. Also on section 5, the Bill amends Natural Resources Wales's general purpose; it drops the word 'environment' and replaces it with the term 'natural resources'. So, I wanted to understand why that was. Or, perhaps more importantly, the question is: what relevance is that, if you like, what are the consequences of that change, will it result in any of Natural Resources Wales's existing environmental functions, or responsibilities, changing?

[151] **Carl Sargeant:** Well, the whole point of the change from 'environment' to 'natural resources' is because 'natural resources' is much more encompassing; that's why we've said

we believe it covers all aspects of delivery. So, that's the clarity around why we've made that amendment, and it fits in with the rest of the Bill. We talk about natural resource management, as opposed to one part of the ecosystem. Sorry, you asked me—

[152] **Russell George:** If that's the case then, that's fine. But is what you're saying that the word is changing to fit in with other terminology in the Bill?

[153] **Carl Sargeant:** Yes.

[154] **Russell George:** But, you're also saying there's no change to Natural Resources Wales's responsibilities in that regard.

[155] **Carl Sargeant:** Correct.

[156] **Alun Ffred Jones:** Right, we'll move on to the section on biodiversity. Does anybody want to pick up? Llyr Gruffydd.

[157] **Llyr Gruffydd:** Just initially, I'd like to understand how you think that this new duty will ensure that there'll be better results delivered for biodiversity than have been delivered through the current Natural Environment and Rural Communities Act 2006 duty.

[158] **Carl Sargeant:** We actually believe we're strengthening this through the Bill. The NERC Act merely requires public authorities to 'have regard to'. In the new duty, we'll require public bodies to move to a more proactive approach in relation to biodiversity, by obliging them to seek to maintain and enhance biodiversity, which is a very different principle to be applied. So, therefore, we think actually we're strengthening the provision in this Bill, as opposed to what's in the NERC.

[159] **Llyr Gruffydd:** Given that public bodies can report on this in all manner of ways really, how is the Government going to monitor compliance with the duty?

[160] **Carl Sargeant:** I recognise that problem too, and what we will be doing is issuing a standard template, so that we have reporting principles that are similar—the same—across all the reporting bodies. So, we will issue that, with guidance, on what we expect to be reported back.

[161] **Llyr Gruffydd:** What sanctions will you be able to exercise if public bodies don't actually deliver?

[162] **Carl Sargeant:** Sanctions? Guys?

[163] **Mr Fraser:** Well, public bodies to which this duty applies could be subject to judicial review, if they failed to implement it properly. But, in terms of the provisions of this Bill, that's why there is a specific and new requirement for public authorities to report on how they've complied with this duty, and that doesn't exist in the current section 40 duty under the NERC Act.

[164] **Alun Ffred Jones:** So, this is a new statutory duty on local government and they may be subject to some sort of penalty. How will this work be financed now?

[165] **Carl Sargeant:** There is already an existing duty on local authorities and public bodies to deliver on biodiversity, Chair. I don't accept that this is a new duty. We've just defined it differently.

[166] **Alun Ffred Jones:** You said that, to strengthen it, they have to have due regard.

[167] **Carl Sargeant:** Yes, I think they used to have to ‘have regard to’, now we’re saying,

[168] ‘to seek to maintain and enhance biodiversity’.

[169] I think that’s a different approach that we’re taking, in terms of their reporting on that activity.

[170] **Alun Ffred Jones:** Is it different—is it strengthening it—or is it the same?

[171] **Carl Sargeant:** The principle of what they have to report on, and have to act on, is different, but there is already a duty on them to ‘have regard to’. We don’t feel that is an increased onerous duty on public bodies, as you may suggest.

[172] **Mr Asby:** This is another area as well where we have looked at the relationship, to ensure that it’s complementary with the Well-being of Future Generations (Wales) Act 2015. So, for those bodies that come under the wellbeing of future generations Act, which come under the biodiversity duty, we’ve also made sure that the two are interlinked, in terms of their focus, and that they can be reported on together, jointly. And, so, it’s explicit there that the local authorities can report on this duty in the way that they discharge their responsibilities under the wellbeing of future generations Act.

[173] **Alun Ffred Jones:** Jenny Rathbone, did you want to come in?

[174] **Jenny Rathbone:** Yes. I’m unclear as to how the Act, as drafted, is going to give teeth to NRW to ensure that sites of special scientific interest and areas of outstanding natural beauty are actually going to be compliant and improving their biodiversity, because I think the public generally would expect them to be exemplars. I just don’t see anything in the way that it’s currently drafted to actually give NRW those powers to prevent people from defiling the environment and to ensure that the biodiversity is being enhanced.

[175] **Carl Sargeant:** As we said earlier, the description of what we put in the Bill is:

[176] ‘seek to maintain and enhance biodiversity’.

[177] So, we believe there is a duty already imposed on these organisations. NRW therefore will have the opportunity to ensure that—. When they demonstrate how they’ve done that, they will be challenged by NRW, and ultimately, failure to comply could result in a judicial review in that process. I don’t know if the legal team might have something to add on that.

[178] **Mr Guess:** In terms of sanctions, plainly, the policy intention is not to have sanctions; it’s to encourage behavioural change, and particularly around the reporting requirements to encourage information to be provided to enable everyone to know more about the issues. It’s meant to work in that way. In terms of legal sanctions, strictly speaking, yes, that’s right. The obligations are there in law and a failure to comply with them could result in judicial review. That would be the sanction—so, a court supervisory jurisdiction. That certainly wouldn’t be the primary hope or focus of the provision.

[179] **Mr Asby:** It’s important to note when considering this that this legislation would work in parallel with all the existing legislation with regard to SSSIs and so on. So, those are not changed. Those sanctions and the framework that is in place for protected sites remain in place. Here, we’re talking particularly about the legal obligation that would apply to the wider public sector in Wales—and it has a very broad scope in terms of the public sector in Wales—and then linked too for those public bodies that come under the wellbeing of future generations Act. It will link to the requirements that are under that.

[180] **Alun Ffred Jones:** Jeff Cuthbert.

[181] **Jeff Cuthbert:** It was only just to return to the previous point. It's clearly sensible to have a template issued so that reporting back is as consistent as it can be. But, will it be the case that public bodies will be obliged to follow that template and any guidance, statutory or otherwise, that's given with it, or would they still be able to provide the reports in a format that they devise? If the latter is the case, how will you ensure consistency across the board?

[182] **Carl Sargeant:** Can we force them to use the template? Probably not. This is a very similar thing that we've done; we've taken the template from the Scotland model. We believe that most public bodies aren't generally disruptive in the way that they discharge their duties. They are generally welcoming of such templates or guidance, which we will duly issue. Certainly, local authorities are well engaged with us in making sure that we give as much help as possible to get some credibility out of this process. So, the question is: can we enforce? No. But certainly, do we expect? Yes.

[183] **Jeff Cuthbert:** Right.

[184] **Alun Ffred Jones:** Llyr Gruffydd.

[185] **Llyr Gruffydd:** But, in order to monitor, you need to measure whether there is an improvement or a deterioration; so, what baseline will you be using as a measuring stick at the starting point?

[186] **Carl Sargeant:** Part of that will be around the information that comes back on area statements, and part of the information will be from the indicators in the wellbeing of future generations Act.

[187] **Llyr Gruffydd:** I'm glad you said that because that was going to be my next question. What's happening to those?

[188] **Carl Sargeant:** They are being created as we speak. We're just formulating them. As we've said right the way through this process, we will engage you when we have a complement of indicators that we feel are appropriate. We will engage.

[189] **Llyr Gruffydd:** And these will be localised where relevant.

[190] **Carl Sargeant:** Well, they will be because they will be, effectively—. You base the wellbeing goals and the principles on wellbeing plans locally. So, there is a link to how the indicators operate in the long term. So, there will be milestones and indicators along the way—along that journey. I expect you'll want to talk around climate change at some point again. We expect that, rather than in this Bill, actually, the indicators will be based upon the wellbeing of future generations Act and making sure that we can monitor that appropriately in one place.

10:00

[191] **Llyr Gruffydd:** I think that we'd all subscribe to the wish to see the behavioural change that was mentioned earlier. You've told us on a number of occasions, of course, in relation to waste, that statutory targets have contributed to that. We see that reflected as well in terms of climate change here in this Bill. You'll be aware, I'm sure, that a number of stakeholders are asking for statutory targets in relation to biodiversity. Are you open-minded to that? Is that something that you're willing to consider?

[192] **Carl Sargeant:** I'm always willing to consider new opportunities, but I'm not yet convinced by the argument for setting biodiversity targets in this Bill, because I believe that this territory is still uncharted by many. If I'm being perfectly honest, I think some people have asked for biodiversity targets because it's something to ask for. When you ask for the detail around that, there is very little coming forward. So, I'd be very keen to understand exactly what biodiversity targets we'd be seeking to introduce and, if we were seeking to introduce them, what actually they meant.

[193] **Alun Ffred Jones:** Okay. Do you want come in on this, William? Very briefly—I want to get on to climate change.

[194] **William Powell:** Yes. I wanted to return very briefly, if I may, to the point made by Jenny Rathbone around enforcement and the credibility of that. I recall a relatively recent evidence session where it was stated that there had been next to no enforcement action undertaken under the Natural Environment and Rural Communities Act to date. Obviously, colleagues will be aware of your recent decision not to levy fines in relation to the recycling targets missed by Cardiff council. You gave a good account of your reasons why you chose the carrot rather than the stick in that respect. But if we look forward maybe to a time when we might have a Government less committed than this one to pursuing environmental benefit, what reassurance is there that is embedded in the Bill in front of us that makes it more difficult for our environment to be despoiled in the way that Jenny Rathbone was describing?

[195] **Carl Sargeant:** I think the tools are within the Bill. As we've discussed there, demonstrating the effect on the ecological systems is reportable and then, ultimately, challengeable. That's why there is a process that is set within the Bill structure, so, if somebody seeks to challenge an authority on their effectiveness, there is always the case for judicial review if that's the point to which they wish to take this—to challenge this.

[196] **William Powell:** [*Inaudible.*]

[197] **Carl Sargeant:** Well, that's the legal system. Unfortunately, we don't have any jurisdiction over the legal system.

[198] **William Powell:** Understood.

[199] **Alun Ffred Jones:** I'm sorry, but I have to move forward. Climate change is the next part. Does anybody want to pick up on this? Julie Morgan can start.

[200] **Julie Morgan:** I want to ask the Minister, really, why powers to revise the 2050 target in light of advice from an advisory body, or maybe changes to the UK target, are not included in the Bill.

[201] **Carl Sargeant:** Well, we think we've been very shrewd in the way we've approached this Bill in terms of our statement within the Bill. The provision cites at least an 80 per cent reduction and is consistent with the UK provision and wider international targets. But it does say 'at least', and there's nothing prohibitive in there to stop Ministers exceeding targets and delivering more than 80 per cent. I think we are keeping in line with what the UK Government is doing, but actually it gives us the opportunity to go further.

[202] **Julie Morgan:** Right. And you don't see it as necessary to have an interim target to be included on the face of the Bill.

[203] **Carl Sargeant:** Well, certainly not on the face of the Bill, but we are thinking about how reporting processes—. I know that other Members will be keen to see how we are making progress on this, and that's why we think the indicators through the future generations

Act will be a better place for this to happen. If we are looking at progress, that is where we want to see any indicators or milestones as we go along that journey, but it wouldn't be, certainly, for this Bill.

[204] **Alun Ffred Jones:** But there is an interim target, isn't there?

[205] **Carl Sargeant:** There are targets that we go through—. There are national targets, there are, but in terms of reporting about Wales and where we stand, I think it's something around progress that I'd like to see, perhaps featuring in the future generations Act indicators.

[206] **Julie Morgan:** This seems an absolutely crucial area where we need to see progress. So, do you intend to bring forward regulations to introduce interim targets?

[207] **Carl Sargeant:** Yes, that's the case.

[208] **Julie Morgan:** You will be. So, what will be that time frame?

[209] **Carl Sargeant:** We will start the regulations as soon as the Bill has received Royal Assent. We'll start working on that then. I don't know if Rhodri's got a time frame on that.

[210] **Mr Asby:** It's important to read the targets in line with the carbon budgeting provisions within this section. So, of course, the carbon budgeting can be in place no later than 2018, so it has to be developed before that. The targets, of course, set the levels to which the carbon budgets must deliver. It's also very important here that we're in line with particularly the European framework that we're a part of, and the interim targets that are set out at that level.

[211] **Julie Morgan:** Yes. I think it's very important that this is clear what exactly is happening, because I think this is something that the public and many bodies look at to see how progress is being made. Thank you.

[212] **Carl Sargeant:** I think it's a really important, fair question, and I absolutely agree with the Member. That's why we've been very clear, placing on the face of the Bill our commitment around climate change and what actions we're going to be taking. It's the first time ever the Government have considered carbon budgeting. We're introducing that in this Bill for this Government and future ones. So, Wales is absolutely taking climate change very seriously.

[213] **Alun Ffred Jones:** Jenny Rathbone.

[214] **Jenny Rathbone:** WWF highlighted the issue around counting aviation and shipping emissions, which Scotland's already doing. I mean, is that something you're actively assessing, recording or whatever it is you need to do to get a baseline?

[215] **Carl Sargeant:** We are, we are. It's really complex, all of this, because there are actions that take place within Wales and there are actions that take place on a UK basis that have an effect. There are different methods of collecting data, or different sectors that count in different areas. So, there are activities that happen in Wales that take account on a global, on a UK-based target. So, there are some large emitters that have a national significance. So, trying to decipher that, with the aid of the Committee on Climate Change, and with my team and teams from other devolved nations, is something that we're working very hard on, but we are committed to delivering on this.

[216] **Jenny Rathbone:** Okay. Well, that's very reassuring. I sympathise with your pain, but it's clearly important that, in our endeavours to get people to change their behaviours,

they need to understand the impact of one choice or another.

[217] **Carl Sargeant:** Of course. I mentioned earlier about the Government—it's the first time ever we've legislated around carbon budgeting. We're doing it slightly differently as well, because now we're having ministerial responsibility, whereas, in other areas, it's generally related to a Minister who has a responsibility for everybody. It would be fair to say that is quite challenging sometimes because the buy-in from colleagues isn't always the same. We're very fortunate in Welsh Government. I've got a great team I work with in the Cabinet, who take their responsibilities very seriously, but we are actually imposing a duty on them—on each individual Minister—to look at their activity and how it impacts on this. So, there is a much more collective responsibility on delivering against this. I don't believe that's happened in many countries, if any.

[218] **Jenny Rathbone:** Thank you.

[219] **Alun Ffred Jones:** Llyr?

[220] **Llyr Gruffydd:** Yes, on carbon budgeting, I note that the budgets for the first two periods won't be set until 2018. Now, that's two years into the first period. Could you explain why that's the case?

