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Y Gweinidog Cyfoeth Naturiol  
Minister for Natural Resources



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref LF CS 0726 15

Alun Ffred Jones AM  
Chair of the Environment and Sustainability Committee  
National Assembly for Wales  
Cardiff Bay  
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3 September 2015

Dear Alun Ffred

## **ENVIRONMENT (WALES) BILL**

I am writing in response to your letter of 16 July, following your Committee's scrutiny session on the Environment (Wales) Bill on 24 June, at which I gave evidence. I am grateful for this opportunity to provide additional information and clarity to inform the Assembly's scrutiny of the Bill.

Part 1 of the Bill contains provisions on the statutory framework to ensure that Wales' natural resources are managed to help meet our current economic, social, cultural and environmental needs without compromising the ability of future generations to meet their own needs. In order to do this, the Bill introduces several levers: the State of Natural Resources Report, to be produced by NRW, which will assess the state of natural resources through the presentation of up-to-date evidence; the National Natural Resources Policy, to be produced by the Welsh Ministers, which will identify the priorities and opportunities for managing Wales' natural resources; and, finally, area statements, to be produced by NRW, which will implement the national policy at a local level. These are all designed to be mutually supportive and to support delivery of the strategic requirements of the Well-being of Future Generations (Wales) Act 2015.

Annex 1 contains my responses to the questions which were not reached at the Committee session on 24. This annex also provides further detail on the issues on which you requested clarity following the evidence session.

Annex 2 sets out further information on the timings and interaction of products and reports required under the Environment Bill, the Well-being of Future Generations (Wales) Act 2015 and the Planning (Wales) Act 2015.

Annex 3 provides a statement of policy intent with regard to area statements to be produced by NRW.

When I attended the Committee on 24 June, I committed to send to you an Emerging Findings Report prior to Stage 2 in respect of the review of the current carrier bag charging scheme. This is attached at Annex 4. While I anticipate that the full report will be published this autumn, I hope that early sight of the emerging findings is useful.

Finally, within the next few weeks I will be publishing a Natural Resources Policy Statement. This document has been produced as a precursor to the statutory National Natural Resources Policy and outlines our priorities for the sustainable management of natural resources within the Natural Resources portfolio, based on our current evidence. It is my intention that this statement will be used to inform the implementation and piloting of natural resource management by Natural Resources Wales and to set the framework for our current land-based natural resources policies and plans ahead of the statutory National Natural Resources Policy.

I look forward to speaking with you again at the Committee session on 16 September.

Yours sincerely

A handwritten signature in black ink, reading 'Carl Sargeant'. The signature is written in a cursive style with a large, sweeping initial 'C' and a long, thin tail on the 't'.

**Carl Sargeant AC / AM**  
Y Gweinidog Cyfoeth Naturiol  
Minister for Natural Resources

## Annex 1: Responses to further questions from Committee

This Annex sets out responses to the questions and clarifications raised in your letter of 16 July 2015.

### 1. Natural Resources Policy

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*a. To explain why there are no specific consultation provisions in the Bill in relation to the development of the State of Natural Resources Report, the National Natural Resources Policy and Area Statements.*

Engagement and collaboration are fundamental to the new approach provided in this Bill. They are explicitly set out in section 4: the principles of sustainable management of natural resources. These principles are based on the international principles of the “ecosystem approach”. This requires that there is wide engagement with all sectors of society as well as stakeholders, interested parties, and local communities.

The Bill also includes a requirement in relation to the need to gather evidence and all forms of relevant information, including local knowledge as well as scientific knowledge.

As these principles now form part of the new general purpose for Natural Resources Wales (NRW) under section 5, NRW will be required to apply these principles when it is carrying out its functions, including when it is producing the state of natural resources report and area statements. NRW is already engaging with stakeholders and different organisations in the area trials that they are undertaking which are informing NRW’s practical application of the principles in the Bill.

In preparing the National Natural Resources Policy the Welsh Ministers will also be required under section 9(8) to comply with these principles and that means engaging fully with interested parties.

*b. To clarify what strategic commitments and policies you are intending to consolidate in the National Natural Resources Policy.*

The National Natural Resource Policy is about applying the new approach set out in the Bill to produce a policy that enables the sustainable management of natural resources in Wales. It will set out the general and specific policies, and the key priorities and opportunities for managing our resources sustainably at a national level, informed by the most up to date evidence, for example as provided in the state of natural resources report. Therefore, the provision as drafted provides the necessary flexibility for the National Natural Resource Policy to address the specific priorities and opportunities in response to evidence.

The sustainable management of natural resources addresses how we use our natural resources; how our activities impact on our natural resources and; positive actions where our natural resources can be used for the benefit of society and the economy, as well as for the environment supporting the goals outlined in the Well-being of Future Generations (Wales) Act 2015. It is our intention that the National

Natural Resources Policy will help to promote integrated policy development within the context of development of Welsh Ministers' well-being objectives, required under the Well-being of Future Generations (Wales) Act 2015 and wider obligations, including the National Development Framework as set out in the Planning (Wales) Act 2015.

To demonstrate my thinking, I intend to publish a Natural Resource Policy Statement within the next few weeks. The policy statement will provide an illustration of the potential priorities and opportunities for the sustainable management of natural resources. The publication of the statement will offer an opportunity for wider engagement, which will assist us in the development of the first statutory National Natural Resources Policy in spring 2017, should the Bill become law.

*c. To explain why a requirement for Welsh Ministers to take account of a Future Trends report under the Future Generations Act in preparing a National Natural Resources Policy isn't included in the Bill.*

The Welsh Ministers must apply the principles provided in section 4 of the Bill in preparing the National Natural Resources Policy. This requires that the Welsh Ministers take into consideration all relevant evidence, which would include the evidence that will be within the Future Trends Report.

The Future Trends Report must include relevant data that the Welsh Ministers think appropriate. This would in practice include information set out in the State of Natural Resources Report, which under the timings of the Bill is published prior to a Future Trends Report.

The timings for publication of both the Future Trends report and the National Natural Resources Policy are complimentary. This enables the Welsh Ministers to draw upon the work being undertaken for the Future Trends report when producing the National Natural Resources Policy. Therefore, I believe that it is not necessary to make any further provision for this in law.

## **2. Biodiversity Duty**

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*a. To explain what the additional requirement for Welsh Ministers to comply with the Convention on Biological Diversity means in practice.*

The Bill requires the Welsh Ministers in complying with the new biodiversity duty to have regard to the Convention on Biological Diversity, rather than to comply with the Convention. This duty to have regard is an existing duty set out in section 40 of the Natural Environment and Rural Communities Act 2006.

The Welsh Ministers have been in compliance with this duty through the development of the ecosystem approach, which was adopted by the United Nations Convention on Biological Diversity (to which the UK is a signatory), as the primary framework for action under the Convention. Welsh Government consultations in 2010 and 2012 on high-level principles and proposals in relation to application of the ecosystem approach in Wales indicated strong support for a fresh approach to planning and managing natural resources. The findings of these earlier consultations and the Environment Bill White Paper consultation, coupled with

Assembly Committee recommendations made through various inquiries, have all informed developed of the detailed provisions set out in the Bill.

In practice, the proposed duty will require Welsh Ministers to have regard to, for example, the objectives of the Convention. This includes the conservation of biological diversity, which could include the provision of biological diversity within national strategies and plans, for example the National Natural Resources Policy. The Convention also seeks the sustainable use of biological resources; this is covered by the definition of sustainable management of natural resources in the Bill, which extends upon the Convention's definition of 'sustainable use' of biological resources. It has a much wider application, to all the natural resources including geological and environmental (air, water and soil).