[221] **Mr Asby:** Yes. It follows the exact same provisions as within the UK Climate Change Act 2008, which were put in place by Parliament. Obviously, that ensures that there is a budgetary period that covers the time frame that we're in, but of course, the work that needs to go into place—to define what exactly is achievable from each sector, how the budgets could be set, and seeking independent advice from the experts, like the UK Committee on Climate Change—will, of course, take some time, because it is complicated and we need, obviously, to ensure that we do understand the full implications for the different sectors and for wider society. So, it makes sure that they have to be in place by that point, but it does give an amount of time to deal with what is extremely important for our wider economy and society.

[222] **Llyr Gruffydd:** Okay. Maybe could you explain why there's no limit on the amount Welsh Ministers can actually bank and carry forward into future carbon budgets?

[223] **Carl Sargeant:** There is a 1 per cent limit on the carry-back for Welsh Ministers, but before you do carry back or forth, you still have to consult the advisory committee. So, we believe there is a limit stipulated in the Bill.

[224] **Alun Ffred Jones:** Russell George.

[225] **Russell George:** With regard to reporting on progress, can I just ask? There's no requirement in the Bill for Welsh Ministers to report annually on progress towards achieving carbon budget and emissions targets. Why is that, and is that something you would consider including?

[226] **Carl Sargeant:** Again, not specifically in this Bill. I think there are options open to us and this is partly the consideration of the link between this Bill and the WFG Act about what we'll report and what we'll report where. I want to have some consistency around this. I've been talking to the Minister for Public Services, too, in terms of important data collection, so people can understand where they can seek this information from. I think the WFG Act presents us with that opportunity, to collate data that is important to people. Looking at the state of the nation and the wellbeing of a region will be based around the WFG Act.

[227] I'm not a big fan of reporting annually—not because I'm the Minister responsible for this and I wouldn't like to be questioned annually, but I think, actually, particularly around this, the trends are too flexible. I think you have to take a view over a longer period of time to report on, to give a true reflection. Politically—I think we would do this, and certainly you would do this—if you saw a dip in a trend after 12 months, you'd say, 'Ha, ha, you've failed', but actually if you take that over a couple of years, which is more reasonable, you get a much more accurate reflection of what's happening to climate. So, that's the reason—no other reason behind that.

[228] **Russell George:** You do report annually, don't you, on the progress towards 2020 targets?

[229] **Carl Sargeant:** Yes.

[230] **Russell George:** So, is that something that will take up that place? Would you continue with that?

[231] **Carl Sargeant:** As I say, we will continue with it, but I just think we have to give a true reflection of where we are on climate and climate change. We will continue that 12-month report, but when you do a full report, it much more accurately reflects a longer-term vision and a longer-term view.

[232] **Alun Ffred Jones:** But you'd have to collect the data annually, of course.

[233] **Carl Sargeant:** Of course we do.

[234] **Alun Ffred Jones:** And the UK and Scotland report annually on these matters, do they?

[235] **Carl Sargeant:** Do they?

[236] **Mr Fraser:** The UK greenhouse gas inventory is produced annually for the whole of the UK and is disaggregated down to the devolved administrations. So, that's publicly available over a year.

[237] **Russell George:** But if the data are available annually, then clearly you could be challenged, if you like, on those in any case, so is it not better to have an annual report that talks to those—

[238] **Carl Sargeant:** I'm really flexible about this. I'm just being honest with you. I think, actually, there are two processes here. There's the political process of saying, 'Well, this is where we are' every 12 months, and actually it's gone up or it's gone down. For me, I'm absolutely passionate about making sure we're going in the right direction. I just think we need a longer-term trend and assessment to see how we're delivering on this. I think the data provided annually—and we collect those data—don't provide a more holistic approach to the journey. I think that's why, if you say to me, 'We want you to report on this every 12 months', so you can either shout or cheer, I'm happy to do that, but actually I think it's much more credible if we have a position where we have a long-term monitoring of this, which gives a much more effective position about the direction of travel for our journey in Wales. I don't think there are any politics to be won on this, actually I think this is about collective responsibility for the journey of climate change shift, and we want to be going in the right direction.

[239] **Alun Ffred Jones:** Llyr.

[240] **Llyr Gruffydd:** I suppose we could do both, as well—that is open to us as an option. On the advisory body that's mentioned in the Bill, could you tell us your thoughts about how you anticipate that advisory body coming into existence, if it's a new body, or is it an existing body that you will look to?

[241] **Carl Sargeant:** We don't see it as being a new body; we see it as being the climate change body—commission?

[242] **Mr Asby:** Committee.

[243] **Carl Sargeant:** Committee, I should say.

10:15

[244] **Llyr Gruffydd:** The UK committee.

[245] **Carl Sargeant:** Yes.

[246] **Llyr Gruffydd:** So, in effect, you're calling the UK committee the 'advisory body' in the Bill? I know it'll be, initially, the UK committee, but is that the longer-term prospect?

[247] **Carl Sargeant:** We say that with caution, and that's why we've got some flexibility in the Bill. We don't know what the future of the Committee on Climate Change is in the UK context. As long as they are operating, we will use their services, because they do have the technical capacity and are able to give us quality advice on this issue, looking at it holistically on a UK basis. However, we have to be mindful of the fact, if that committee is no longer in place in the future, we have to have the ability to designate somebody else, and that's why there is provision within the Bill for us to do that, subject to that.

[248] **Llyr Gruffydd:** Okay, but why are the regulations to designate an advisory body subject to the negative procedure?

[249] **Carl Sargeant:** We don't actually think it's a bigger issue, a bigger problem, just by designating a body. We just think that's set at the appropriate level.

[250] **Llyr Gruffydd:** Okay. Could you talk a little bit about the relationship, or potential relationship, between the role of an advisory body on climate change and the role of the future generations commissioner?

[251] **Carl Sargeant:** Obviously, the Committee on Climate Change have a function and role that we are very familiar with currently, but we see that the exchange of data and the use of data between the two organisations, again, will complement the way the future generations commissioner will operate, to see whether we are complying, or whether public organisations are moving on that journey to a more resilient Wales, and how they can use those data to challenge public bodies as they move forward. As with all the commissioners, I see there's a role for them all to work better together to provide information for the future generations commissioner, as with the Committee on Climate Change.

[252] **Alun Ffred Jones:** Russell.

[253] **Russell George:** As regards the duty on public bodies, is that something that you've given any consideration to—to place a duty on them to contribute towards emissions reduction targets and other policies with regard to climate change?

[254] **Carl Sargeant:** Not at this stage, but I don't think we should dismiss that currently. I

have had some conversations, as I've said, with the public services Minister about public bodies and public assets, and how they are operated, to see if there's any way that we can work with them to lessen their strain on the climate, but at this current place in time, we're not putting anything in legislation.

[255] **Alun Ffred Jones:** William Powell.

[256] **William Powell:** Diolch, Gadeirydd. I'd like to move on to one of the concrete areas where Government has shown leadership in recent years on climate change, and that relates to the single-use carrier bag regulations.

[257] **Alun Ffred Jones:** We're coming to that.

[258] **William Powell:** Oh, sorry. I thought we were concluding—

[259] **Alun Ffred Jones:** Does the Minister need to change officials? You've brought some shopping bag officials.

[260] **Carl Sargeant:** We do, yes. Specialists on carrier bags.

[261] **Janet Haworth:** Chair, before we move on to carrier bags—

[262] **Alun Ffred Jones:** Hold on a second, before you move. Janet Haworth.

[263] **Janet Haworth:** Thank you very much, Chair. Sorry I was late. I didn't get my change of time message.

[264] Just going back to climate change and local authorities, one of the things I noticed as a very recent county councillor at the front end is the efforts that are being made by my council, but also the use of fuel—the types of fuels they are using. Given that they're working in a small area, just a county area—they're not having to go hundreds and hundreds of miles—I think there is progress to be made in looking right across the board at what fuels are actually being used by local councils, and whether we could make some progress there.

[265] **Carl Sargeant:** I think when Leighton Andrews's map becomes current, there'll be much more collaboration between local authorities in using fuel, and other methods of collaboration. The Member raises a fair point, but it's something that doesn't feature in this Bill as a local issue. Certainly, I would advise her to take it up with her local authority.

[266] **Janet Haworth:** Well, if—

[267] **Alun Ffred Jones:** To be fair to the Minister, this is not an issue directly. Perhaps he should have put it in the Bill, and perhaps we'll make it a recommendation.

[268] **Carl Sargeant:** It could be a recommendation, Chair.

[269] **Alun Ffred Jones:** But we'll wait until the report for that. Okay. Diolch yn fawr. Thank you. So, we'll change officials. Are you kicking off on this then, William, since you're obviously rushing?

[270] **William Powell:** I didn't realise we were having a change of personnel.

[271] **Carl Sargeant:** Would you like us to introduce our new officials, Chair?

[272] **Ms Bird:** I'm Helena Bird, head of local environment quality in the department of

natural resources.

[273] **Mr Roberts:** Jasper Roberts, waste and resource efficiency, also in the natural resources department.

[274] **Alun Ffred Jones:** Diolch yn fawr. William Powell to kick-off and then Janet Haworth.

[275] **William Powell:** The Single Use Carrier Bags Charge (Wales) Regulations 2010 were widely seen as groundbreaking in terms of taking forward the fight against climate change. In the current Bill, we've got a mention of proposed changes or creating the scope for those regulations to be amended. Could you please clarify, Minister, why you and ministerial colleagues would be likely to make such a decision to introduce fresh regulation?

[276] **Carl Sargeant:** Well, we've had great success, as acknowledged by the Member—and thank you for that—in terms of our reduction in the use of single-use carrier bags, but there are what we believe to be some loopholes in the system. Members may be aware when they go to supermarkets, if they go to supermarkets, that it's very rare now that you see single-use carrier bags on sale. They're generally the bags for life, as they call them, or other styles of carrier bags, which don't carry a levy at all. So, the supermarkets are moving away from the single-use carrier bags to other forms. What we are trying to move to is a position where we should only be using carrier bags that are effectively for life. I would much prefer them not to be plastic, and, therefore, we see that there is an opportunity for the capture of a potential levy on them. There is also the issue of updating the regulations in terms of ensuring that any money that is collected from this levy goes to a charitable cause as opposed to what happens currently, where not all money collected as a levy finds its way to a charitable source.

[277] **Alun Ffred Jones:** Where does it go then?

[278] **Carl Sargeant:** I would suggest it stays with the owner.

[279] **William Powell:** Thank you, Chair. That was an issue I wanted to return to in the focus of my questions. Before that, however, there has been a wider review undertaken that has not yet reported, I believe, in terms of the impact of the initial regulations. Would it not have been better to have actually accelerated the review into the operation of the current levy so as to build in any learning points that could help us shape this Bill?

[280] **Carl Sargeant:** Yes, of course. Look, we haven't done this in isolation; there's an awful lot of background knowledge to this. The success of the programme is seen on a daily basis. You very rarely see carrier bag litter nowadays as you may have seen in the past. There has absolutely been a shift in the way people shop and use carrier bags, but I do accept that the report hasn't been issued yet. I am trying to advance that so that, before we come to Stage 2, that report will be available for you to give some consideration to. But we have been informed by many activities other than the report too.

[281] **William Powell:** That would be very, very helpful to us, I think, in terms of looking at potential areas for amendment or clarification. The Chair raised a very important point about concerns in some areas as to the destination of some of these funds. Would it, Minister, not be of benefit to have a sort of mystery shopper approach or some sort of spot check in terms of the practices of businesses with regard to the funds raised, because we would have great disappointment out there if it was felt that there were significant levels of businesses actually retaining these funds for their own purposes, which undercuts the original intent?

[282] **Carl Sargeant:** The good position on this would be that there's no income at all

because that would indicate that when using carrier bags in such a— It's not a taxation; it's a levy process on this. There is a reporting procedure for some of the major users of carrier bags in order for them to demonstrate what they're used for and where the funds are going. There isn't a legal requirement for shopkeepers, or the provision of goods, which requires them to do that at this point. We are changing those provisions. That's why I said we're closing some of those loopholes; for the very reason that your local takeaway, possibly, which charges 5p every time you go to the chippy on a Friday night, William, may not distribute the collection to a local charity as you would hope. As you are the mystery shopper, you might be able to inform me better, but the reality is that that's where we are in the current position. We are seeking to close that loophole.

[283] **William Powell:** Chair, a final question from me, if I may, and that relates to the voices that have been heard, particularly from the environmental sector, which, naturally, in these fiscally stringent times that we're in, would very much appreciate the message that would go out for the proceeds to be directed not just to general charitable causes but to those with an environmental purpose actually in their remit. Would you be open to considering such a ring fencing of the funds to the benefit of the environment?

[284] **Carl Sargeant:** Well, I'm not actually in that space. I could give you many organisations that think that they should also have a stake in receiving some of these funds. I actually know locally—and I'm sure that you do, too—that some of your larger supermarkets would give, perhaps, to the local Scout group or the local hospice. I certainly wouldn't be one of those persons that would like to interfere with local democracy in terms of where they would like to contribute their money. I do see the advantage of environmental charities receiving some of this finance, but it's not prohibitive. They can, if they so wish, receive from the organisation that wishes to donate, but I wouldn't want to be too specific on this. This isn't an environmental tax, by the way; this is a levy on carrier bags. I do believe that carrier bags have an impact on communities. We've seen that in all forms. This is just a way of redistributing the money without being specific as to where that money should go. I still believe that there should be some local—

[285] **Alun Ffred Jones:** I want to move on to waste.

[286] **William Powell:** I'm grateful. Thank you.

[287] **Alun Ffred Jones:** Janet, you wanted to ask a question. Is it on this?

[288] **Janet Haworth:** Yes, on waste.

[289] **Alun Ffred Jones:** On waste. Sorry, before I come to that, Jenny, do you want to come in on this?

[290] **Jenny Rathbone:** Yes, I just wanted to raise this, Minister, because it's a levy; it isn't a tax. It shouldn't be seen as a way of raising money. It's a way of penalising somebody for doing something that's harmful to the environment. So, when the Welsh Government seized on the opportunities from the Climate Change Act 2008 to introduce the carrier bag charge, would you agree that it was remiss of them not to direct it to environmental causes? It's something that's supposed to mitigate the use of a carrier bag, you know, which is harmful to the environment.

[291] **Carl Sargeant:** I think, when the Government introduced this—and I recall it slightly—the issue was trying to make sure that we got a culture change; people doing things differently. That was the whole intent, and I think we've achieved that very clearly in the activities that take place. At the time the Minister took through this piece of legislation, that was the choice of the Government of the day. I don't have a view as to whether that was right

or wrong. I think, actually, that my point now is that the current position is that some organisations locally to us may finance, through the carrier bag levy, places like the local school, hospice or other ones. I'm certainly not going to be the Minister to stop that. It's certainly not my view that it should be targeted. There is an opportunity for environmental charities to be part of that, subject to the people wishing to donate to them. But, I do accept that view.