*b. Given that public authorities will be able to report on action they have taken in a variety of different formats, to clarify how the Welsh Government intends to monitor compliance with the duty.*

To help provide consistency in reporting, I intend to publish guidance which will outline all of the relevant information that can be included in a report from a public authority on its compliance with the duty at section 6 of the Bill. Public authorities will be able to use this guidance to assist them in the completion of their reports that they currently produce.

Section 6(5) of the Bill specifies that organisations must report on this duty. The first report on compliance with the biodiversity duty would need to be published by the end of the 2019 calendar year. Guidance will be issued well in advance of that date.

This approach is in line with the one I have taken with the Well-being of Future Generations (Wales) Act 2015, which establishes the framework into which the Environment Bill fits.

*c. To clarify what the inclusion of the term ecosystem in Section 6(2) means in practice for the interpretation of the duty.*

An ecosystem is where biological components co-exist and interact with their non-living environment to create a coherent functioning unit.

Biological diversity is fundamental to ecosystems and therefore by helping to improve or maintain biological diversity – for example, by improving the condition of species or habitats – this will help to improve the resilience of ecosystems. Linking the two will help to increase the awareness of the critical role that biodiversity has in contributing to the health and functionality of ecosystems.

By linking biodiversity to the resilience of ecosystems, it will be assist public authorities to have an increased understanding of the multiple benefits that biodiversity and ecosystems provide, for example, tackling climate change, improving health and well-being and providing opportunities for green growth and therefore how they underpin the delivery of the well-being goals.

*d. To explain how this duty and Sections 9 and 10 of this Bill on natural resource management relate to the Nature Recovery Plan.*

The Nature Recovery Plan sets out the actions that will be taken to help tackle the loss of biodiversity in Wales and deliver against our 2020 goals, within our overall natural resource management approach. This will help us deliver and report on the detailed actions needed to meet our global and European commitments, to halt the loss of biodiversity.

In undertaking the requirements of the biodiversity duty, public authorities will be guided by the National Natural Resources Policy (section 9) and area statements (section 10) in how they undertake their activities.

The National Natural Resources Policy and area statements will address wider matters than biodiversity. They will consider all of the natural resources as defined in the Bill and in doing so will provide the context within which biodiversity action on natural resource management can be delivered for Wales and in specific areas within Wales.

*e. Whether any consideration was given to making the production of a Nature Recovery Plan a statutory requirement through this Bill.*

I have considered this and have concluded that making the production of a Nature Recovery Plan a statutory requirement would not be appropriate. The purpose of Part 1 of the Bill is to consider and make provision in relation to all of our natural resources, addressing both the living and non-living components, and to take a joined-up approach to how all of these natural resources are managed.

While I acknowledge the vital importance of biodiversity, we need to consider all of our natural resources to achieve our strategic objective to sustainably manage our resources, not solely the biological. The approach provided in the Bill provides a clear and robust framework to achieve this – the National Natural Resources Policy will identify priorities and opportunities for all of our natural resources.

The Nature Recovery Plan will confirm our detailed policy intentions in relation to those actions needed to address biodiversity issues; the statutory National Natural Resources Policy will identify priorities and opportunities for all our natural resources including the benefits that they provide.

### **3. Land Management and Experimental Schemes**

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*a. To clarify why a broader power for NRW to enter into land management agreements with landowners is needed.*

The intention is to provide NRW with an ability to enter into voluntary land management agreements for achieving a wider set of objectives than under current legislation.

Existing powers are limited in that they are exercisable in relation to land that has been designated for conservation or otherwise for the purpose of conserving natural beauty, amenity and promoting enjoyment by the public. These powers are not wide

enough to enable NRW to further the sustainable management of natural resources in line with the full range of NRW's functions and its new purpose under section 5.

An example would be where NRW entered into a voluntary agreement with a land owner to enable the land to be managed in a way that may contribute to flood alleviation.

*b. Given the concerns raised by the Constitution and Legislative Affairs Committee about the NRM 11 power in the Environment Bill White Paper, whether you are content this power is sufficiently limited, specific and allows for enough Assembly oversight.*

Section 22 confers a power on Welsh Ministers to make regulations that suspend legislative provisions but only for the purpose of carrying out experimental schemes. Regulations made under section 22 are time limited and may only have effect for three years. There is an option to extend the regulations for a further three years but they may not be extended for any longer.

Regulations may only amend legislation that is a statutory requirement imposed and enforced by NRW.

NRW must apply to the Welsh Ministers to exercise this power. Before exercising the power, the Welsh Ministers must be satisfied that regulations are necessary to enable an experimental scheme that will contribute to the sustainable management of natural resources. In practice this means that NRW must submit details of the experimental scheme and explain why they consider there are legislative barriers that will prevent or limit the effectiveness of the scheme.

The Welsh Ministers must then consider the application and consult with the persons who will be affected by the regulations making the suspension, and also the persons affected by the experimental scheme.

When an experimental scheme comes to an end, the regulations will cease to have effect.

The use of the power would be subject to the approval by the Assembly under the Affirmative procedure.

I consider that this process is appropriate.

*c. Given stakeholders' response to the White Paper proposals on General Binding Rules, to explain why the Welsh Government is considering allowing NRW to use this Bill to introduce such schemes.*

The Environment Bill White Paper sought initial views on the role of General Binding Rules (GBRs), including existing and new powers to implement GBRs and to seek views on whether to explore this proposal further. Responses to the White Paper recommended an incremental approach to the introduction of GBRs.

The experimental schemes under sections 22 and 23 of the Bill provide the incremental approach which the White Paper responses advocated.

Sections 22 and 23 provide NRW with the ability to undertake experimental schemes, which will allow them to test and trial different approaches that will provide information on the different types of standards and rules that may be developed into GBRs.

The power to conduct experimental schemes therefore will allow an assessment of the potential activities for which a GBR would be a suitable means of regulation in future.

*d. Whether any further consultation has been carried out with stakeholders by the Welsh Government or by NRW on the potential use of General Binding Rules.*

The Welsh Government has undertaken additional consultation on the general principles for the potential use of GBRs through the Water Strategy for Wales (published for consultation in April 2014) and during the introduction of a new cross-compliance regime for farmers in receipt of the Basic Payment Scheme (published for consultation in May 2014). The findings of these consultations are informing our ongoing analysis on the potential application of GBRs in future to different activities in relation to environmental protection.

*e. To explain why the power to extend an experimental scheme by a further three years is necessary.*

The purpose of section 22 is to suspend legislation to enable an experimental scheme to be undertaken. In some cases, in order to carry out a proper assessment of the scheme and gather quality data, it may be necessary to extend it beyond three years. Extending the trial beyond the initial three year period may also help to assure the parties involved in the trial that the time and commitment invested in the trial has been worthwhile.

An extension would require further regulations made by the Welsh Ministers and again would be subject to the Affirmative Assembly resolution procedure.

*f. To clarify why a super-Affirmative procedure does not apply to regulations made in relation to experimental schemes.*

Given the strict limitations and the processes in place for experimental schemes, as I refer to in response to 3.b. above, I believe that the Affirmative procedure is appropriate and therefore, I do not consider a super Affirmative procedure is required.

Under the Affirmative procedure, the Assembly must approve the regulations otherwise they cannot take effect. I consider this level of scrutiny to be proportionate.

*g. To clarify whether there will be a requirement for Welsh Ministers to publish any applications or information it receives from NRW for these powers to be used.*

Before making regulations to suspend legislation, the Welsh Ministers will be required to consult and information about the experimental scheme will be disclosed as part of the consultation process.



Standing Order 27.1 provides that any draft regulations laid before the Assembly must be accompanied by an Explanatory Memorandum. The Explanatory Memorandum will explain the details of the scheme and the reasons for the regulations.

*h. To explain why the Bill does not set out the information NRW would need to provide to Welsh Ministers in an application to use these powers.*

I have concluded that this level of prescription on the face of the Bill is not appropriate. Before making regulations under section 22, the Welsh Ministers must be satisfied that regulations are necessary to enable an experimental scheme that will contribute to the sustainable management of natural resources. NRW will therefore be required to present a case that justifies why the power should be exercised to remove the legislative barriers. NRW will need to explain the details of the scheme, its merits and why legislation is an obstacle. If the Welsh Ministers are not satisfied that there is a good case, they will not make regulations.

If necessary the Welsh Ministers could rely on their power in Article 5 of the Natural Resources Body for Wales (Establishment) Order 2012 to issue guidance setting out the information required in an application.

The Explanatory Memorandum (on page 35) and Statement of Policy Intent (on page 4) provide further detail on what information the Welsh Ministers would expect to be included in the application and the process that should be followed. For example, the Explanatory Memorandum states that NRW must submit a detailed application to the Welsh Ministers which would include information identifying the relevant provision, why it was a barrier to using their power to carry out experimental schemes, what and who the scheme would involve and the objective and expected duration of the scheme.

*i. To clarify the geographical scope to which a suspension of statutory provisions could apply. For example whether it could apply to the whole of Wales.*

The exercise of the power will relate to a specific identified experimental scheme. An experimental scheme is intended to apply to a specified party or parties and will not be about suspending a provision entirely. It could in principle apply throughout Wales if a party, for example, had sites in different areas of Wales. However, the suspension would apply only to that site and not generally.

#### **4. Climate Change**

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*a. To set out how the Welsh Government will calculate the proportion of EU ETS emissions that are attributable to Wales.*

As we are looking to develop a new emission reduction framework, as part of the supporting regulatory framework, we will review a range of options before adopting the most appropriate methodology to account for Wales' share of the EU-ETS. In determining how EU-ETS emissions are taken into account in the net Welsh emissions account, we will need to consider how the approach interacts with the wider operation of the trading scheme at an EU level to ensure Wales is not disadvantaged. We will also consider the approaches taken elsewhere and will

engage with the UK government and Scotland to inform our approach. Once established, the method for accounting for Wales proportion of EU-ETS emissions in the net Welsh emissions account will be set out in regulations.

Due to the complex nature of the work, advice will be sought from the advisory body on setting these regulations, as defined in the Bill.

*b. Given the importance of EU ETS credits to Welsh emissions, why there isn't a duty on Welsh Ministers to bring forward regulations under Section 33(2) on the circumstances in which units may be credited or debited.*

The provisions enables Welsh Ministers to provide in regulations, which carbon units can be credited to and debited from the net Welsh emissions account and how this can be done.

This provision is similar and consistent with the Climate Change (Scotland) Act 2009 and needs to be a power rather than a duty in order to retain flexibility to address any changes in the future such as changes/removals in terms of European and international practice, existing or new schemes e.g. if no industries in Wales were involved in any trading schemes, Welsh Ministers would not be able to implement the duty.

*c. To explain why there is not a duty on Welsh Ministers to limit the net amount of credits by which the net Welsh emissions account may be reduced by under Section 33(3).*

The power ensures that the Welsh Ministers can limit the extent to which traded units can be used to meet the 2050 target. It is required to enable the Welsh Ministers to set the desired mix of domestic action *versus* international credits that may be used to meet the Welsh targets which we will need to set out anyway in our Policies and Proposals report. As with section 33(2) regulations are only required should trading be permitted by Welsh Ministers within the net Welsh emissions account. If no such trading scheme was introduced, a duty to make regulation limiting its activity would be redundant, therefore this is retained as a power rather than a duty.

I am considering this matter further and acknowledge the Committee's comments on the desirability to limit the net amount of credits by which the net Welsh emissions may be reduced.

*d. Whether any consideration was given to the inclusion of a domestic effort target on the face of the Bill.*

It is my intention to develop a "policies and proposals" report to meet the carbon budgets, which will detail the overall domestic effort. The increased detail and transparency in this report will provide the National Assembly with greater powers to scrutinise the collective contribution from the Welsh Government.

It is also important to note that the nature of Welsh emissions – with more than 50% of Wales' emissions coming from EU-ETS installations - is different to that of Scotland and influenced significantly by a small number of EU Emissions Trading Scheme (EU-ETS) installations. Those installations are comprehensively regulated

at EU level; Welsh Ministers options to influence that scheme are constrained by the limits of devolved competence.

*e. To explain what type of carbon units could be 'unrestricted' in their use towards the Welsh emissions target under Section 33(4) of the Bill.*

The units of carbon that can be traded, for example, as in the EU Emission Trading Scheme (EU-ETS), will be unrestricted. The purpose of a carbon trading scheme is to incentivise the reduction of emissions over time, therefore, restricting their use reduce their effectiveness. This is consistent practice with the wider UK.

The framework put in place by the Bill will apply the key principles around the crediting and debiting of carbon units to the overall emissions account. Whilst ensuring the clarity and flexibility needed to keep up to date with the latest carbon reporting practices are applied through regulations.

*f. To explain how the requirement to report on policies to deliver carbon budgets under Section 39 relates to the requirement in Section 9(2) for the National Natural Resources Policy to set out what action needs to be taken in relation to climate change.*

In terms of the National Natural Resources Policy, Welsh Ministers will be required to set out their policies for contributing to the sustainable management of natural resources in relation to Wales including what steps need to be taken in relation to climate change. The focus will be on the role that our natural resources and the benefits we receive from our ecosystems can contribute to the mitigation of and adaptation to climate change.

The Proposals and Policies Report under section 39 relates to policies and proposals for meeting the carbon budget for that period contributing to the overall long-term target. These proposals will have a wider focus covering sectors such as waste, transport, public sector etc. and how they help in reducing emissions.

*g. In relation to Section 42, within what timeframe do you expect Welsh Ministers to lay a statement outlining how they are going to compensate for any excess in the final year of a carbon budget.*

The timing of the report setting out how any excess will be compensated for is in itself bound by the timing of the final budgetary period statement under section 41. A final budgetary statement may be laid any time up to 2 years after the close of the relevant budget period. To retain the flexibility to produce any compensatory report as soon as reasonably practicable after the budgetary statement a specific timeframe is not set out for this report. Furthermore, due to the potential for significant variation in the scale of compensatory policies and proposals required, dependent upon the amount of excess in any budget period, and the complex nature of the work, I do not believe it would be appropriate to impose a collective fixed timeframe on the development of these reports.

*h. To explain why no provisions in relation to adaptation have been included in the Bill.*

There are other mechanisms in place within the Bill and in other legislation to account for adaptation such as the Well-being of Future Generations (Wales) Act 2015 and Climate Change Act 2008. The National Natural Resources Policy must include actions that should be done in relation to climate change, which will include both adaptation and mitigation. The new approach introduced in the Bill in relation to the resilience of our ecosystems and the multiple services they provide includes the role that our natural resources can contribute to climate change adaptation.