[292] **Jenny Rathbone:** But that breaches the link between the environmentally harmful activity and the need to rectify that.

[293] **Alun Ffred Jones:** Well, we're not arguing with the Minister here; we're trying to find out what he's trying to do in the Act. We may have a view on this, but we can express that view in our report.

[294] **Jenny Rathbone:** Okay.

[295] **Alun Ffred Jones:** Cwestiwn. **Alun Ffred Jones:** A question.

[296] **Llyr Gruffydd:** Yes, just on this issue, will the regulations be explicit in any way in terms of ensuring that any proceeds are distributed amongst charitable causes operating in Wales?

10:30

[297] **Mr Guess:** The Bill doesn't say that has to be the case, no.

[298] **Llyr Gruffydd:** Well, maybe it should.

[299] **Alun Ffred Jones:** Janet, now we come to you—

[300] **Carl Sargeant:** Can I—? Of course, it's a fair question, but I urge caution on that, because there are charities that operate from England and Wales bases, such as, sometimes, some of the soldier and armed forces charities.

[301] **Llyr Gruffydd:** Yes, but if they are operational in Wales, then that would be—. But that's something that we can consider.

[302] **Carl Sargeant:** I'm happy to take a view.

[303] **Alun Ffred Jones:** Okay. Janet.

[304] **Janet Haworth:** Thank you, Chair. You'll know I'm very keen on waste and these councils that are failing to meet their targets, Minister. But, I think there's an area of difficulty in waste management, which is the one I mentioned in Chamber—the small businesses with confined premises. What consultation are we going to have to actually get some insight into their difficulties in old high streets, and so on? I don't think we should just dismiss their concerns. The other aspect of this is also around apartments, flats and houses that have been converted into flats and houses of multi-occupation; these—

[305] **Alun Ffred Jones:** That's not specifically to do with the Bill, as it stands.

[306] **Janet Haworth:** But these are premises that create waste problems within our communities and I think we need to get clearer about what the problems are and what local authorities need to be doing to be tackling that.

[307] **Alun Ffred Jones:** There's a relevant point regarding the collection of waste, but I don't think it's relevant to this, so I'm not asking you to respond to that.

[308] **Carl Sargeant:** Okay. I'll respond to the element of that in respect of the Bill. The Member raises, rightly, the issue around small to medium enterprises and businesses. We have consulted with the FSB and we have consulted with small businesses and hoteliers across Wales. Of course, we will wish to continue the dialogue around that. We respect that there are some areas that will be more challenged than others, but, again—and I'm sure the Member is supportive of this—we've never been able to achieve these challenging times, unless we put targets in place, particularly around municipal waste, which has seemed to have worked. So, we don't think there's a get-out for people here, but there is an opportunity to develop an argument and the reasoning and how we should do this. We're more than open to discussion on that.

[309] **Alun Ffred Jones:** There are two big areas that are affected by this Bill, so, Llyr—

[310] **Llyr Gruffydd:** I was just wondering whether you could clarify whether you intend to use the powers under section 66 to specify increased or new separation standards for paper, glass, metal and plastic. Is that the intention?

[311] **Carl Sargeant:** The intention is not to increase the standard of separation set of these materials, which is already high, but to provide better clarity and consider other materials being capable of being recovered as well. So, we're not amending the current standard.

[312] **Llyr Gruffydd:** Okay.

[313] **Alun Ffred Jones:** Does any other Member have a question on these new powers? Will you be using these powers to direct all local authorities to change to your preferred method of collection?

[314] **Carl Sargeant:** There is nothing in the Bill that relates to municipal waste collection, Chair.

[315] **Alun Ffred Jones:** So, this only refers to—

[316] **Carl Sargeant:** Commercial.

[317] **Alun Ffred Jones:** Commercial. But that is a big change.

[318] **Carl Sargeant:** Significant. In fact, we sort of put it on a par with the municipal waste style collection, of separation. There are some great examples of how this operates. I've heard and listened very carefully to contributions externally about a burden placed on organisations. I would recommend that the committee, at some point, would like to invite the Welsh Pantry company from Llantrisant in; they've changed the way they operate their business significantly and have made their business much more successful in managing their waste streams. That's just one example; I can give you many others.

[319] **Alun Ffred Jones:** Janet.

[320] **Janet Haworth:** I'd like to talk about sewers and what measures we can put in place to reduce the incidents of blockage of sewers, which comes from various sources: you know, people putting food waste down the sewers and there's also an issue with leaves, which is back to the public authorities again, as to when they are purging their local drains—are they bothering to do it at all at the end of autumn? Also, I think it goes back to street cleaning. I'm often dealing with complaints around, 'Oh well, we can't clean the leaves because the cars are

parked there', which is an absolute cop out, because all they need to do is leaflet a side of the street and the cars don't park that day. So, I think there are a number of things going into our sewers that are causing these blockages and problems, particularly when we have heavy rainfall. So, where is the Bill going to strengthen that so that our sewage system remains resilient and fit for purpose?

[321] **Carl Sargeant:** Again, Chair, the only part of the Bill that we've issued that has any implication on the sewage system is to stop commercial food waste going into the sewage system through maceration. We understand that over 20,000 tonnes of food waste goes into the sewage system per annum. There is a huge cost there both in treatment, but also a huge loss in food that could be donated to food banks and otherwise. There is unfortunately nothing in the Bill that looks after leaves on roads in communities, Chair.

[322] **Jeff Cuthbert:** Chair, are we actually on the discharging of food waste to—

[323] **Alun Ffred Jones:** Yes, you can go on to that.

[324] **Jeff Cuthbert:** Have you considered the technique that I understand is called biotechnology-to-waste treatment? Has that—and there are manufacturers of equipment that I know of—been considered as part of this?

[325] **Carl Sargeant:** We do have food collection processes that go into—what's the technical term, Jasper?

[326] **Mr Roberts:** Macerators? De-watering? Enzymes?

[327] **Carl Sargeant:** No. When we use the food—. Energy from waste.

[328] **Mr Roberts:** Anaerobic digestion.

[329] **Carl Sargeant:** Yes. Sorry, we've done so many terms this morning. We do that. We've invested heavily in plants across Wales, and therefore we believe there's capacity in the system to deliver on this because, if you're not putting 21,000 tonnes of waste down the sewer, it has to go somewhere. We think there is an opportunity to raise energy from these proposals. Actually, when people start understanding how much waste they are throwing away, there is a huge saving to the organisation if they realise they just don't buy it in the first place as opposed to throwing it down the drain.

[330] **Alun Ffred Jones:** Okay. Llyr.

[331] **Llyr Gruffydd:** I agree, but enforcing that ban is going to be very challenging, I'd imagine.

[332] **Carl Sargeant:** No, actually, we see most businesses are compliant with the law. That's the general principle of the way we operate in the UK. But what we can say is that, where people breach this proposal, and there are blockages of drains and there are regular offenders on this, and it is relatively easy to track too, there will be the appropriate penalties in place.

[333] **Alun Ffred Jones:** How will it be enforced?

[334] **Carl Sargeant:** Look, we're not going to have people going down drains looking particularly for macerated carrots. We will be ensuring that, when an authority is called to an incident that they believe to have been caused by discharge of waste into the sewage system, which happens now, it's easily traceable by the water companies. That will be followed up by

visiting the premises.

[335] **Russell George:** Is it not already enforced through the current laws and legislation in place? If a business or residential property is misusing the drainage system, I would have thought it would have been.

[336] **Mr Roberts:** There is a provision in the Water Industry Act 1991, but it's down to water companies to enforce.

[337] **Carl Sargeant:** Water companies can enforce already, I understand, but I'm not familiar with the legislation in place. But this will strengthen that process where—

[338] **Alun Ffred Jones:** How will it strengthen it, in effect?

[339] **Carl Sargeant:** Well, we will be saying to commercial premises, 'You cannot do this any longer'. This is—

[340] **Alun Ffred Jones:** And if they do?

[341] **Carl Sargeant:** And if they do, there will be an enforcement activity around that.

[342] **Alun Ffred Jones:** William.

[343] **William Powell:** Thank you, Chair. Just a brief point to pick up the reference you made to anaerobic digestion, Minister. Will this Bill as it currently stands offer any comfort to those who are concerned that, in some locations in Wales, large-scale anaerobic digesters are importing large volumes of waste of a whole range of different categories, some of it particularly unpleasant, into Wales, on a very extensive basis, causing a range of problems? Or is this not the appropriate vehicle for such—

[344] **Carl Sargeant:** No. There are planning regulations around all of these activities. Of course, if the Member has specific concerns about any one of those, he may write to me, but there is nothing in the Bill that would prevent the importing of waste to a particular plant. Actually, the increase of 21,000 tonnes, potentially, is an internal capacity issue that we have to deal with, too, so it may actually prevent material from being imported from other parts of the country because we'll have our own to deal with.

[345] **William Powell:** Okay, so that would regulate itself.

[346] **Carl Sargeant:** Effectively.

[347] **William Powell:** Thank you.

[348] **Alun Ffred Jones:** Thank you for that. We want to move on now to the section on fisheries and licensing. So, thank you very much.

[349] Diolch yn fawr i'ch swyddogion. Thank you very much to your officials.

[350] **Carl Sargeant:** Shall I introduce our new officials?

[351] **Alun Ffred Jones:** Yes, indeed.

[352] **Mr Rees:** Graham Rees, marine and fisheries, natural resources department.

[353] **Mr Fraser:** Andy Fraser.

[354] **Alun Ffred Jones:** Julie, would you like to kick off on this?

[355] **Julie Morgan:** Yes. I know that some concern has been expressed about section 73 of the Bill, about what is meant by ‘other provision’ as Welsh Ministers

[356] ‘consider appropriate for the purpose of protecting the marine environment.’

[357] There’s, really, a feeling that that is vague. So, I wondered if you could clarify what is exactly meant by that.

[358] **Carl Sargeant:** Okay. ‘Other provision’ is a legal term that is familiar to many in the legal profession. It’s—

[359] **Alun Ffred Jones:** But not to you.

[360] **Carl Sargeant:** It’s based upon—. The fisheries that we have responsibility for in Wales are very diverse—from mussels and cockles to shellfish of all sorts—and therefore the ‘other provision’ will depend entirely on the activity that we are seeking to commit to in that particular area. It varies; it just gives us some flexibility within the Order to consider exactly what the marine environment is specifically for that area. I do accept it is quite wide-ranging, but it is definitive to the particular area. I think the legal team might give you even more.

[361] **Mr Guess:** Just to come in briefly on new section 5A(1), which is what’s inserted by section 73, the purpose of (a) is to take measures to protect European marine sites—such to say sites governed by European environmental legislation. The purpose of (b) is to allow the Minister to take other provision in relation to areas not affected by those sites. So, it’s a domestic provision to govern sites that aren’t under the European schemes.

[362] **Julie Morgan:** Do you feel it is specific enough?

[363] **Carl Sargeant:** Yes.

[364] **Julie Morgan:** Right.

[365] **Carl Sargeant:** I’m sure your lawyers will have a different view. *[Laughter.]* Possibly.

[366] **Alun Ffred Jones:** Can you explain why the Bill does not include a time frame for the appeal mechanism against site protection notices?

[367] **Carl Sargeant:** Again, that’s partly to do with the tribunal process, isn’t it? This is set out by the relevant tribunal procedure rules, so it’s not specific to this Bill. It’s about the principle of what the tribunal will be and what their rules, internally, are.

[368] **Alun Ffred Jones:** And are these tribunals already in place, or are they something that’s going to be set up? They are in place.

[369] **Carl Sargeant:** Yes.

[370] **Mr Guess:** Yes. The Bill doesn’t need to say anything, and shouldn’t say anything about that, because, in fact, the fact the Bill provides for an appeal to the tribunal brings us within the scope of the first tier tribunal rules, which say that it is 28 days for appeal. So, it keys into existing legislation in place for a few years now, governing the way the tribunal works. All the Bill needs to say, and should say, is that an appeal lies to the tribunal; the rest

sort of flows from other legislation.

[371] **Alun Ffred Jones:** And what sanctions could be imposed on those failing to comply with the site protection notice?

[372] **Mr Guess:** Well, a site protection notice is the main mechanism for compelling operators of fisheries to comply with the environmental obligations. The sanction, in a sense, would be the revocation of the Order itself, if necessary. Once again—over to the Minister, of course—but I think this is really about behavioural change and people generally complying with the notices that are given for clear environmental reasons.

[373] **Alun Ffred Jones:** Okay. William.

10:45

[374] **William Powell:** Thank you, Chair. Minister, you've previously stated that you give a ready ear to the cockling community on Deeside, and they are obviously an important part of this wider picture, and also in my own region the Burry inlet is known for its cockling traditions, and the difficulties that they've experienced over recent times, particularly with the cockle mortality, which I know you'll be aware of. What provisions are going to be made available within the Bill to ensure that there's sufficient opportunity for there to be dialogue between such communities that have their traditions or their livelihoods to look after, but also very much see themselves as stewards of the wider environment, so that there's a proper dialogue that can be ensured going forward?

[375] **Carl Sargeant:** There's nothing in the Bill, but I absolutely agree with the Member that we have to ensure that we are able to have dialogue and community resilience around some of these natural habitats, which have been fished for many years. I'm working with my team; we've got a short piece of work ongoing between NRW and Welsh Government and the cockling sector, the industry, about how we better engage. Unfortunately, the problem with the natural environment is that it's very much down to the way that the beds perform—whether the cockles grow or whether they don't—and we have to take account of that every year. Unfortunately, in the industry, there is an expectation that annual activity on these beds should always take place. Unfortunately, because of the nature and natural development of the beds, that isn't always the case, because we have to have in mind also the European directives that we have to comply with in terms of protection of species—birds and species. Therefore, we have to be mindful of the balance of our natural environment, hence the way that the Bill has developed.

[376] Actually, these new interventions with the shellfish—the Orders within this Bill—give us more flexibility to be more dynamic with communities in order for us to make amendments to Orders et cetera, which gives them more flexibility, as you will have seen possibly in the mussel fisheries in north Wales, where we've given—. This would give us better opportunities to support the sector.

[377] **William Powell:** Thank you.

[378] **Alun Ffred Jones:** In terms of the licensing and additional fees for marine licensing services that will be given to NRW, what about any additional income generated by that? Can you explain, first of all, under what circumstances these licensing procedures will be carried out, and then what happens to the additional fees? Are they likely to be significant?

[379] **Carl Sargeant:** We are currently looking at reviewing the licensing scheme anyway, because I think there are some historic licensing processes that are in place that don't fully sustain the fisheries. We're looking at how that activity takes place with NRW and ourselves.

Of course, we will report on that in the near future. Whether NRW then recoup or keep the additional funding from the licensing scheme will be part of the fee review; I'd have to give that some further consideration. But I think, historically, we've had licensing in place that is minimal in some areas. It's not consistent. And, if we are serious about managing our natural environment, part of that managing of the natural environment may be around enforcement too—bailiffs, et cetera—none of which has the capability of being funded through the licensing scheme, and that's something that we have to think about carefully.

[380] **Alun Ffred Jones:** Jenny.

[381] **Jenny Rathbone:** Is there an opportunity in the Bill to address the licensing for fishing of inshore waters, because we've heard elsewhere that, if somebody in London applies to fish on the Teifi or one of the other rivers, the licence is retained by the Environment Agency in England as opposed to those who wish to ensure the maintenance of the rivers in Wales.

[382] **Carl Sargeant:** That's freshwater licensing?

[383] **Jenny Rathbone:** Yes.

[384] **Carl Sargeant:** Well, as I say, we've got a current review on the fees and structures. It's something that perhaps I can ask my team to look at. There's nothing in the Bill regarding this, but actually it's something that we can—

[385] **Jenny Rathbone:** And it might be an opportunity to try and—. It is obviously not appropriate because the fee should be to enable the conservation of the stocks in the place where it's happening.

[386] **Carl Sargeant:** Indeed. I share the Member's concern and I will give that some further consideration.

[387] **Jenny Rathbone:** Okay.

[388] **Alun Ffred Jones:** Okay. Diolch yn fawr iawn. We're moving on to the last section, which is general and miscellaneous. Are we changing? Yes, we're changing the guard again. This is the last lap, Minister, you'll be glad to hear; you'll be relieved.

[389] **Carl Sargeant:** I'm not sure how sustainable I am. [*Laughter.*]

[390] **Alun Ffred Jones:** You're still here. Diolch yn fawr. Janet, are you kicking off on this one?

[391] **Janet Haworth:** Yes. I'd like to start looking at the new plans for flood and coastal risk operations, if you'd like to talk to us about that. My interest really is that we have a number of communities that are fearful, obviously, of a flood from the sea, but also there are some interesting developments in engineering working with a community. We have that example in Colwyn Bay, where we have improved significantly the flood resilience there, but at the same time, we've provided a very good leisure amenity, much appreciated by the residents and visitors alike.

[392] **Carl Sargeant:** And funded by Welsh Government.

[393] **Janet Haworth:** And funded by Welsh Government. And it is working very well, Minister. I think those are very interesting, innovative ways of approaching this. So, it is a current concern to a lot of people around the country and I just wonder, with this Bill and the

new ideas you have here, how you hope to move this forward.

[394] **Carl Sargeant:** Okay. A really important question. We take flooding very seriously and we have maintained that as a priority for this Government moving forward. What we're seeing with this Bill is a new opportunity to get better advice. We currently have a provision in a Bill, where we have to have a flood risk management committee. Since I've taken post, I'm not entirely convinced that it serves Wales at its best and I think we can get better advice and that's why we are seeking to amend, through the Bill, the opportunity for us to create our own functioning body. We don't see this just as looking at the responsibilities of NRW; we see this as actually giving me advice as well, working with local authorities closer to see what the resilience of services are and what the management processes are. We've recently issued shoreline management plans across Wales. We've got a strong record to tell on investment. We just think this strengthens and better positions good advice to the Minister involved in making the decision moving forward, but we can't do that until we've removed some of the legislative functions that are currently in place in order for us to give us a new opportunity.

[395] **Janet Haworth:** Thank you.

[396] **Alun Ffred Jones:** A gaf ofyn yn Gymraeg? Mae'r Bil yn caniatáu i'r Gweinidog sefydlu pwyllgor newydd—pwyllgor rheoli perygl llifogydd ac erydu arfordirol yng Nghymru, sy'n cymryd lle y pwyllgor presennol a gafodd ei sefydlu yn 2010. A ydw i'n iawn i ddweud mai Cyfoeth Naturiol Cymru ei hun sy'n cynnal yr adolygiad i weithgaredd y pwyllgor presennol ac i weld sut y dylai gael ei ddiwygio? Pam hynny?

Alun Ffred Jones: Can I ask this question in Welsh? The Bill allows for the Minister to establish a new committee—a new flood risk and coastal erosion management committee, which takes the place of the current committee that was established in 2010. Am I correct in saying that Natural Resources Wales itself is holding the review into the work of the current committee and to see how it should be amended? Why is that?

[397] **Mr Davies:** Jest i ateb ar ran y Gweinidog, mi wnaeth Cyfoeth Naturiol Cymru, sy'n darparu'r *secretariat* i'r pwyllgor yma, benderfynu cynnal adolygiad eu hunain o'r pwyllgor o ran effeithiolrwydd a sut roedd y pwyllgor presennol yn gweithio. Nid yw'r adolygiad yna wedi cael ei gomisiynu gan y Llywodraeth, felly adolygiad rhwng Cyfoeth Naturiol Cymru a'r pwyllgor oedd hwn, yn edrych ar sut roedd y pwyllgor presennol yn gweithio. Nid oedd yn edrych ar fodolaeth y pwyllgor yn ehangach nac unrhyw ddatblygiadau presennol; hynny yw, roedd yn edrych ar bwrpas presennol y pwyllgor.

Mr Davies: Just to answer on behalf of the Minister, Natural Resources Wales, which provides the secretariat service for this committee, decided to undertake their own review of the committee as regards its effectiveness and the way in which it works currently. That review hasn't been commissioned by the Government, so it was a review undertaken by NRW and the committee, which looked at the current committee's operation. It didn't look at the existence of the committee in a wider sense or any current developments; that is, it was looking at the current purpose of the committee.

[398] **Alun Ffred Jones:** Nid pwyllgor yn perthyn i Gyfoeth Naturiol Cymru ydy'r un presennol felly; dim ond *secretariat* yw Cyfoeth Naturiol Cymru, ie?

Alun Ffred Jones: So, it's not an NRW committee at the moment, then; NRW is just the secretariat, is it?

[399] **Carl Sargeant:** That's correct.

[400] **Alun Ffred Jones:** Ond rydych chi'n gofyn am bwerau yn y Bil yma er mwyn

Alun Ffred Jones: But you're asking for powers in this Bill to establish a new

sefydlu pwyllgor newydd. Pam eich bod committee. Why do you want that; what's the
eisiau hynny; beth yw'r rheswm? reason?

[401] **Carl Sargeant:** As I said, I think we have to look at a Welsh solution to some of the problems that we have. We've got a very different view on how we handle flooding, compared to what happens in England. Our investment programme is significant and we wish to continue that and we think that there are opportunities to have a much more holistic approach to what happens in Wales with our bodies—NRW, Welsh Government and local authorities—and how they interact with a committee, functioning solely for Wales.

[402] **Alun Ffred Jones:** Pa rolau eraill y byddech yn disgwyl i bwyllgor newydd eu mabwysiadu? Ym mha ffordd a ydych chi eisiau iddyn nhw weithredu'n wahanol?
Alun Ffred Jones: What other roles would you expect a new committee to adopt? In what way would you like them to work differently?

[403] **Carl Sargeant:** Part of the issue is about making sure that we get quality advice—so, making our investments well, longer term, and looking at how the leverage of other organisations can work together better. I think there are some great examples already. You may be aware that only in Wales are there flood wardens. Again, we're taking a very different approach to what we do here. I think that a dedicated committee, looking at flood risk, not just on a Government basis, but taking a much more holistic view about who's partnering in this in terms of national infrastructure and Network Rail, and how they all operate and how they bring advice to me, that is what I would expect the flood risk management committee to give advice on.

[404] **Alun Ffred Jones:** Iawn. Diolch yn fawr. A oes unrhyw un eisiau gofyn unrhyw gwestiwn arall ynglŷn â'r pwyllgor llifogydd? Nac oes.
Alun Ffred Jones: Okay. Thank you very much. Does anyone else wish to ask any further questions about the flood defence committee? No.

[405] Ar ddraenio tir, rydych yn gofyn am bwerau ychwanegol yn fan hyn—pwerau i Weinidogion Cymru, neu unigolyn yn gweithredu ar eu rhan, i fynd i mewn i eiddo i weld a yw ffermwr neu dirfeddiannwr wedi cydymffurfio â gorchymyn. Pam eich bod chi eisiau'r hawl newydd yma?
On land drainage, you're asking for additional powers here—powers for Welsh Ministers, or an individual acting on their behalf, to enter a property to ensure that farmers or landowners have complied with an order. Why do you want this new right?

[406] **Carl Sargeant:** Just so that we can have the ability to access land where there may be disputes on allowing officials to access that property.

[407] **Alun Ffred Jones:** A ydy hi'n broblem—
Alun Ffred Jones: Is it a problem—

[408] **Carl Sargeant:** It's very rare that this happens in practice, but it's something that we'd like to be covered in the Bill.

[409] **Mr Guess:** There's a legal loophole, in a sense, about the power to enter land to inspect to see whether works have been carried out. There's a power in the Act already to enter land to carry out the works. This really just closes the loophole by just being clear, following a few situations, that the law works in that way.

[410] **Alun Ffred Jones:** Diolch yn fawr. A oes yna gwestiynau eraill? Na. Rydych chi wedi syfrdanu'r pwyllgor, i feddwl eu bod nhw bellach ddim eisiau gofyn dim byd
Alun Ffred Jones: Thank you very much. Are there any further questions? No. You have stunned the committee into silence so they don't wish to ask you any further

pellach i chi. A gaf fi ddiolch yn fawr i chi, Weinidog, am ddod i mewn y bore yma ac i'ch swyddogion i gyd am y ffordd y maen nhw wedi ateb cwestiynau? Rwy'n siŵr y bydd yna gwestiynau eraill gennym fel yr ydym yn dod i ddeall y Bil yn well ac yn enwedig, efallai, y cymhlethdodau sy'n ymddangos ar hyn o bryd, beth bynnag, ynglŷn â'r rhan gyntaf. Ond fe gawn ni weld am hynny wrth i ni dderbyn mwy o dystiolaeth. Diolch yn fawr iawn i chi unwaith eto.

questions. May I thank you very much, Minister, for coming in this morning and all your officials for the way in which they have answered our questions? I'm sure there will be further questions as we come to understand the Bill better, particularly, perhaps, the complexities that are ostensible at the moment, at least, in terms of the first section. But, we will think about that as we receive more evidence. Thank you very much one again.

[411] **Carl Sargeant:** Thank you, Chair.

[412] **Alun Ffred Jones:** We'll take a break now and will be returning in 15 minutes. Diolch yn fawr iawn.

*Gohiriwyd y cyfarfod rhwng 10:58 a 11:12.
The meeting adjourned between 10:58 and 11:12.*

Bil yr Amgylchedd (Cymru)—Cyfnod 1: Sesiwn Dystiolaeth 2 Environment (Wales) Bill—Stage 1: Evidence Session 2

[413] **Alun Ffred Jones:** I've spoken to Jeff regarding the letter—

[414] **Mr Davidson:** Rydym ni'n **Mr Davidson:** We're in public. gyhoeddus.

[415] **Alun Ffred Jones:** O. Ti ddim eisiau **Alun Ffred Jones:** Oh. You don't want this i hyn fod yn gyhoeddus— to be public—

[416] **Mr Davidson:** Wel, mae yna— **Mr Davidson:** Well, there are—*[Inaudible.]*
[Anhyglyw.]

[417] **Alun Ffred Jones:** I'll have a word with the rest of you this afternoon regarding that, and I'll be meeting the Minister.

[418] Diolch yn fawr. Croeso. Thank you very much. Welcome.

[419] **Dr Roberts:** Bore da. **Dr Roberts:** Good morning.

[420] **Alun Ffred Jones:** Bore da. **Alun Ffred Jones:** Good morning.

[421] A gaf i groesawu cynrychiolwyr Cyfoeth Naturiol Cymru atom ni, i'r sesiwn graffu yma ar Fil yr amgylchedd, sydd yn amlwg yn berthnasol iawn i weithgaredd Cyfoeth Naturiol Cymru? Ac felly, mi fydd o ddiddordeb mawr gweld eich ymateb chi i wahanol agweddau ar y Bil. A gaf i ofyn i chi eich cyflwyno eich hunain a nodi eich safle yn y sefydliad, os gwelwch yn dda? Can I welcome the representatives from Natural Resources Wales to us, to this scrutiny session on the Environment (Wales) Bill, which is clearly very relevant to the work of NRW? So, will be very interested in hearing your response to different aspects of this Bill. Can I ask you to introduce yourselves and to state your position within NRW, please?

[422] **Dr Roberts:** Emyr Roberts, prif weithredwr Cyfoeth Naturiol Cymru. **Dr Roberts:** Emyr Roberts, chief executive, NRW.

[423] **Mr Cook:** Steve Cook, manager for communities flood risk and incident management.

[424] **Dr Williams:** Sarah Williams, principal adviser, ecosystem approach, NRW.

[425] **Ms Davies:** Ceri Davies, executive director for knowledge, strategy and planning.

[426] **Alun Ffred Jones:** Diolch yn fawr iawn, ac, felly, gwnawn ni fwrw i mewn yn syth i'r cwestiynau, os nad ydych chi eisiau gwneud datganiad o gwbl. **Alun Ffred Jones:** Thank you. We will go straight into questions, if you don't wish to make a statement.

[427] **Dr Roberts:** Na, dim diolch. **Dr Roberts:** No, thanks.

[428] **Alun Ffred Jones:** Dyna ni. Felly, a gaf i ofyn i Llyr Gruffydd ddechrau'r holi? **Alun Ffred Jones:** There we are. So, may I ask Llyr Gruffydd to open the questioning?

[429] **Llyr Gruffydd:** I just want to pick up initially on the objective of sustainable management of national resources that's defined in section 3(2) of the Bill. It isn't the same as the resilience goal in the future generations Act, which is something I raised with the Minister earlier. Do you feel that there's sufficient alignment between the two?

[430] **Dr Roberts:** I'll ask Ceri perhaps to provide a bit more detail, but, yes, I think the future generations Act does give that focus on the longer term. I think the environment Bill takes that forward in terms of the sustainable management of natural resources. So, from our point of view, it's a natural fit, and we can see why the Bill is amending our purpose as Natural Resources Wales, to give it the consistency going through. So, I think we are content with that. Ceri.

11:15

[431] **Ms Davies:** Yes, absolutely. The definition within the Bill is quite wide-ranging, and it sets out how sustainable management of resources will be undertaken, and that, coupled with what's included within natural resources, makes it a very wide definition. I think our view is that it covers across all of the goals within the Well-being of Future Generations (Wales) Act 2015 as well, because we will be members of the public service boards, so it's really important that, as well as playing our natural resources role, we're playing that wider role, and I think there's scope within the way its defined.