An additional layer is provided by the link to Well-being of Future Generations (Wales) Act 2015. The Well-being of Future Generations Act (Wales) 2015 includes a number of components which are required to take adaptation into consideration; these include the 'resilience goal,' which specifically looks at the resilience of Wales and the ability to adapt to climate change. Public bodies will have to demonstrate how they are working towards all of the goals. The Future Trends report and the Well-being assessments, must take into account the UK Climate Change Risk Assessment which assesses the threats and opportunities to Wales over the next century in key sectors such as health, infrastructure, business.

## **5. Carrier Bags**

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*a. To clarify whether Welsh Ministers intend to use the provisions in the Bill to direct the net proceeds from the current single use carrier bag charge to charitable purposes.*

Regulations made under section 57 will require sellers to apply the net proceeds of the carrier bag charge to charitable purposes.

It has always been the Welsh Government's policy that sellers should not profit from the charge and, up to now, sellers have been encouraged to donate them to good causes and to sign up to the Welsh Government's voluntary code. Although it is clear that many sellers are donating the net proceeds, I am concerned that some sellers are not doing so which is why I think it is necessary to impose this requirement.

Sellers who are already donating their net proceeds will continue to do so and their current arrangements should not be affected by this duty.

## **6. Waste**

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*a. To clarify whether any new separation requirements introduced would be subject to the same tests currently included in the Waste (England and Wales) Regulations 2011 of being necessary and technically, environmentally and economically practicable.*

I want the regulations to be proportionate to their aim. Whether we achieve that through adhering to the test of being technically, environmentally, and economically practicable (TEEP), or through other measures, would be considered and consulted upon in the course of developing those regulations.

*b. To set out whether the Welsh Government would publish codes of practice or guidance for any new requirements introduced.*

The Welsh Government may publish guidance or codes of practice to support the new requirements, and we would do so if this was considered necessary. The necessity for this will be considered as part of the further development of the proposals.

*c. To outline what consideration has been given as to how the provisions could affect the relative competitiveness of Welsh businesses.*

It is expected that overall the competitiveness of Welsh business will be increased by the provisions. The modelling for the preferred option in the RIA predicts there will be a financial benefit to Wales of £69.5 million over ten years. Many businesses will benefit from the proposals. Research undertaken by WRAP suggests that there may be an increase in costs for some businesses in Wales, but the research indicates that increases are likely to be small. These costs and benefits are detailed in the Regulatory Impact Assessment accompanying the Bill. As the waste management sector develops, competitive forces will result in further cost savings being passed down to the waste producers.

Waste separation and collection requirements which are similar to these proposals were introduced in Scotland in January 2014. The indications are that the new requirements are not having an adverse impact on businesses in Scotland, with the stock of private sector businesses growing during 2014.

## **7. Shellfisheries**

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*a. To confirm whether you believe the phrase harm 'likely to occur' is sufficient to enshrine the precautionary principle included in the Birds and Habitats Directive.*

I believe this is sufficient to protect the precautionary principle as expressed in the Birds and Habitats Directive.

The precautionary principle expresses the position that a requirement to take action should not be limited to cases where damage is certain. The Bill provisions reflect this principle: where there is sufficient evidence that it appears to the Ministers that the operation of a fishery is likely to result in harm to a European Marine Site (EMS), the Welsh Ministers can take appropriate action. There is no need to wait for harm to actually occur. This reflects the content of the Birds and Habitats Directives.

*b. To set out what burden of proof Welsh Ministers may need to demonstrate that harm is 'likely to occur'.*

The Welsh Ministers will be able to take action where there is sufficient evidence that it appears to them that the operation of a fishery is likely to cause harm.

The evidence must be sufficient. This approach reflects EU provisions and we would expect it to be interpreted consistently with those provisions.

For the power to be effective it will need to be applicable in a wide range of circumstances. This is a test which provides important elements of flexibility, which are required given the diverse situations in issue.

*c. To clarify whether the definition of harm in section 76 would enable Welsh Ministers to act if a shellfisheries order in combination with other factors was causing a cumulative negative impact to a European marine site.*

The Welsh Ministers will indeed be able to take action wherever they are able to establish a causative link between the operation of the fishery and the damage to the European Marine Site.

The Welsh Ministers will not be prevented from acting, providing that link can be established, because there are potentially other sources of damage to such a site. The provisions are not expressly limited so that the Grantee (for example) must be the sole and exclusive cause of the damage.

### **Clarifications from the oral evidence**

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*A. You committed to provide a note on how the reporting duties in this Bill relate to each other. We would be grateful for receipt of this note.*

The main reporting duties in the Bill form the delivery framework for the sustainable management of natural resources. This is a combined approach that takes in evidence, assesses it, and acts upon it in an adaptive way, forming an iterative process subject to review and responding to updated information, in line with the principles of sustainable management at section 4 of the Bill.

**State of Natural Resources Report:** NRW will be under a duty to provide this report, which will:

- include an assessment of the state of natural resources in Wales and how their sustainable management is being achieved;
- be the keystone of the evidence base for policy on how natural resources are managed and sustainably used, including the National Natural Resources Policy under section 9 and the Future Trends Report under the Well-being of Future Generations (Wales) Act 2015; and
- be published in the year before each National Assembly general election.

**National Natural Resources Policy:** The Welsh Ministers will be under a duty to prepare and publish this policy, which will:

- set out the Welsh Government's priorities in relation to the management of natural resources;
- be based on the state of natural resources in Wales as reported by NRW and also take account of all other relevant evidence, since it is prepared in accordance with the principles of sustainable management of natural resources;
- be implemented by the Welsh Ministers facilitated by area statements; and
- be reviewed after each National Assembly election at a minimum.

**Area statements:** NRW will be under a duty to prepare area statements, which will:

- set out the key risks that need to be carefully managed and mitigated and the key opportunities for the sustainable use of natural resources at an area level;
- facilitate the implementation of the National Natural Resource Policy;
- optionally, where appropriate, be included as a part of a similar plan or strategy or vice-versa;
- be implemented by NRW in partnership with other organisations; and
- be kept under review, for revision at any time in line with the principles of sustainable management of natural resources.

In summary, the identification of national priorities and opportunities will be set out in the National Natural Resources Policy, which will be informed by the evidence in the State of Natural Resources Report. The State of Natural Resources Report will also inform area statements, which will implement the National Natural Resources Policy at the local level. The local evidence which is captured in the preparation of area statements can then be used to inform future reviews of the State of Natural Resources Report.

Annex 3 sets out a timeline detailing when these reporting duties are expected to come about, with reference to the reports in the Well-being of Future Generations (Wales) Act 2015.

*B. Can you please clarify the timetable for the publication of the first Future Trends report.*

Although the Future Trends Report is not a part of this Bill, it is a part of the wider governance framework for a more sustainable Wales, to which the duties in this Bill also contribute.

Section 11 of the Well-being of Future Generations (Wales) Act 2015 specifies that the Future Trends Report must be published no later than 12 months after a general Assembly election. This means it will be available by May 2017 at the latest.

It will be for the next Government to decide when they will publish the report before this date. The Future Trends Report will contain evidence about the future economic, social, environmental and cultural well-being of Wales. The preparation and publication of the Future Trends Report will depend in part on the availability of that information, which will come from a range of sources.

*C. Mr Asby, in his oral evidence, stated that the provisions within the Bill on the timeline for setting the carbon budgets are 'the exact same provisions' as those in the UK Climate Change Act 2008 [see RoP para 221]. However, they appear to be different. The first UK budget had to be set within 18 months of commencement, not within two years. Additionally, the UK Act required the setting of the first three budgets by June 2009 and not the first two as is the case with the Environment (Wales) Bill.*

The Bill follows the arrangements that were put in place for the UK Climate Change Act (the first budget was set after the carbon budget start date).