[432] **Llyr Gruffydd:** But, do you believe, then, that there should be a more explicit reference to biodiversity in that definition? Because without a biodiverse natural environment reference—that's what underpins, really, what we're looking at here—is that omission an oversight?

[433] **Ms Davies:** No, we don't think it is an oversight. I think the definition of natural resources includes biodiversity within that. It's fundamental to natural resources and the ecosystem approach, which is covered within the first few sections of the Bill. So, it's very much within the core of natural resources management. It underpins the whole approach, the ecosystem approach, which includes biodiversity. So, we feel that it is covered within that.

[434] **Ms Williams:** I think we feel that the definition of natural resources, or the definition of each of those specific elements together are the building blocks of biological diversity,

which is clearly reflected back to the United Nations Convention on Biological Diversity. You can see in the first couple of sections of the Bill, there's a clear line of sight to what was in the CBD and a clear recognition there of the need to move, to take a step change in our approach to biodiversity because of the decline in biodiversity over time, to have a different and a new way of working. I think particularly the principles set out in section 4 have a clear line of sight through to the CBD and a clear recognition that these are the tools that we will adopt in our ways of working across the organisation, to benefit biodiversity.

[435] **Alun Ffred Jones:** So, you don't feel the absence of the UN convention definition weakens the Bill in any way.

[436] **Ms Williams:** I don't personally think so, no. I think the principles set out under section 4 have a clear alignment to each of the definitions of the 12 principles in the CBD. There's a clear line of sight there.

[437] **Llyr Gruffydd:** The principles mention an appropriate scale. What do you believe that to be?

[438] **Ms Williams:** The scale question is really important and is fundamental to our approach of developing our area statements. The scale question, you know—. The CBD is all about adaptive management and recognising that we have to adapt and learn and gather new evidence to test how things are working, and if new things are emerging, we need to adapt our approach. So, by recognising that—we can't say now—we need to reflect on the scale and the issues that are coming out of the national natural resources management policy, which will be defined by Ministers. And, we will need to reflect on those issues and priorities identified in that document—in the priorities—what the appropriate scale to address those in the first cycle of the area statements is. When we've gone through the first cycle, we then might need to say, 'Okay, well, we need to move to a different scale for the next set of priorities', which I think is why it's really important that it's retained as a flexible definition of scale in the Bill.

[439] **Alun Ffred Jones:** Jeff Cuthbert.

[440] **Jeff Cuthbert:** Thank you. Can I ask you about the state of natural resources report? It's been noted that there is no explicit reference in the Bill to the minimum requirements that should be included in that report. Why is that? Should there not be such a requirement? And, can you just clarify your view on the relationship between that report and the future trends report that has to be produced under the future generations Act.

[441] **Dr Roberts:** I'll just ask Ceri to pick that up.

[442] **Ms Davies:** Yes, I'll pick that up. So, our understanding of the timing here is that the future trends report is due out in autumn 2016 and our first state of natural resources report is similarly timed for autumn 2016. I think, as we stated in our evidence, we feel that we will need to adapt. The state of natural resources report is something that will evolve over time. I think, working through the public service boards under the wellbeing of future generations Act so that we can ensure that the future trends are informing the SoNaRR report and then that the SoNaRR report then feeds into the NNRP and then that the NNRP feeds into the area statement—. So, there's quite an orchestration of timing in there to ensure that proper regard is being given to the future trends report. I think what we set out in our evidence is what we think the SoNaRR report, for short, needs to include so that we capture the evidence and provide it in the best way that we can. Clearly, I think as we made clear in our evidence, we have the evidence that we've got at the moment, which is being driven, largely functionally, through the legislation that we've got, and there will be gaps within that evidence piece that we will need to fill through future SoNaRR reports. We see that being tackled on a Wales-wide basis through working collaboratively with other organisations that hold data, working

with the third sector, with the environmental non-governmental organisation sector and other public administrations so that we can bring all of our evidence together.

[443] So, for example, one of the key bits of evidence that we feel will be needed to be included in future SoNaRR reports is the socioeconomic evidence that's probably held most in public health boards and local authorities. So, by coming together, I think, through the public services boards, we'll be able to produce reports that are much more rounded and not just focused on, you know, the state of the environment, as the current snapshot that we gave you is at the moment.

[444] **Jeff Cuthbert:** Okay. We might need to clarify something. Unless I misunderstood the Minister, I thought he said that the first future trends report will be produced, even if it's a rather basic one for understandable reasons, before the next Assembly elections, and you said that it would be autumn of next year, which would be after the election of a new Welsh Government. So, which one is right?

[445] **Ms Davies:** As long as it's before our SoNaRR report—I think that's the important point. Our SoNaRR report is autumn 2016. So, the future trends report, albeit it might not be as extensive as it will be in future, will be able to feed into the first SoNaRR report, which is autumn 2016.

[446] **Alun Ffred Jones:** I presume—can I just clarify this point? You're quite right, Jeff. There is also a national natural resources policy statement, which, presumably, will have to be made to inform the SoNaRR report?

[447] **Ms Davies:** I think it's the other way round.

[448] **Alun Ffred Jones:** The other way round.

[449] **Ms Davies:** Yes. The purpose of the SoNaRR is to lay out all of the evidence, and then the evidence will help to shape the policy, which will be in the NNRP. And then the policy will drive the area statements. So, I think it's in that order. That's certainly how we are working at the moment. It's that the evidence will be laid out in its fullest sense. Then the national—. The NNRP—I'm not even going to try to say those words together—will follow, and that will provide the direction for the area statements.

[450] **Jeff Cuthbert:** I mean, I can see the logic in that, but I want to get the timing right, because the purpose—and I appreciate we're not talking about the future generations Bill here specifically, but obviously it's linked in to the environment Bill—of the future trends report is to inform an incoming Government about where we are and what's to be done, and that's why I thought that that needed to be produced no more than 12 months prior to an Assembly election, unless my memory is fading. It's a while ago now since I had direct involvement, but—

[451] **Ms Davies:** I think that, when the full cycle is in production—. I think this first one is going to be later on in this—

[452] **Jeff Cuthbert:** Well, we need clarification on that, because the Minister did say that there would be, maybe not the full job, but at least a provisional one produced before the Assembly elections—that is the future trends report.

[453] **Ms Davies:** I think we are anticipating that as well. If I've led you to think anything different, then I didn't mean to; sorry.

[454] **Dr Roberts:** I think you said autumn. I think you mean spring.

[455] **Ms Davies:** Yes, yes, sorry. So, it'll be—

[456] **Jeff Cuthbert:** Okay. So, spring would be before we're dissolved?

[457] **Dr Roberts:** I think so, yes. Certainly, we're anticipating the future trends one informing the SoNaRR report, flagging up issues, for instance—

[458] **Jeff Cuthbert:** That's how I would see it as well.

[459] **Dr Roberts:** —like climate change, which we've obviously discussed.

[460] **Jeff Cuthbert:** Okay. All right. Thank you.

[461] **Alun Ffred Jones:** Have you finished?

[462] **Jeff Cuthbert:** Yes, I think the other points—. Just on the role of the wellbeing goals in terms of informing the natural resources report, again, how will you—? Those goals are overarching, clearly, and all public bodies should have regard to all the goals, not just one or two, so how will you ensure that the state of natural resources report will do just that?

[463] **Ms Davies:** I think that's the work that we'll be doing through the public services boards. In our role on the public services boards, we'll be looking to ensure that the SoNaRR report is more than a state of the environment report—that it is much wider and is looking towards providing that evidence base. That's why we'll be looking to work through the public sector boards with those other authorities that hold some of the other information, data and evidence that could feed into that report.

[464] **Jeff Cuthbert:** Okay. All right. Thank you.

[465] **Alun Ffred Jones:** So, the SoNaRR report informs the policy, which, in turn, informs the local board's statements to the local—

[466] **Ms Davies:** The area statements under this Bill.

[467] **Alun Ffred Jones:** Okay. Janet Haworth.

[468] **Dr Roberts:** Can I just say, Chair, I think it's important that in framing the area statements, which we are responsible for, we have a statement of the national policy for natural resources in Wales? We can then work within that to bring up particular issues within the area statement—particular priorities, for instance, which may emerge from the national policy.

[469] **Alun Ffred Jones:** We'll come to that in a minute now. Janet Haworth.

[470] **Janet Haworth:** Yes. Hello. You're having to work very holistically across a number of bodies and fields of expertise, and I wonder whether you believe there should be a process for resolving any conflicts of interest or, you know, disagreements about priorities within the national natural resources policy, and how you would see that working.

[471] **Dr Roberts:** I'm not sure that there needs to be a process in that. Clearly, what we are learning from the area trials, which we're doing at the moment, is, as you say, to engage very early with local stakeholders in particular. Through working with them we would hope to bring up a consensus around the priorities, which then go into the area statements. I mean, if there are conflicting views, I'm sure we will say that within those area statements. But

ultimately we have to reach a judgment on what we think the priorities for a particular area might be. I don't think we need a process to actually help with that.

[472] **Janet Haworth:** And if I could go on to ask you about your thoughts about the Bill containing minimum requirements on the information that should be provided to the Welsh Government in a national natural resources policy. You know, what are your thoughts about something being stipulated around minimum requirements?

[473] **Dr Roberts:** I think this is a difficult one. I mean, obviously this legislation is intended to be there for a long time. The situation may change over time. So, I think there'd be a risk, if you put in minimum requirements, that you get caught out in due course. It doesn't cover particular areas that might be an emerging problem. You know, who knows what might emerge, for instance with climate change. So, I think we're content with the way in which the Bill is drafted at the moment, which gives that flexibility. Clearly, we would expect the Government to pick up the main issues affecting natural resources and the environment. We, in turn, will do that in the area statements. So, I think we feel that there's no need for any prescription beyond that.

[474] **Janet Haworth:** Right. Thank you very much.

[475] **Alun Ffred Jones:** Julie Morgan.

[476] **Julie Morgan:** I was going to ask about area statements now. So, how many area statements do you plan to produce, and how much of the area of Wales will be covered by them?

[477] **Dr Roberts:** Okay. That's a very good question, and something that we're obviously giving consideration to at the moment. To answer the second question, we do believe that the initial phase of the area statements should cover the whole of Wales—I think that's logical—otherwise we would be missing out parts of Wales. We need further discussion, I think, on the issue of scale there. As Sarah has intimated, it may be better to work from the higher level initially—so, fewer area statements—and then, over time, to work at a more detailed level.

11:30

[478] For instance—and this is just a 'for instance'—there are currently river basin management plans at a scale in Wales, and that might be an appropriate level to start, but that's for discussion at the moment. We would envisage a smaller number of statements. The regulatory impact assessment gives some options: we envisage a smaller number of statements initially and then working through into the detail, as this process progresses.

[479] **Julie Morgan:** Right. So, you'd start off with a small number, but with the intention of covering the whole of Wales eventually.

[480] **Dr Roberts:** We think it's important to cover the whole of Wales from the outset. So, I think I'm right in saying that the river basin management plans cover the whole of Wales, currently, for instance.

[481] **Ms Davies:** Well, we've got the three, but I think, in order to make that link back into the public service boards and the plans that they need to produce, I think it's important that we do provide that sort of level of what's happening through the area statements through into that.

[482] **Julie Morgan:** Yes. So, obviously, if they didn't cover the whole of Wales, there would be a vacuum, wouldn't there in terms of the public service boards?

[483] **Ms Davies:** Yes, absolutely.

[484] **Dr Roberts:** Yes, but, as I said, on the areas, I think we need further discussion with stakeholders and others about that.

[485] **Julie Morgan:** Right. So, what is the timescale for the production of the area statements?

[486] **Ms Davies:** Well, it's starting from after the first NNRP. So, once the policy has been produced, then that's what then needs to influence the production of the area statements. So, we're looking at any time from spring onwards in 2017. I think the important thing is that we've made sure that, through the collaborative working—because they're not just for us to do, but to do in collaboration with other organisations—we've got the size and the scope and the content agreed, so that we can then agree the timescale for the production of them.

[487] **Julie Morgan:** Right. Could you tell us what the content of an area plan is likely to be?

[488] **Dr Roberts:** Well, we've started to scope that in the sense of the area trials that we're currently engaged with. I have written to the Chair to invite the committee to visit one of the area trials to see what that adds. So, we're in the business of collecting that evidence as we speak. I don't know whether you want to add to that.

[489] **Ms Davies:** I guess the point I would add is they need to be applying the evidence at that scale, so, you know, taking the SoNaRR reports, which will look at the whole of Wales, and then starting to feed that into what that means at this local scale—the geography—then, through that, to pick up what the issues, challenges and opportunities are, and then, what we all need to do as a result of that. So, I think they're the sort of broad areas that, you know, we feel need to be included, and who needs to be involved in that delivery. That's what we're learning from the trials at the moment is we need to start from the evidence that we have, what the issues are, what the opportunities are, and then agree on who is doing what, and that will fold into the area statement.

[490] **Julie Morgan:** So, it would include an action plan, then.

[491] **Ms Davies:** It may—

[492] **Ms Williams:** Our intention—

[493] **Ms Davies:** It'll certainly need to drive the work that we're doing, so we'll need it to be, you know—. This is about new ways of working and it's also about Wales coming together to deliver. So, I think there does need to be an element of action, of who's doing what, and being quite clear, so that we can deliver the priorities for that area.

[494] **Ms Williams:** It's really important that these aren't plans that sit on a shelf; these really need to be about engaging with those stakeholders and those communities in that particular place to come to a consensus, and then to take action. It's not just about having a perfect plan. We need to take action; this is what it's all about.

[495] **Ms Davies:** And also about what we're all going to do collectively, and not just about what NRW's going to do. I think that's where we've taken a good lesson from the river basin plans that Emyr talked about, because they're perhaps some of the earlier of these types of plans that look wider and that look at a whole catchment. Also, look at who the players are: who is it who could be bringing work and resources into the patch, like the water companies,

for example? What sort of investments do they need to make in that geography to deliver the outcomes? So, it is about setting out that plan for us all to follow, so that we deliver those outcomes.

[496] **Julie Morgan:** And then the last question from me: how much do you expect the delivery of area statements to cost? How much do you think this development will cost?

[497] **Dr Roberts:** There are some estimates made in the regulatory impact assessment in the Bill. As I said, our current thinking is around—I can't remember the numbers of the options—option 3, is it, which has the fewer options? We notice that this has been costed in the RIA. So, initially, perhaps the costs will be around the area of option 3, but, in due course, I think we'll need to move to the costs that are in option 4. There will be additional costs for NRW, but I think they're captured in the RIA—as I said, perhaps initially in option 3, but then moving to option 4.

[498] **Julie Morgan:** Right.

[499] **Alun Ffred Jones:** Llyr, a oeddet ti **Alun Ffred Jones:** Llyr, did you want to eisiau dod i mewn? come in?

[500] **Llyr Gruffydd:** I'm just interested in your take on the area statements, really, because the Minister previously made it quite clear that it was merely contributing to the evidence base and that it wouldn't be an action plan, and that that would be left to the local wellbeing plans to deliver. Is there a contradiction in what you're thinking and what the Minister's saying?

[501] **Ms Davies:** I think the SoNaRR is more of the evidence base, so I think that's the document—well, 'document'; it'll be electronically available—that will be setting out the evidence base. Some of that will then fold into the local area in terms of what's relevant for that patch. Certainly, we see it as an opportunity to agree with the relevant other organisations what we're going to deliver in that geography; otherwise, I think the danger is, as Sarah said, it just becomes a plan on a shelf that people dust off and—

[502] **Llyr Gruffydd:** Quite. I agree.

[503] **Ms Williams:** I think the other thing to remember is that the PSBs cover the public sector. A large part of the issues that we will have to address relate to land management, be that forestry, be that woodlands, be that farming. They are not included and are not within the remit of the PSBs, so we will have to think quite carefully about how we engage with that sector, to ensure that they are part of the process and that we can reach out and have a collective agreement with them about the way of taking this forward.

[504] **Alun Ffred Jones:** Mae yna **Alun Ffred Jones:** There is a difference, as wahaniaeth, hyd y gallaf i ei weld, rhwng yr far as I can see, between what the Minister hyn a ddywedodd y Gweinidog y bore yma said this morning and what you think is going a'r hyn rydych chi'n meddwl sy'n mynd i to happen in terms of these area statements. ddigwydd ynglŷn â'r datganiadau ardal yma. The impression that we got this morning was Yr argraff y cawsom ni y bore yma oedd ei that he envisaged a number of statements fod o'n rhagweld rhyw nifer o ddatganiadau being made, but that they wouldn't cover the yn cael eu gwneud ond na fyddan nhw'n whole of Wales, but you seem to be cyfro Cymru i gyd, ond rydych chi'n envisaging that they will cover the whole of rhagweld y byddan nhw yn cyfro Cymru i Wales, do you? That's your reading of the gyd, a ydych chi? Dyna'ch darlleniad chi o'r Bil, is it? Bil, ie?

[505] **Dr Roberts:** Ie, rwy'n meddwl y byddwn ni'n cael rhagor o drafodaethau gyda'r Llywodraeth ynglŷn â'r disgwyliadau ar hyn, ond fel y dywedodd Ceri, rwy'n meddwl ei bod yn bwysig bod pob rhan o Gymru'n teimlo'n rhan o'r broses yma o'r cychwyn. Yn wir, mae'n ddyletswydd arnom ni, rwy'n meddwl, i adrodd ar bob rhan o Gymru—efallai ar lefel go uchel, ond yn cynnwys pob rhan o Gymru. Mae'r ddeddfwriaeth yn gadael digon o le i gael rhagor o drafodaeth gyda'r Llywodraeth ac eraill ar hyn.

[506] **Llyr Gruffydd:** A ydych chi'n rhagweld y bydd y datganiadau ardal yma'n cynnwys yr amgylchedd morol?

[507] **Dr Roberts:** Byddant, yn bendant. Yn bendant, bendant.

[508] **Alun Ffred Jones:** Rydym ni wedi bod yn trio gweld y cyswllt rhwng y Bil yma a'r ddeddfwriaeth arall sydd wedi mynd trwodd, achos mae'n amlwg eu bod nhw'n ymwneud â'r un maes. Felly, jest i fod yn glir, rŵan, mi fydd yna adroddiad tueddiadau tebygol y dyfodol yn dod o Ddeddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015. Wedyn, mi fydd adroddiad 'SoNaRR' yr ydych yn ei alw fo gan Gyfoeth Naturiol Cymru yn dilyn, ac wedyn mi fydd y polisi cenedlaethol yn cael ei ddatgan gan y Llywodraeth. Wedyn, mi fyddwch chi'n mynd ati i wneud y datganiadau ardal yma. Mae yna wahaniaeth pwyslais pendant iawn rhwng yr hyn rydych chi'n ei ddweud bydd yn y datganiadau hynny a'r hyn mae'r Gweinidog wedi'i ddweud y bore yma. Beth ydy'r berthynas, felly, rhwng y datganiadau ardal yna a'r cynlluniau llesiant lleol sydd hefyd yn cael eu gwneud, ond nid o fewn yr un diriogaeth, wrth gwrs, o angenrheidrwydd? Beth yw'r cysylltiad rhwng y ddau olaf yna'n benodol?

[509] **Dr Roberts:** Gofynnaf i Ceri neu Sarah.

[510] **Ms Davies:** I think that, as Sarah mentioned, the local wellbeing plans will be looking at a much wider remit again. So, it'll be important that they fit together, these plans, so that we've got the evidence from the area statements, and then we know what the contribution that those involved in the area statements is going to deliver. That will help to deliver the wellbeing plans, too.

Dr Roberts: Yes, I think that we will be holding further discussions with the Government as regards people's expectations on this, but as Ceri said, I think it's important that every part of Wales feels a part of this process from the outset. Indeed, we are duty bound, I believe, to report on every part of Wales—perhaps at quite a high level, but we should include all areas of Wales. The legislation allows sufficient scope for further discussion with the Government and others on this.

Llyr Gruffydd: Do you envisage these area statements including the marine environment?

Dr Roberts: Yes, they will, definitely. Most certainly.

Alun Ffred Jones: We've been trying to make the connection between this Bill and the other legislation that has already been passed, because it's clear that they relate to the same field. So, just to be clear, now, there will be the future trends report as a result of the Well-being of Future Generations (Wales) Act 2015. Then, that will be followed by the 'SoNaRR' report, as you call it, from Natural Resources Wales, and then the national policy will be stated by the Government. After that, you will set about making these area statements. There is a very obvious difference in emphasis in what you're saying will be contained in those statements and what the Minister said about the statements this morning. So, what is the relationship between those area statements and the local wellbeing plans, which are also being made, but not necessarily within the same territory, of course? So, what is the connection between those two last ones specifically?

Dr Roberts: I will ask Ceri or Sarah.

[511] **Ms Williams:** I think the common thread between the wellbeing plan, the area statements and SoNaRR is really our evidence: how we present our evidence and gather our evidence to inform that set of decision makers. That is really the common thread between the two, and us presenting our evidence on our remit, and using it then with the rest of the public service board to discuss what the wider opportunities are for resilient ecosystems and the other goals in that particular place.

[512] **Alun Ffred Jones:** A ydy'r Bil fel ag y mae o yn gofyn i chi gysylltu neu ymgysylltu â rhanddeiliaid eraill wrth wneud datganiadau ardal? **Alun Ffred Jones:** Does the Bill as currently drafted require you to make contact with or to engage with other stakeholders in making area statements?

[513] **Ms Williams:** Absolutely. Sorry, I've jumped in here, but, absolutely, it's fundamental. If you go back to the principles of sustainable natural resource management, there is a clear principle there of working to promote and engage in collaboration and co-operation. That is one of our key ways of working now under this proposal, and so there's an expectation that we will work collaboratively in developing the area statements, and we are doing that now in the work that we're doing on the area trials. Those three trials are working with communities and stakeholders in different ways to engage them about that particular place—the priorities, the issues, their concerns—and building up a picture that is very much centred around the people in that place.

[514] **Alun Ffred Jones:** Ond mae'r treialon rydych chi'n eu gwneud ar hyn o bryd yn ymwneud ag ardaloedd sydd yn cael eu diffinio gan yr afonydd rydych chi wedi eu dewis, onid ydynt? Wrth gwrs, nid yw Cymru wedi cael ei rhannu mor daclus â hynny, nac ydy? Felly, pan fyddwch chi'n gwneud y datganiadau sydd yn amlwg yn mynd i fod yn yr ardaloedd helaethach na hynny, hyd y gwelaf i, mi fyddwch chi'n gorfod defnyddio criteria ychydig yn wahanol. Rydych chi ar hyn o bryd â ffocws penodol iawn, iawn ynglŷn â'r datganiad a'r cynlluniau rydych chi'n gobeithio a fydd yn dod o hynny, a gweithredu, ond wrth fynd yn ehangach, yna yn amlwg byddwch chi'n colli'r ffocws yna. **Alun Ffred Jones:** But the trials that you're carrying out at the moment are to do with the areas that are defined by the rivers that you have chosen, aren't they? Of course, Wales isn't split up as tidily as that, is it? So, when you make the area statements, which will obviously be over wider areas than the river boundaries, as far as I can see, you will have to use slightly different criteria. At the moment, you have a very, very specific focus on the statement and the plans that you hope will emerge from that, and implement, but as you go broader, you will inevitably lose that focus.

[515] **Dr Roberts:** Mae hynny'n wir. Efallai y bydd o'n fan cychwyn ynglŷn â dalgylch yr afon, ond bydd rhaid addasu hynny, fel yr ydych chi'n sôn. Felly, rhaid inni edrych ar hynny. **Dr Roberts:** That is true. Perhaps it will be a starting point in terms of the river catchment area, but that will have to be adapted, as you have outlined. So, we will have to take a look at that.

[516] **Alun Ffred Jones:** Okay. Janet, do you want to go on to biodiversity?

[517] **Janet Haworth:** Yes—

[518] **Alun Ffred Jones:** Oh, sorry, Jenny. Do come in.

[519] **Jenny Rathbone:** I just wanted to ask you whether the Bill gives you sufficient powers to do something if things are not going according to plan. All these reports and all this collaboration is great, but take the specific case of water pollution, which is both urban runoff and rural, does the Bill give you sufficient powers to actually track back the source of the

pollution and get it stopped?

[520] **Dr Roberts:** The first thing to say is, obviously, we have a wide range of regulatory powers already, but I think that's where sections 22 and 23 kick in, because I think the intent behind the Bill is to extend those powers even further if we can actually demonstrate a need to do that. So, we think those sections are helpful in supplementing the powers that we already have.

[521] **Alun Ffred Jones:** Sorry, Janet Haworth.

[522] **Janet Haworth:** I wanted to ask you why you—. No, there's an ongoing decline in biodiversity, and do you believe that the biodiversity duty included in section 6 is an improvement upon the duty on public bodies?

[523] **Ms Davies:** Yes. Certainly, we do. I think, at the moment, the public bodies have to have regard, whereas the duty that's set out in the Bill is about 'maintain and enhance', which is stronger than 'having regard'. We strongly support that in terms of our more holistic and integrated approach through natural resource management working together. That's the whole purpose of the Bill, really. It's to bring these things together to drive us forward more positively than where we are at the moment with the sort of legislative base that we're working on, which is not integrated, and which is looking at things in specific functions.

11:45

[524] **Janet Haworth:** Could that duty be further strengthened?

[525] **Ms Davies:** I think the important thing will be around maintaining and enhancing. That's a pretty strong duty, and there is a reporting requirement as well, and I think that is important so that we can see how that's being delivered. Then, obviously, all of these things link into the priorities and the national natural resource policy—the policy document—that will then drive different responses if they are required. These are all linked together so that, if there's a failing in a particular area, or by particular organisations, then that can be addressed through the mechanisms within the Bill, like the policy, which will then make that a priority.

[526] **Janet Haworth:** There's been mention this morning of linkages to the future generations Bill, which we've covered earlier, I think. But the more I read into this Bill, the more I can see there is a link to be made with the planning Bill as well. I know that you will be consulted on planning applications, but when a planning committee fails to take account of a strongly evidence-based objection on your part, where does that leave you?

[527] **Ms Davies:** I think, in the evidence we submitted, we've suggested that we felt that there needed to be a strengthening of the link between the area statement and the evidence that we produce and the local development plans. Our understanding is that the Minister is considering that as a potential strengthening point, so we do see that as an important link that needs to be made.

[528] **Dr Roberts:** That's in section 10 of the evidence that we provided.

[529] **Janet Haworth:** So, will you be doing some work on looking at your area statements and seeing where there may be conflicts with existing local development plans? I know that many authorities are on time and have those in place now, because, certainly, I think, some of the areas of scientific special interest and so on, some of the pressures they come under are actually from a planning decision that has undermined the work that is going on there.

[530] **Ms Davies:** Absolutely, and I think, for my part, it's about bringing that whole

process further forward so that we're not dealing with it at the planning consultation stage, but actually that the strategic planning documents are driving things to the right locations so that we then have things going in the right place rather than trying to mitigate things in the wrong place. So, that's the ambition, and that's why the importance of the evidence and the linkages into the local development plan are key—so that we can get those things driven in the right place.

[531] **Janet Haworth:** There's been mention of the river basins management plans and the work that's going on there. That's clearly a priority area for you. Do you have any other priorities in mind that you think need to be tackled with these area management plans?

[532] **Ms Davies:** There's a wide range of priorities, absolutely.

[533] **Alun Ffred Jones:** We'll leave that question for the time being. Llyr.

[534] **Llyr Gruffydd:** On the area statements—is it the area statements? I'm having a bit of a blank. What I wanted to ask—. No, it's the biodiversity duty; that's where we are. I just wanted to ask how you think we should be measuring whether a public body is meeting that duty or not, and, if they're not, what types of sanctions do you think should be available?

[535] **Ms Davies:** Well, there will be a reporting requirement, and I think it's absolutely key that the reporting requirement sets out in sufficient detail to be able to judge how well public bodies are maintaining and enhancing. And then—

[536] **Llyr Gruffydd:** But will there be any slide that can be used to measure progress or decline?

[537] **Ms Davies:** I think that will link into the evidence in our SoNaRR. I think that's where all these things are interlinked together. I think the reporting requirement is every three years, but, as we know, biodiversity often takes longer than that to recover. So, that's where the importance of the SoNaRR report and the repetitive nature of us doing those will drive whether or not the actions being taken under this maintaining and enhancing duty by the public bodies is actually delivering the right outcomes, and that's then where it will feed back into prioritising things through the policy document.

[538] **Llyr Gruffydd:** And sanctions.

[539] **Ms Davies:** Our understanding is the sanctions that are around that are around judicial review if bodies are found wanting. And, obviously, we would anticipate that our view about whether or not things are moving forward at an appropriate pace would be sought in that.

[540] **Alun Ffred Jones:** Russell George.

[541] **Russell George:** Thank you, Chair. Good morning, all. In your evidence, you talk about having wider land management powers. Why do you need that?

[542] **Ms Davies:** So, at the moment, we use land management powers mainly around conservation and biodiversity and we have—I think I've written the number down—around 700 agreements in place, which are mainly, at the moment, focused around our biodiversity and conservation duties. I think, in looking at what can be achieved by an agreement between parties about an outcome, we felt that there was merit in that being extended across the range of activities, not only for biodiversity and conservation, but for flood risk for example. It could be really useful for us to enter into an agreement with a land manager if they were prepared to allow for their land to flood, for us not having to then build defences in another

location. So, that's why we sought, with the Government, to extend that management agreement. It is an agreement; it isn't something that we'll be imposing on people, but we felt that there was merit in extending that.