In order to quantify our emissions effectively, the first budgetary period will need to consider a number of important factors such as the latest science and technology and the Future Trends reports. To supplement this work and to consider the implications across Wales, the relevant engagement with wider stakeholders will need to be undertaken and advice will need to be sought from the Advisory Body.

*D. Mr Asby stated that there was an explicit reference in the Bill to a provision to allow local authorities to report on the biodiversity duty as part of their reports on well-being [para 172 RoP]. We have been unable to find this in the Bill and would be grateful for clarification.*

The Bill itself does not include an explicit reference to allow local authorities to report on the biodiversity duty as part of their reports on how they are delivering their well-being objectives under the Well-being of Future Generations (Wales) Act 2015. However, paragraphs 76 and 77 of the Explanatory Memorandum set out the following:

76. The introduction of a new reporting duty enables public authorities to report on actions taken to improve biodiversity and to promote the resilience of ecosystems and also what actions have been taken to incorporate biodiversity measures into other areas of policy, strategies or initiatives.

77. The intention is to achieve integration benefits for those bodies that fall under the Well-being of Future Generations (Wales) Act 2015 as they will be able to report on how they are delivering the biodiversity duty in their reports on how they are meeting their well-being objectives. For these bodies this will also ensure that the requirement is joined-up and embedded within the Well-being of Future Generations (Wales) Act 2015 obligations.

Therefore this applies to all the bodies that fall under the Well-being of Future Generations (Wales) Act 2015, including local authorities.

*E. You stated that the Wales Marine Plan has to be based on Welsh Ministers' other policies and that this would provide the link between the marine plan and the area statements and NNRP. Can you please clarify where this is required in law? More specifically, is there provision in the Marine and Coastal Access Act 2009 that requires this? [See RoP para 115].*

The Welsh Ministers are the marine planning authority for Welsh inshore and offshore regions pursuant to section 50 (2) of the Marine and Coastal Access Act 2009 (MCAA). Section 51(3)(a) of the MCAA provides that a marine planning authority must be prepared and adopt a marine plan in accordance with Schedule 6 to the MCAA. Paragraphs 9 (1) and 9 (2) (h) of Schedule 6 provide that in preparing a marine plan, the marine plan authority must have regard to any plan prepared by a public authority in connection with the management or use of the sea or the coast or of marine or coastal resources.

In addition, the duty on marine planning authorities to produce a marine plan, at section 51(3)(b) of the Act, specifies that the marine plan must state policies for and in connection with the sustainable development of the relevant area.



In Wales, sustainable development is expressed through the Well-being of Future Generations (Wales) Act 2015. This means applying the sustainable development principle in the exercise of functions, which would include the function of preparing a marine plan.

The sustainable development principle includes the need to take into account an integrated approach - considering how an activity can contribute to all of the well-being goals and each of the organisations' well-being objectives set under the Well-being of Future Generations (Wales) Act 2015.

This requirement of the Well-being of Future Generations Act means that, in practice, the Welsh Ministers will consider their other policies when preparing the Wales Marine Plan, ensuring a common approach is taken to marine planning and natural resource policy development and delivery.

This will deliver against our Programme for Government commitment to a more integrated approach to the management of Wales' natural resources. The National Natural Resources Policy will set out the national priorities in relation to the management of natural resources as a whole, and complement the existing framework for terrestrial and marine planning which look in more detail at the issues in relation to the management of natural resources on land and in relation to the sea. The Wales National Marine Plan will therefore focus on the framework for the sustainable management of Wales' marine resources.

Area statements will draw together the evidence at a local level, looking in particular at the priorities identified in the National Natural Resource Policy and identifying the risks and opportunities within that area. Where relevant to the priorities in the national policy and to the area being considered, area statements will look at the interface between air, land and sea at the local level.

This means that area statements will support local delivery of the national policies set out in both the Wales National Marine Plan and the National Natural Resource Policy, thereby ensuring that the management of our land and sea is joined up in practice.

*F. You stated that you believed that there was a limit on the amounts of carbon budget that could be carried forward. Can you please clarify this statement [RoP para 223].*

Welsh Ministers can only carry back 1% of the budget. The Welsh Ministers must consult the advisory body before carrying an amount of carbon budget forward.

In order to encourage early emissions reductions, the Bill does not place a specific limit on the credit that can be gained from early action.

*G. You stated that the provision on separation of waste only refers to commercial waste. Section 66 refers to 'controlled waste' collected by a waste collection authority. Can you please clarify whether the definition of controlled waste includes municipal and household waste collected by local authorities [RoP para 316].*

Section 66 of the Bill inserts provision into Part II of the Environmental Protection Act 1990. Controlled waste is defined in section 75(4) of that Act 1990 and includes household, commercial and industrial waste. 'Municipal waste' is not a term found within the Environmental Protection Act 1990, but is most commonly used to refer to waste comprising both household and some commercial waste. Controlled waste therefore includes both local authority collected municipal and household waste.

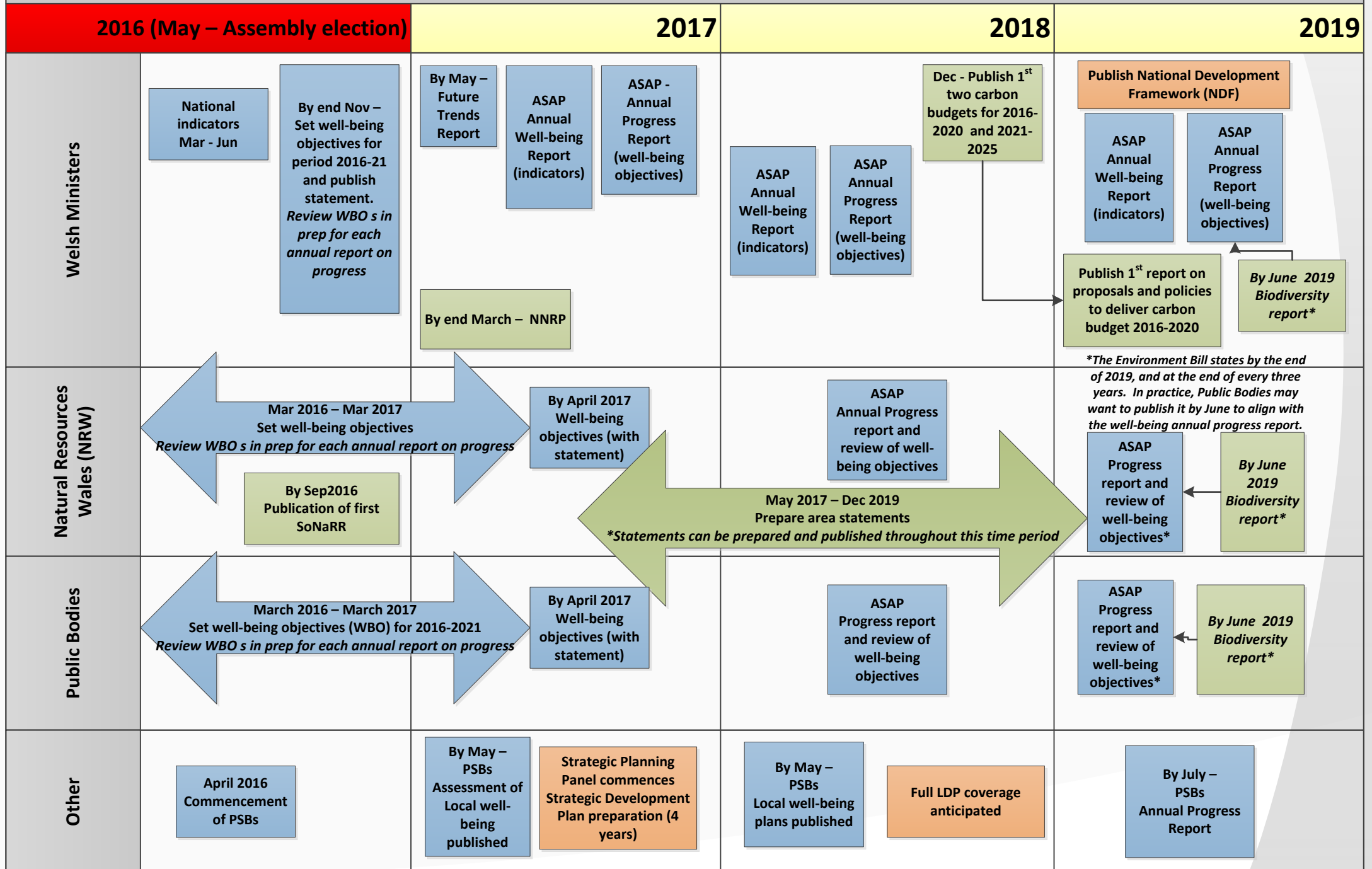
Section 45AA(4) of Environmental Protection Act 1990 (as inserted by section 66 of the Bill) places a duty on occupiers of premises in Wales to present controlled waste in accordance with any applicable separation requirements prescribed by the Welsh Ministers. This particular duty does not apply to domestic premises; it will affect business premises (e.g. commercial) which primarily produce commercial and industrial waste.

# Links to legislation – Environment (Wales) Bill, Well-being of Future Generations Act 2015 and Planning Act 2015

Key: Environment Bill

Well-Being of Future Generations Act

Planning Act



# Links to legislation – Environment (Wales) Bill, Well-being of Future Generations Act 2015 and Planning Act 2015

Key: Environment Bill

Well-Being of Future Generations Act

Planning Act

	2020	2021(May – Assembly Election)	2022	2023
<b>Welsh Ministers</b>	<p>By May - Annual Progress Report - well-being objectives</p> <p>Dec – Publish 3<sup>rd</sup> carbon budget</p>	<p>By the end 2021 Publish the report on proposals and policies to deliver carbon budget 2021-2025</p> <p>ASAP Annual Progress Report - well-being objectives</p> <p>ASAP Annual Well-being Report (indicators)</p> <p>June 2021 – April 2022 Review NNRP</p> <p>By May – Future Trends Report</p> <p>By June 2022 Biodiversity report *</p> <p>Dec – Lay final statement before National Assembly for budget 2016-2020</p> <p>ASAP Annual Well-being Report (indicators)</p> <p>ASAP Annual Progress Report - well-being objectives</p>	<p>ASAP Annual Well-being Report (indicators)</p> <p>ASAP Annual Progress Report - well-being objectives</p> <p>Dec – Lay final statement before National Assembly for budget 2016-2020</p>	<p>ASAP Annual Well-being Report (indicators)</p> <p>ASAP Annual Progress Report - well-being objectives</p> <p>End Sep – Lay before the National Assembly a response to climate change advisory body progress report</p>
<b>Natural Resources Wales (NRW)</b>	<p>ASAP Annual Progress report and review of well-being objectives</p> <p>By end of 2020 Publish second SoNaRR</p>	<p>ASAP Annual Progress report and review of well-being objectives</p> <p>By end Nov – Set well-being objectives for period 2021-2026</p>	<p>ASAP Annual Progress report and review of well-being objectives</p> <p>By June 2022 Biodiversity report *</p>	<p>ASAP Annual Progress report and review of well-being objectives</p> <p>May 2022 – May 2023 If NNRP amended - review area Statements *Statements can be prepared and published throughout this time period</p>
<b>Public Bodies</b>	<p>June - Progress report and review of well-being objectives</p>	<p>ASAP Progress report and review of well-being objectives</p>	<p>ASAP Progress report and review of well-being objectives</p> <p>By June 2022 Biodiversity report *</p> <p><i>*The Environment Bill states by the end of 2019, and at the end of every three years. In practice, Public Bodies may want to publish it by June to align with the well-being annual progress report.</i></p>	<p>ASAP Progress report and review of well-being objectives</p>
<b>Other</b>	<p>By May - Future Generations Commissioner Report</p> <p>By May – The AGW report - SD principle</p> <p>By July - PSBs Annual progress reports</p> <p>Before end of 2020 - Climate Change Advisory Body publish progress report</p>	<p>Anticipated SDPs adopted</p> <p>By July – PSBs Annual progress reports</p>	<p>By July – PSBs Annual progress reports</p>	<p>By May – PSBs Assessments of local well-being published</p> <p>June - Climate change Advisory Body publish report on 1<sup>st</sup> budget</p> <p>By July – PSBs Annual progress reports</p>

# Links to legislation – Environment (Wales) Bill, Well-being of Future Generations Act 2015 and Planning Act 2015

Key: Environment Bill

Well-Being of Future Generations Act

Planning Act

	2024	2025	2026 (May – Assembly Election)
Welsh Ministers	<p>Five year review of NDF</p> <p>ASAP Annual Well-being Report (indicators)</p> <p>ASAP Annual Progress Report - well-being objectives</p>	<p>ASAP Annual Well-being Report (indicators)</p> <p>ASAP Annual Progress Report - well-being objectives</p> <p>By June 2025 Biodiversity report*</p> <p>By Dec - Publish 4<sup>th</sup> Carbon Budget</p>	<p>ASAP Annual Well-being Report (indicators)</p> <p>By May - Annual Progress Report - well-being objectives</p> <p>By end 2026 – Publish report on the proposals and policies for the carbon budget 2026-2030</p> <p>From June 2026 – Review NNRP</p>
Natural Resources Wales (NRW)	<p>ASAP Annual Progress report and review of well-being objectives</p>	<p>ASAP Annual Progress report and review of well-being objectives</p> <p>By June 2025 Biodiversity report*</p> <p>By end of 2025 Publish third SoNARR</p>	<p>ASAP Annual Progress report and review of well-being objectives</p>
Public Bodies	<p>ASAP Progress report and review of well-being objectives</p>	<p>ASAP Progress report and review of well-being objectives*</p> <p>By June 2025 Biodiversity report*</p>	<p>ASAP Progress report and review of well-being objectives</p>
Other	<p>By May – PSBs Local well-being plan published</p> <p>By July – PSBs Annual progress reports</p>	<p>May – The AGW report on SD principle</p> <p>By July – PSBs Annual progress reports</p>	<p>By July – PSBs Annual progress reports</p>

*\*The Environment Bill states by the end of 2019, and at the end of every three years. In practice, Public Bodies may want to publish it by June to align with the well-being annual progress report.*

## Statement of Policy Intent: Area Statements

### Environment (Wales) Bill Part 1, Section 10

#### Description:

Section 10 of the Environment (Wales) Bill places a duty on Natural Resources Wales (NRW) to produce publish and implement area statements and prescribes what has to be included within those statements. The new general purpose of NRW (as provided in section 5) provides the approach to be taken by NRW in preparing area statements. Section 10 requires that NRW must:

- Prepare and publish statements for the areas of Wales that it considers appropriate for the purpose of facilitating the national natural resources policy (NNRP). NRW may also use area statements for any other purpose in delivering its functions.
- Specify within an area statement the priorities, risks and opportunities for sustainable management of natural resources that need to be addressed in that area and state how NRW proposes to address them.
- Take such steps as appear it to be reasonable practicable to implement an area statement, and encourage others to take such steps
- NRW must keep area statements under review and may revise them at any time.
- Before publishing an area statement, NRW must consider whether another plan, strategy or similar document should be incorporated into the area statement, or the area statement should be incorporated into another plan, strategy or similar document.