[543] **Russell George:** And what sort of consultation would you do with landowners in that regard?

[544] **Ms Davies:** We would consult with them, because, as I said, it is an agreement at the end of the day, so we would have to go through the process of having those discussions and coming to an agreement.

[545] **Russell George:** In your evidence, you talk about experimental powers to suspend a statutory requirement as well. Can you provide some kind of example about the circumstances in which that would come about?

[546] **Ms Davies:** Okay. Again, I think these experimental powers came largely from the biodiversity and conservation duties and powers that we have currently, but we again felt that, having used them in that regard, they were instrumental in developing some of the former schemes to Glastir. So, we looked across and felt that they could be used and we see the opportunity for using them to—. If, for example, we have current functional legislation that doesn't help in terms of the ecosystem delivery, we would want to then have that discussion with Ministers about potentially suspending an element of the legislation we're dealing with to be able to use or try a different approach. Another area is general binding rules where, at the moment, they aren't within the Bill, and that's another area, from our experience and evidence around land management, where we feel it would be useful to try to get better basic standards of performance.

[547] **Russell George:** And what kind of an area would an experimental scheme apply to? Would it be a town or a county? How do you define what geographical area it covers?

[548] **Ms Davies:** I think it will depend—if it was a GBR, then you could be talking to a sector. So it could be that we would be looking at the agricultural sector to meet a certain basic standard that we would set out through general binding rules. But if it was a specific regulatory element, then it may be that we'd be looking at a particular operator or a piece of legislation to look to suspend in order to try this duty. An example is that, often, when we're regulating installation sites, we're constrained to looking only within the site boundary, but they obviously have a wider impact than the site itself and it could be that a combination of working with others in the area, together with that particular site, could result in a better outcome for natural resources.

[549] **Russell George:** And what kind of consultation would you do before you apply to Welsh Ministers?

[550] **Ms Davies:** Again, we would need to really have gone out there and convinced everyone that this was the way forward, so that would be done in a very open, collaborative way, and we would need to have the support of other parties to take it forward. We don't see it as something that we would unilaterally go to the Minister and say, 'We would like to see a suspension of this'. It would be done very much as a collaborative approach, because if you were relying on others to deliver elements, then they would have to be brought into that process.

[551] **Russell George:** I have one final question, which is not exactly linked to my other questions, but it's on waste management. We had some discussion with the Minister about enforcement of the Bill, encompassing the use of drainage, or commercial properties and residential properties, using the sewerage system in a wrong way. He talked about the Bill in

terms of accommodating that. There must be a regulation already in place in that regard. I was wondering what thoughts you had on that and what regulation is in place to stop residential and commercial properties using drainage systems in an inappropriate way.

[552] **Ms Davies:** I think the Bill is proposing not to allow food waste to sewer, which we absolutely support.

[553] **Russell George:** Isn't that already a requirement—you surely can enforce that already in some way.

[554] **Ms Davies:** Not for households, I don't believe.

[555] **Russell George:** Not for households. Just for commercial—

[556] **Ms Davies:** I'm not entirely sure that we can. No, I don't think we can.

[557] **Alun Ffred Jones:** We'll be returning to this issue in a further session with NRW. So, we'll leave that.

[558] Y tro diwethaf y buoch chi yma, Mr Roberts, rwy'n credu i chi ddweud eich bod yn disgwyl y byddai'r Bil yma'n rhoi cyfeiriad newydd a chliriach i'ch gwaith chi. O weld y Bil rwan, a ydych yn meddwl fod hynny'n wir?

The last time you were here, Mr Roberts, I think you said that you expected that this Bill would give a new and clearer direction to your work. Looking at the Bill now, do you think that that is true?

[559] **Dr Roberts:** Ydw. Rwy'n meddwl ei fod yn gyson efo'r ddeddfwriaeth arall sydd o gwmpas. Nid oes dim o'i le efo'r pwrpas gwreiddiol a gafodd Cyfoeth Naturiol Cymru, ond rwy'n meddwl bod hwn yn gliriach ac mae'n canolbwyntio ar ein rôl ni o ran ceisio rheoli adnoddau naturiol mewn ffordd gynaliadwy. Dyna beth ydy pwrpas Cyfoeth Naturiol Cymru mewn gwirionedd. Felly, rwy'n meddwl ei fod yn gliriach ac rydym yn fodlon efo'r pwrpas newydd.

Dr Roberts: Yes. I think that it is consistent with the other legislation that has been introduced. There is nothing wrong with the initial purpose given to Natural Resources Wales, but I think that this is clearer and it does focus on our role in trying to manage natural resources in a sustainable manner. That is the purpose of Natural Resources Wales, in fact. So, I do believe that it gives greater clarity and we are happy with the new purpose.

[560] **Alun Ffred Jones:** A allwch chi esbonio pam mae'r diben newydd, sy'n cael ei ddarparu yn adran 5, yn well na'r diben presennol?

Alun Ffred Jones: Can you explain why the new purpose, which is provided in section 5, is better than the current purpose?

[561] **Dr Roberts:** Rwy'n meddwl bod yr un presennol yn un cyffredinol iawn, a'r peth pwysig i sylweddoli yn hyn i gyd ydy bod yna lawer iawn o ddeddfwriaeth y tu cefn i hwn. Beth mae'r Bil yn ei wneud ydy rhoi fframwaith i'r ddeddfwriaeth yna. Nid yw'n rhoi pwerau ychwanegol i ni, ond beth mae'n ei wneud ydy rhoi fframwaith. Rwy'n meddwl bod y fframwaith sy'n cael ei osod gerbron yn well na'r pwrpas sydd gennym ni'n barod, sy'n gyffredin iawn, rwy'n meddwl.

Dr Roberts: I believe that the present one is very general, and the important thing to realise in all of this is that there is a great deal of legislation behind this. What the Bill does is give that legislation a framework. It doesn't give us additional powers, but what it does is give us a framework. I think that the framework that is before us is better than the current purpose that we have, which is very general, I think.

[562] **Alun Ffred Jones:** Ym maes llifogydd, pam rydych chi'n credu fel corff ei bod hi'n briodol i ddiddymu'r Pwyllgor Rheoli Perygl Llifogydd Cymru? **Alun Ffred Jones:** On flooding, why do you believe as a body that the Flood Risk Management Wales Committee should be disbanded?

[563] **Dr Roberts:** Efallai y gwnaf i ofyn i Steve ddod i mewn ar hwn. **Dr Roberts:** Perhaps I'll ask Steve to come in on this.

[564] **Mr Cook:** Just to clarify, the current committee is a committee of Natural Resources Wales. The Flood and Water Management Act 2010—

[565] **Alun Ffred Jones:** It is a committee of Natural Resources Wales.

[566] **Mr Cook:** It is, yes. Basically, the Flood and Water Management Act 2010 gives an instruction for NRW here and the Environment Agency in England to set up these committees and to appoint half the members. We have a statutory duty, as NRW, to consult and gain the consent of the committee before we can carry out our annual work programme on river and coastal flood defence. So, they are there to both give an executive role to approve and consent our work programme and to give us advice about how we actually undertake the wide range of flood risk duties that we do.

[567] **Alun Ffred Jones:** That's the present set-up.

[568] **Mr Cook:** That's the present set-up, so obviously—

[569] **Alun Ffred Jones:** But this is going to be done away with.

[570] **Dr Roberts:** Ydy. Mae yna broblem llywodraethu yma oherwydd, fel dywedodd Steve, mae'r pwyllgor statudol yma yn caniatáu'r buddsoddiad yr ydym ni'n ei wneud fel corff, a gafodd ei sefydlu cyn i Gyfoeth Naturiol Cymru gael osod i fyny a chyn bod bwrdd gan Gyfoeth Naturiol Cymru. Nid oes cysylltiad uniongyrchol rhwng y pwyllgor a bwrdd Cyfoeth Naturiol Cymru. Rydym ni wedi cysylltu'r ddau beth trwy osod aelod o'r bwrdd ar y pwyllgor, ond, mewn gwirionedd, nid yw'n gweithio o safbwynt llywodraethu. Felly, mae'n iawn i ddiddymu'r drefn bresennol. **Dr Roberts:** Yes. There is a governance issue here because, as Steve said, this statutory committee allows the investment that we make as a body, which was established before Natural Resources Wales was set up and before Natural Resources Wales had a board. There is no direct link between the committee and the board of Natural Resources Wales. We've linked the two things by placing a member of the board on the committee, but, in reality, it doesn't work from a governance standpoint. So, it's right to abolish the current system.

[571] Yr ail beth yw bod y pwyllgor dim ond yn canolbwyntio ar waith Cyfoeth Naturiol Cymru, ond, wrth gwrs, mae gan awdurdodau lleol ac eraill rôl bwysig i'w chwarae hefyd. Felly, trwy'r Bil, rwy'n meddwl mai beth mae'r Gweinidog yn ceisio ei wneud yw cael corff sy'n eithaf gwahanol i'r un sydd yna'n barod, ond yn adeiladu ar y pwyllgor sydd gennym ni. The second thing is that the committee only focuses on the work of Natural Resources Wales, but, of course, local authorities and others have an important role to play too. So, through the Bill, what I think the Minister is trying to do is to get quite a different body to the one we have at present, but building on the committee that we have.

12:00

- [572] **Alun Ffred Jones:** Ond bydd y corff newydd felly'n sefyll tu allan i Cyfoeth Naturiol Cymru. **Alun Ffred Jones:** But the new board will stand outwith NRW.
- [573] **Dr Roberts:** Bydd, a byddwn ni'n atebol iddo— **Dr Roberts:** Yes, and we will be accountable to it—
- [574] **Alun Ffred Jones:** A fydd ganddo'r hawl i graffu ar wariant a rhaglenni rheoli perygl llifogydd Cyfoeth Naturiol Cymru? **Alun Ffred Jones:** Will it have the right to scrutinise finance and NRW's flood risk management schemes?
- [575] **Dr Roberts:** Rwy'n meddwl beth fyddai'n digwydd yw y bydd yn medru rhoi cyngor i'r Gweinidog ar hynny. **Dr Roberts:** I think what would happen is that they will be able to give the Minister advice on that.
- [576] **Alun Ffred Jones:** Beth fyddech chi'n licio iddo wneud? **Alun Ffred Jones:** What would you like this body to do?
- [577] **Dr Roberts:** Sori? **Dr Roberts:** Sorry?
- [578] **Alun Ffred Jones:** Beth fyddech chi'n licio iddo wneud—y corff newydd? **Alun Ffred Jones:** What would like it to do—this new body?
- [579] **Dr Roberts:** Beth fyddwn i'n hoffi iddo wneud ydy cydlynu'r gwaith sy'n mynd ymlaen ynglŷn â llifogydd ar draws Cymru fel bod yna gysylltiad rhwng ein gwaith ni ac awdurdodau lleol ac eraill, a rhoi barn gyson i'r Gweinidog. **Dr Roberts:** What I would wish it to do is to co-ordinate the work that is being undertaken on flooding throughout Wales so that there is a link between our work, the work of local authorities and others, and to give the Minister a consistent view.
- [580] **Alun Ffred Jones:** Iawn. Wel, diolch yn fawr iawn ichi am eich sylwadau'r bore yma ac am ymateb i'n cwestiynau ni. Mi fydd o'n bwydo mewn, wrth gwrs, i'n trafodaethau ni ynglŷn â'r Bil arbennig yma. Llawer o ddiolch ichi i gyd—i swyddogion ac i chithau, Mr Roberts. **Alun Ffred Jones:** Okay. Well, thank you very much for your comments this morning and for responding to our questions. It will feed in, of course, to our discussions on this particular Bill. Many thanks to you all—officials and to you, Mr Roberts.

12:00

Bil yr Amgylchedd (Cymru)—Cyfnod 1: Sesiwn Dystiolaeth 3 Environment (Wales) Bill—Stage 1: Evidence Session 3

- [581] **Alun Ffred Jones:** Felly, rydym yn symud ymlaen i dderbyn tystiolaeth gan Gymdeithas Cyfraith Amgylcheddol y Deyrnas Unedig yn y funud. **Alun Ffred Jones:** So, we move on to take evidence from the UK Environmental Law Association.
- [582] Since we're obviously depleted in numbers, who's going to kick off on this one? Llyr will start, okay.
- [583] Prynhawn da. Good afternoon.
- [584] Good afternoon, and welcome to our session. Thank you for attending this session. I'm sorry about the depleted nature of the committee. There have been various calls on

Members' time, so you'll have to look left, in the main. *[Laughter.]* That's not a political statement. Perhaps I could ask you to introduce yourselves initially, before we kick off, and I'll take the first question.

[585] **Dr Jenkins:** I'm Dr Victoria Jenkins. I'm a senior lecturer at the college of law, Swansea University.

[586] **Dr Davies:** I'm Haydn Davies, I'm director of research at Birmingham City University, but I'm also a co-convenor of the Wales working party of UKELA.

[587] **Professor Lee:** My name's Robert Lee. I'm at the other Birmingham university, although I live extremely near here.

[588] **Alun Ffred Jones:** Okay, thank you very much. Can you just set out initially why you believe part 1 of the Bill is the most contentious and important for integration?

[589] **Professor Lee:** Shall I begin with that? It's gratifying—thank you for inviting us to come and give evidence. I do think this is a groundbreaking piece of legislation. I think it begins a journey—and that's important to remember when we examine its provisions, that it's the beginning of something. There'll be an awful lot more to follow, I suspect. But it begins a journey in which we place formal values on environmental goods and services within Wales, and Wales is very rich in those goods and services. In so doing, it begins the process of actually re-orientating environmental law and it does so in a manner that has not been done elsewhere in other jurisdictions in the UK to date. So, it's contentious because it's novel.

[590] **Alun Ffred Jones:** So, it's contentious because its novel, not because of any weaknesses in the Bill itself?

[591] **Professor Lee:** There will be people who don't like the approach, including some non-governmental organisations that won't like the approach, because it moves away from much more traditional command-and-control models of doing business to a much more planned approach to the environment, and there will be some criticism of the Bill, I'm sure, because the argument will be that, if you focus on ecosystems, and the goods and services that flow from those ecosystems, you are not as such focusing on biodiversity and species in their own right, and that's where the criticism will come.

[592] **Alun Ffred Jones:** Llyr.

[593] **Llyr Gruffydd:** Well, you're straying into the area I was going to quiz you around, really, on why you believe that the definition in section 2 is insufficient. You clearly referenced biodiversity; you feel that should be a more prominent feature.