#### Policy Intention:

An area statement is a product of the area based approach that will be produced by NRW for the **purposes of implementing one or more of the priorities and opportunities outlined in the NNRP**. In doing so, NRW will draw together all the available evidence at a local level and identify the risks and opportunities within that area. This process will include engagement with stakeholders and collaboration with relevant public bodies and other organisations.

The aim for delivering the NNRP at the local level is to ensure that the priorities and opportunities identified in the NNRP are delivered or addressed at the **appropriate scales** – that is not only within ecological boundaries but also the social, economic and cultural boundaries.

The intended effect of an area statement is to provide an integrated and coherent **evidence base for NRW and other bodies to take appropriate actions** in relation to the priorities and opportunities identified in the NNRP in a way that promotes the **sustainable management of natural resources**.

It will bring together all of NRW's functions; for instance on climate change,

water, flood, biodiversity, pollution, waste, forestry, landscape, access and recreation and how these are considered as a whole at the local level. This will allow NRW to **integrate, simplify and improve** efficiency of its role.

Area statements **reduce bureaucracy** by integrating existing NRW plans and programmes thereby providing better understanding of the values of our natural resources and the contribution that they make to our social, economic and environmental well-being. The approach will help to improve understanding of their economic, social and environmental importance.

In addition area statements can be used for the purpose of NRW delivering any of its statutory functions. Also, **public bodies** that are also members of a public service board may seek to include priorities or opportunities identified in an area statement as part of their local well-being plan.

NRW may also consult other bodies that can assist with the objectives for the area (such as private companies, landowners, and environmental NGOs). However only public bodies defined in the Bill will be under a duty to assist NRW.

## Evidence of Need

Historically natural resources in Wales have been managed through a legal framework of environmental statutory duties and regulatory functions, through separate, often siloed, and reactive frameworks that have evolved gradually over many decades, and developed mostly in response to specific environmental problems.

Furthermore, the evidence shows that the capacity of our natural resources to continue to provide the services - on which we all depend - is diminishing. If we are to continue to benefit from them – and avoid compromising the ability of future generations to enjoy the same benefit – we need to manage them effectively to enable Wales to develop sustainably and to maximise our contribution across the Well-being Goals.

As set out by UK National Ecosystem Assessment (UKNEA) targeted strategic planning based on integrated information will enable long term risks to natural resources, such as those identified in the UKNEA and the State of Nature Report, to be identified and minimised through better decision making.

The Sustaining a Living Wales Green paper published in January 2012 included propositions to develop a clear spatial context for management of natural resources as a whole. At the local level it sought views on how best to make the connections between existing local environmental plans and designations and identify new opportunities and approaches, to help provide a context for decision-making on the use of natural resources.

Through the consultation process stakeholders recognised that a piecemeal approach to the decision making affecting natural resources is not delivering the economic, social and environmental gains needed. **Respondents called on the Welsh Government to develop an integrated and more holistic**

**approach** – embedding the principles of the ecosystem approach with the majority of respondents agreeing with the concept of local resource management planning. This echoed earlier recommendations to Welsh Ministers made by the Assembly’s Sustainability Committee.

**Area statements are the product that will enable NRW to undertake the area based approach.** In implementing priorities through area statements, NRW must apply the principles of the sustainable management of natural resources as described at Section 4 of the Bill. The statements will collectively present evidence and information in a clear and concise format that will enable the full range of impacts and the opportunities provided by ecosystem services to be considered. In practical terms, this will maximise the opportunities from the services that we receive whilst reducing the impacts on those services where those impacts could affect their longevity.

### **Reducing Red Tape**

It is not a policy intention for area statements to be an additional action plan. Area statements will provide NRW with an opportunity to integrate, rationalise and simplify any plans, programmes or strategies produced where this is consistent with any specific statutory duty. There is currently a variety of time and planning cycles for the development of these plans and any non statutory plans, most of which do not align. It is anticipated that rationalisation is likely to occur at review points as individual plans and strategies are reassessed. It will be for NRW to identify how to replace the various plans that currently exist in relation to the management of natural resources at the local area level.

### **Coverage of Area Statements**

It is envisaged that every part of terrestrial and coastal Wales will be covered by an area statement in due course.

It is not intended to set the timings of the roll out on the face of the Bill in order to allow time for NRW to effectively implement the legislation, and reflect that the priorities for the sustainable management of natural resources identified in the NNRP might be delivered in specific locations. It will also allow NRW to undertake all of the necessary evidence gathering and engagement to ensure that area statements are fit for purpose.

However, there will be a requirement for Welsh Ministers and NRW on each principal review to consider the extent to which there are parts of terrestrial and coastal Wales that are not yet covered by an area statement. Further, Welsh Ministers may wish to direct NRW as to expected timescales for the implementation of area statements across Wales

It is not intended that the framework being put in place by this Bill will replace the framework recently established for the marine environment, but it will work with it to ensure that the management of natural resources in terrestrial and marine environments are integrated. In setting out the national priorities in relation to the sustainable management of natural resources as a whole – our air, water, land and sea – will point to the Wales National Marine Plan as the



means of sustainably managing our marine resources and which will reflect the context of the ecosystem approach for Wales' marine area.

In doing so, NRW will draw together all the available evidence at a local level and identify the risks and opportunities within that area which could include evidence from the Wales National Marine Plan.

This will ensure that the management of our land and sea is joined up in practice. Where relevant to the priorities in the NNRP and to the area being considered, area statements will look at the interface between air, land and sea at the local level.

### **Interface with the Well-being of Future Generations Act (Wales) 2015**

**Public Services Boards (PSBs)**, established under the Well-being of Future Generations (Wales) Act 2015, will be required under the Bill to **take account of any area statements** (within their area) when preparing local **well-being assessments**. PSBs may have to take account more than one area statement as the appropriate scale for action within an area statement will be shaped by ecological, social, economic and cultural factors and therefore may not always correspond to the administrative boundary of the PSB. In addition, Area statements will also provide the evidence to support regulatory and development **planning decisions** by setting out the priorities, opportunities and challenges at a local level to achieve the sustainable management of natural resources.

Public bodies under the Well-being of Future Generations (Wales) Act 2015 will be required to report annually on the progress they have made on meeting their well-being objectives. It is intended that an area statement will assist a public body to deliver on and maximise their contribution to the achievement of the well-being goals and objectives as they will provide information on the opportunities available and the risks that need to be managed in order to sustainably manage the natural resources in a given area.

The Environment (Wales) Bill requires NRW to promote and engage in collaboration and cooperation to prepare an area statement. As mentioned above, an area statement will also provide a source of information and evidence on what actions other public bodies may need to take, and identifying the key actors, such as landowners, to facilitate action. In addition public bodies (as defined by Section 11 of the Bill), on a request from NRW must assist NRW in the preparation of the area statements (to provide information or other assistance to NRW).