[594] **Professor Lee:** I may hand over to Haydn on this, but I would say that I think it's slightly curious not to have within the Bill the definition of ecosystems, given that they form a central objective within clause 3(2) of the Bill, and equally that it might be a very useful thing, especially because of things like biodiversity lists, to have that definition of biodiversity so that we all know what we're talking about.

[595] **Dr Davies:** Our feeling, essentially, was that, since this Bill is at least partially designed to fulfil obligations under the convention on biodiversity, some of the phrases used in that particular instrument ought to appear here rather more prominently than they did. I have to say, as part of our evidence here we talked in detail about whether landscape should be in. I have to say, there is some disagreement, even in our own organisation, about that, so, these views represent a bit of a compromise by ourselves. We wouldn't necessarily stand by that part of what we've said here. Some people think that landscape should be in; some people

say that it's already covered in the existing definition. So, we've tried to reflect some of the contention, even in our own organisation, in that part of it. But, certainly, the lack of a central biodiversity definition is, I think, problematic, or potentially so.

[596] **Dr Jenkins:** Can I add as well I think there's also an important integration point here? Biodiversity is an essential part of sustainable natural resource management, and that in itself is an essential element of the achievement of the future wellbeing goals. The future wellbeing goal itself refers to the importance of a biodiverse environment. So, if you want to join things up, if you want to make sure that there is a coherence to the legislation that we're putting through, then I think it is important to do that.

[597] **Llyr Gruffydd:** So, you don't subscribe to the Minister's view that all that is taken as read.

[598] **Dr Jenkins:** 'No', I think, is the short answer.

[599] **Llyr Gruffydd:** Good.

[600] **Alun Ffred Jones:** Okay. Janet, would you like to take up?

[601] **Janet Haworth:** Yes. I'm very interested in the link with these other Bills, particularly the planning Bill, because that's where I see most problems arising. There could be good intentions in an area statement and a local development plan, but the decision in that planning committee is then taken, and there is then a long-term impact on an area that we're trying to protect. I'm interested in what you have to say about landscapes as well, because, you know, I think that can be quite contentious, how they get described by developers, how they get evaluated, and then it's back then to what's happening in the planning Bill to ensure that some of the good work that we are trying to achieve through this Bill isn't totally undermined.

[602] It's also about consistency, because one planning authority in one part of the country is supposed to be consistent with others, but I've sat on a planning committee for six years, and I would love to have experienced a bit of consistency, and I have to say that I didn't. So, I think that there's a whole range of issues there that I'd be interested in your view on.

[603] **Dr Jenkins:** As the planning lawyer amongst us, I think it is very significant that there isn't a connection between this Bill and the planning Bill—we've seen through the process of the planning legislation that there were amendments made that would specifically link that Bill to the future generations Bill. And I think what's missing in this Bill is making those links again and, actually, to the future generations Bill as well. So, I think, particularly, we need to make sure that the national natural resources policy will actually feed into the national development framework. I think it's really important to ensure that green infrastructure is considered as a part of social and economic development planning, and I don't subscribe to the view that this will happen naturally; I do think that we need to put this on the face of the Bill. Equally then, at the local level, we really need to make sure that these area statements are going to feed into local development planning processes, both the local wellbeing strategies and local development plans. So, there needs to be these connections, and I think the National Assembly would be making a really big mistake if they didn't take this opportunity to make sure that there is coherence in this legislation. One of UKELA's main missions, if you like, in contributing to the legislative process has been to try to ensure this coherency in approach.

[604] **Janet Haworth:** And, of course, I was talking about how that term 'landscape' is defined and so on. There is also another phrase, 'adverse impact', and how we describe and evaluate that.

[605] **Dr Jenkins:** Adverse impact on landscape?

[606] **Janet Haworth:** On landscape or on our community.

[607] **Dr Jenkins:** Yes. I do think, though, that—. We have a national review going on in terms of the landscape review. Again, we need to join up with that process. Whether we do that on the face of this Bill or in any future legislation is probably the issue. Sustainable natural resource management is going to be an essential part of landscape protection, but one flows from the other, and, as that review is still ongoing, it may be that we take the opportunity to address that at a later stage. I don't dispute the fact that it is an essential part of the process. The question is where it fits into the process.

[608] **Janet Haworth:** Right. Thank you very much.

[609] **Alun Ffred Jones:** Russell.

[610] **Russell George:** Yes. Thank you. I have some questions around national natural resources policy, which I'll refer to as NNRP, because it's a bit of a tongue-twister, for me anyway. Can you explain why the NNRP should be required to identify risks as well as opportunities and priorities?

[611] **Dr Davies:** Well, I think, principally, because, I suppose, as lawyers, we always have a tendency to look at when people don't do things that they're supposed to do. Now, we realise that most conscientious public bodies in Wales will embrace the legislation as when they're required to, but one of the things that we felt was that you need to make sure that you give a very clear direction on the requirement to look not just at the opportunities—and there is a temptation to do that; after all, we all want Wales to be a prosperous and economically developed part of the world. But the lack of the word 'risk', I think, invites the tendency, perhaps, to downplay the negative side. I think that's very dangerous in legislation of this nature.

[612] **Russell George:** What are the minimum requirements, do you think, that the Bill should contain in that regard?

[613] **Dr Davies:** What, in terms of terminology or in terms of specifying risks?

[614] **Russell George:** In terms of the NNRP—. Well, you know, in terms of—

[615] **Dr Davies:** Well, I'd stand by our recommendation that the word 'risk' should explicitly be put in there. There should be a duty, essentially, to take account of risks as well as opportunities.

[616] **Russell George:** You said you've got serious concerns about the duties proposed in the Bill on the steps the Welsh Ministers must take to implement an NNRP. Why is that?

[617] **Dr Davies:** Well, only because we sort of went through this debate, not the last time we were here, but the time before, in relation to the wellbeing of future generations Bill. A lot of the duties in the Bill are, in national and international terms, relatively weak. There's the repeated use of the phrase 'seek to', for instance. Well, yes, okay, you can seek to do something, but you don't necessarily have a serious intention of bringing it about. And that's what I meant. There are a number of occasions where that type of language is used throughout the Bill, and we would seek rather stronger words than that. There is a range of strengths of duty you can go for. You've got be careful you don't go too far, because, obviously, if you're going to demand that they achieve natural resource—. That can be as damaging as being too

lightweight. But, certainly, things like ‘seeking to’ are not good enough in our view.

[618] **Russell George:** So, you believe that an NNRP should be required to take into account future trends reports produced under the future generations Act?

12:15

[619] **Professor Lee:** We believe, at the moment, that, if you look at the clause that you’re talking about, clause 9, as set out, those duties are very, very generalised, and there are two things about that, really. It is a compromise, of course, because one understands that, underneath this, presumably, there will be guidance, and there will grow over time conventional practice on what goes into these reports. But, for example, we can see that there will be competing priorities that will have to be dealt with, and it’s not clear how that will be done. We do believe not everything will be an opportunity; there will be risks, or there will be opportunities that we ought to forego in the interests of sustainable management as set out in the clause. If you look at some of the provisions, the Welsh Minister may include anything, you know. In the next provision,

[620] ‘The Welsh Ministers must—

(a) take such steps as appear to them to be reasonably practicable to implement’.

[621] It is very generalised language, and we don’t get a strong sense of two things: what’s going to be in these reports, and how will they key in with the other sorts of reports under the wellbeing Act that we have been talking about, and, indeed, under planning provisions and so on?

[622] **Dr Jenkins:** I think there’s an important point not just about integration between the different Bills, but integration between all these different reports et cetera. Because we have the biodiversity list, we have the state of resources report, and we have the policy, but there’s nothing in this Bill—and I appreciate it might happen organically outside it, but I don’t know that we should rely upon that—there’s no connection between them. The biodiversity lists don’t feed into the state of resources report. There’s nothing, actually, in the Bill that says that the national policy will be based on the state of natural resources report. There’s also no provision for some kind of reflection in the process from the bottom up. So, there’s nothing about how area management plans might actually influence what’s happening at the national level. I think that could be particularly important.

[623] **Alun Ffred Jones:** Is that one of your main concerns about this lack of clarity in the relationship between these various reports and policy statements?

[624] **Dr Jenkins:** As the Bill stands, it appears that they will all be made separately. The national policy will be made by the Ministers. The state of natural resources will be made by NRW. So, we have a series of reports, lists and information being created by different bodies, and we’re not told—

[625] **Alun Ffred Jones:** But we have been assured that they will all link in seamlessly.

[626] **Dr Jenkins:** But for the sake of clarity, as lawyers, we would like to see that on the face of the Bill.

[627] **Professor Lee:** I think what we would say is that, reading the Bill at the moment, you will struggle, I think, to see how the area statements will implement the national policy. It’s quite hard to see those linkages, and there are quite big open questions about these area statements. Which areas will they cover? How many? Will they be comprehensive across

Wales? Or will they be—and this word is used later in the Bill—somewhat experimental, working with just certain catchment areas to see whether anything can be done with them or not? So, I think we see the problem as being the interlinkages between these different levels of activity. It's not clear how they fit together.

[628] **Russell George:** That's very useful to us.

[629] **Dr Davies:** I think the other point as well that comes in to this is we've also had quite a lot of concern expressed from members about the degree to which public participation in consultation is brought into these various reports. Again, there appears to be an assumption that this is going to happen, and to some extent, I suppose NRW, under its statutory provisions, is required to do that, but I think it could be a lot more explicit, and there is a requirement under international obligations to do that in any case.

[630] **Dr Jenkins:** In particular, this Bill has been based upon it. The explanatory memorandum refers a great deal to the importance of the convention on biological diversity. The convention on biological diversity really highlights the importance of local communities and the need for local communities to participate in the protection of biodiversity. If we're not going to actually communicate with them, then it will be difficult to fulfil that requirement. So, there is no provision in here for public participation at any of the stages, but it would be particularly important in area-based management plans.

[631] **Alun Ffred Jones:** We have been assured that there will be all sorts of engagements. Were you told by NRW? No?

[632] **Dr Jenkins:** But we're lawyers, and we want to see it on the face of the Bill. If you don't have a duty, then—

[633] **Professor Lee:** It's not, Chair, that we doubt this, but these are new provisions, and were they historical provisions—. Let me give you a real-life example. So, if we're talking about reconfiguring rights to both abstract from and discharge to water catchment areas, then under traditional legislation, whether through the waste framework directive or whether through environmental permitting, we would expect to see written into the legislation a certain process of publication and consultation. These are new provisions—they haven't existed before; they will be new on the face of the statute—and those processes of consultation on there—. It's not that we doubt that NRW will do them, but it is simply a little surprising not to find them written into the legislation.

[634] **Alun Ffred Jones:** Llyr.

[635] **Llyr Gruffydd:** I wanted to touch on the biodiversity duty. Clearly, there are issues in terms of language there—'A public authority must seek to maintain and enhance biodiversity' et cetera. Are there any other aspects other than the language that you feel should be strengthened?

[636] **Professor Lee:** The first one I would begin with is 'enhance'. As you know, we are facing biodiversity loss, sadly at quite a rapid rate. There's evidence for that on a UK basis, and there's some evidence for it on a Welsh basis, too. 'Enhance' is a difficult word in that context. Do we mean build back up, and if so, by what time frame and to what extent? So, I simply worry at the moment that some of that language is a little too fuzzy if we're really going to make a difference and turn things round.

[637] **Dr Davies:** On the question you've already mentioned about the requirement to seek to maintain and enhance, we would suggest that something along the lines of maybe 'take all reasonable steps to maintain and enhance', which would be in line with the sort of duties that

ultimately appeared in the wellbeing Bill, would be a stronger reflection. I think our major issue with this is not so much—again, we’re tending to think as lawyers here—. You could go with it as it’s written—that would be fine—but the real question is to say, ‘What if a local authority does not do this; what happens then?’ And that’s a very difficult question to answer, reading the Bill as it stands. It’s very difficult to see what could happen to a public authority—I’m not talking about a public body here, because Welsh Ministers have powers to direct elsewhere in the Bill. If a public authority fails to either ‘seek to’ or whatever you decide to go with ultimately, the question is ‘How are we going to seek compliance with this duty?’, and at the moment, as a lawyer I couldn’t answer that for you from reading that, or indeed from reading the explanatory memorandum, in fact.

[638] **Professor Lee:** If I could just quickly add, I would say, for example, that political accountability structures in Part 2 are much stronger than those in Part 1.

[639] **Llyr Gruffydd:** Okay. Some stakeholders have been suggesting that we need or have been calling for statutory targets around biodiversity. Do you have a view on that?

[640] **Dr Davies:** Well, in the sense that I guess that that would at least give you something against which to measure the extent to which someone has, in fact, sought to or contributed to the maintenance and enhancement. Yes, to that extent, certainly. That would again mirror what has happened with wellbeing objectives in the previous legislation, in that there was some guidance there as to the criteria you could take into account to decide whether the duty had been discharged. But, that appears to be absent here at the present time.

[641] **Professor Lee:** And, indeed, given the failure in 2010 to meet the then targets, new targets were put in place both for 2020 and 2050. So, it would not be impossible to adopt those targets.

[642] **Alun Ffred Jones:** Just lastly, Janet, do you have a final question?

[643] **Janet Haworth:** Yes, I was interested in your view that you perceive this Bill, and a lot of the reporting activities, very top-down and not enough bottom-up and engagement at the local level. And we’ve heard this morning that where a group might have a valid objection, which is well evidenced and they wish to pursue that—I’m back with the planning Bill again—they have recourse to judicial review. That’s a very difficult thing to actually go for, and a very expensive thing to finance if you haven’t got deep pockets.

[644] **Alun Ffred Jones:** The question is?

[645] **Janet Haworth:** Well, it’s back to your view about this top-down and not enough bottom-up and what an objector can do, because otherwise this becomes fine words but no action. And just back on the words, because we’ve been talking about words—*[Interruption.]*

[646] **Alun Ffred Jones:** I can’t let you go, otherwise we’ll be inquorate. Just answer quickly, please, because I’m—

[647] **Dr Jenkins:** Well, obviously, the Aarhus convention on participation in environmental decision making is quite clear that if you involve people at an early stage in the process, and you value local knowledge in the process, then that can be a really significant part of any policy-making process for environmental protection. The convention on biological diversity also talks about the importance of local knowledge. If you allow people to participate at an early stage, then you’re unlikely to see as many challenges later on, and that has to be a good thing; to avoid challenge to legislation is much better.

[648] **Alun Ffred Jones:** I have to formally bring this session to a close. Can I ask you not

to move for a minute?

12:25

Papurau i'w Nodi
Papers to Note

[649] **Alun Ffred Jones:** I know you have to leave, but can you just note the papers? Are you happy with that?

[650] **Russell George:** Yes.

[651] **Alun Ffred Jones:** Okay, so the committee is concluded. Diolch yn fawr.

Daeth y cyfarfod i ben am 12:25.

The meeting ended at 12:25.