### **Guidance**

Welsh Ministers can issue guidance to NRW on the content or form of area statements. The Welsh Ministers may also issue guidance on how public bodies can help in the delivery of an area statement.



Llywodraeth Cymru  
Welsh Government

# Post Implementation Review of the Single Use Carrier Bag Charge in Wales: Emerging Findings Report

Research Summary

Social Research Number: 2015-48

[www.gov.wales](http://www.gov.wales)

The Single Use Carrier Bag (SUCB) Charge (Wales) Regulations 2010 introduced a charge of a minimum of 5 pence for each SUCB, at the point of sale, both in store and for distance selling methods from October 2011.

This bulletin presents emerging findings from a post implementation review of the SUCB charge.

In order to inform future developments relating to the charge in Wales, the study examines the impact of the charge on consumers, businesses and the environment, and the impact of the voluntary agreement with retailers to donate the net proceeds to good causes.

## Key Points:

For the period October 2011 to October 2014; the following points have emerged:

- The review estimates that SUCB use has declined by 71%.
- A rise in the use of “bags for life” and other re-useable bags has meant an overall reduction in **all bags** of 57%.
- Consumer support for the charge increased from under two thirds (61%) reported prior to the introduction of the charge in 2011, to just under three quarters (74%) in 2014
- Among retailers who charged for their bags, the majority reported that the SUCB charge had made either a positive or neutral impact on their business (87%) compared with 13% who thought it had made a negative impact.
- The net benefit of the SUCB charge was between £28 million and £32 million.
- Through the implementation of the 5p charge for SUCBs, additional donations to good causes have been estimated at between £17 million and £22 million.
- As a result of the donations to good causes, it has been estimated that social benefits of between £27 million and £35 million have accrued through environmental, health and employment benefits.

## Background

Wales was the first country in the UK to introduce a Single Use Carrier Bag (SUCB) Charge in order to reduce consumption and the associated environmental impacts. The SUCB Charge (Wales) Regulations 2010 introduced a charge of a minimum of 5 pence for each SUCB, at the point of sale, both in store and for distance selling methods, from October 2011.

## Aims and objectives of study

The overall aim of this project was to conduct a post-implementation review of the SUCB charge. Within this broad aim, the project objectives were to assess:

- The impact the charge has had on the use of SUCBs and the associated behaviour of consumers in Wales;
- The impact the charge has had on businesses in Wales;
- The extent to which the voluntary agreement with retailers has succeeded in encouraging the donation of the net proceeds of the charge to good causes;
- The extent to which the charge has reduced littering of SUCBs;
- The economic benefits of the charge.

## Methods

The Study comprised:

- a literature review;
- a telephone survey of 1,011 consumers;
- a telephone survey of 504 retailers;
- a focus group plus individual semi-structured telephone discussions with retailers; and
- semi-structured discussions with manufacturers and distributors.

The study was undertaken between July 2014 and April 2015.

## Detailed Findings

### Retailers

Among retailers who charged for their bags, the majority reported that the SUCB charge had either a positive or neutral impact on their business (87%) compared with 13% who thought it had a negative impact. Just

under three quarters of retailers who charge for bags (74%) agreed with the statement: 'we are happy to see the charge continue as it is', a further 14% agreed that '*we are happy for the charge to continue, but we would like to see some changes*', while fewer than 10% agreed that 'we would like to see the charge removed'.

The feedback about the SUCB charge received via the retailer focus group was also generally positive, with many retailers reporting that business costs had reduced as a result of the charge because fewer bags were being purchased.

Retailers also reported spending relatively little time administering the charge during the previous year. Over half (58%) of retailers reported that they had spent no additional time administering the charge over the previous year, while just over a quarter (27%) reported spending one day or less; 5% of retailers reported spending more than one day on SUCB administration.

Respondents to the retailer survey were asked to estimate the cost of the charge to their business. The findings suggest that the total administrative cost of the SUCB charge to retailers across Wales was less than £180,000 per year.

### Consumers

Consumers were asked whether they supported or opposed the charge. The majority of consumers were supportive of the charge. Consumer support for the charge had increased from under two thirds (61%) reported prior to the introduction of the charge in 2011, to just less than three quarters (74%) in 2014.

Consumer support for the charge is also demonstrated by the fact that 42% reported taking fewer SUCBs than before the charge was introduced and over one third of consumers (35%) reporting that they had stopped taking SUCBs altogether.

The review found that SUCB use varied by the type of shopping, with SUCB use being

higher for consumers' most recent takeaway purchase (78%) when compared with their most recent non-food shop (36%), their most recent 'top-up' food shop (29%) and their most recent regular supermarket food shop (17%).

## Manufacturers and Distributors

Retailers were asked who supplied their SUCBs. Five of the top ten suppliers of SUCBs identified as part of the retailer survey were interviewed for feedback on the impact of the charge. Manufacturer feedback suggested that smaller suppliers experienced a negative impact on their business, with reports of a decline in overall sales.

## Good Causes

There is no statutory duty on retailers to donate the money from SUCBs to good causes, but this forms part of a voluntary agreement developed by Welsh Government that retailers can sign up to. This voluntary agreement sets out the following principles:

- The net proceeds are donated to good causes, which where possible, will benefit Wales.
- The net proceeds will provide additional support to good causes over and above any existing arrangements.
- Where retailers have more than 10 full-time employees, a copy of or a link to their record will be provided to the Welsh Government when published for monitoring purposes.
- Where retailers have less than 10 full-time employees, a statement will be made including the name of the good cause(s) to which the money has been donated.

Of the retailers who charged for SUCBs, 78% reported that they donated all of the net proceeds; a further 9% reported that they donated a proportion of the net proceeds and 6% of respondents said they didn't know what proportion was donated to good causes. Less than 1 in 10 retailers reported that they did not donate the net proceeds and 1% refused to answer the question.

The findings of the consumer survey suggest that there was some confusion with regards to the SUCB charge and the use of the funds generated. Half of consumers questioned (50%) thought that retailers donated the money from the charge to good causes, while over one third 36% said that they didn't know what happened to the charge; the remaining respondents reported that the charge was paid to the Welsh Government (7%), that retailers kept the charge themselves (6%), that it was paid to the local authority (2%) or gave a variety of other explanations (2%).

## Litter

This study used both consumer and retailer surveys to assess the impact of the charge on litter. The majority of retailers reported no change to the amount of litter 'around their premises' (78%). However, when asked about the extent to which they agreed with a set of attitudinal statements, Over half (59%) of retailers agreed that 'the charge has helped to reduce litter' and two thirds (66%) of consumers agreed with the statement 'the charge has helped to reduce littering in my local authority area'.

The disparity between these two findings may reflect the difference in the wording of the two questions put to retailers, with the former being limited to their own premises and the latter potentially interpreted as relating to a wider area.

## SUCB Use

This review estimates that SUCB usage has declined by 71% in the charge time frame (2011 to 2014).

However, work undertaken by the Waste and Resources Action Programme (WRAP) for supermarkets in Wales shows that there is a 78% decline in SUCB usage. The difference between the two surveys reflects the inclusion of non-supermarket retailers in this review.

A rise in the purchase and use of "bags for life" and other re-useable bags across the

same time scale has meant an overall reduction in **all bags** of 57%.

## Next steps / Future publications

This bulletin presents emerging findings from the review. It is envisaged that the full evaluation report will be published on the Welsh Government website in Autumn 2015.

Views expressed in this report are those of the researchers and not necessarily those of the Welsh Government

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