

Minister for Natural Resources

Environment and Sustainability Committee

1. This paper responds to the Committee's e-mail of 16 September identifying particular topics and information it would like to receive in advance.

Well-Being of Future Generations (Wales) Act 2015

2. This piece of legislation more than any other is central to this Government's legislative programme. It is one of a few laws of its kind anywhere in the world.
3. It requires the Welsh Ministers to fulfil a number of duties that includes issuing guidance, publishing national indicators and appointing a Future Generations Commissioner for Wales.
4. In addition, the Welsh Government will need to review its own processes and procedures to comply fully with the Act as well as demonstrate a lead to public bodies in Wales; this will include the Sustainable Development Charter.
5. The issue of guidance relates to other public bodies, public services boards, and community councils that are subject to the duty in relation to local well-being plans. A package of statutory and non-statutory guidance documents was issued for consultation on 7 September. The consultation ends on 16 November. I have established a Technical Advisory Group to oversee the work on the guidance, which is chaired by the outgoing Commissioner for Sustainable Futures. The guidance has been drafted to avoid being overly-prescriptive and to encourage public bodies to interpret the Act more actively themselves within their unique circumstances. I intend to publish the final guidance early next year before the duties come into force in April 2016.
6. The development of national indicators has involved seeking advice from the Public Policy Institute for Wales. These have been reviewed within the Welsh Government and an external consultation is scheduled for later this year.
7. Interviews for the Future Generations Commissioner have taken place and I hope that a successful candidate will be announced before the end of the year. The Commissioner will have a hugely important role in supporting public bodies to respond to the requirements of the Act, and also in reporting on and making recommendations about progress when necessary.

Planning (Wales) Act 2015

8. Sustainable development is of course already a central principle for the planning system. The Planning (Wales) Act 2015 introduces a statutory purpose for the planning system where any public bodies exercising planning functions will be required to ensure that land use decisions contribute to sustainable development.
9. The provisions will come into force after the relevant provisions of the Well-being of Future Generations (Wales) Act 2015 have come into force.

10. Elsewhere, a suite of secondary legislation, policy and guidance is in preparation as part of the Planning Act, with a number of consultation documents already issued. Before the end of this year I will publish an implementation plan describing the delivery programme for introducing the measures from the Act and other improvements.
11. As a matter of priority, I will introduce the Development of National Significance system early next year and bring further improvements to development management procedures.

Devolution of Energy Consents

12. There are two UK bills being brought forward relating to Energy matters; the Wales Act and the Energy Bill. The Wales Act will bring forward the overarching devolution of Energy Consents; the Energy Bill introduced on the 9th July contains energy matters that relate to On-shore Wind in Wales. The Energy Bill is currently in Lords Committee, the next session is on the 14th Oct
13. The Energy Bill has brought forward the following measures in relation to Energy Consents:
 - The closure of the Renewables Obligation scheme for onshore wind, and
 - Large onshore wind projects, greater than 50 MW, will be removed from the definition of nationally significant infrastructure projects process and therefore no longer decided by the Secretary of State for the Department of Energy & Climate Change under the Planning Act 2008.
14. The consequence of the Energy Bill is to transfer the consent decision for wind farms with more than 50MW generating capacity to the town and country planning regime. It has been announced that decisions on all future onshore wind projects will be taken by local planning authorities in England. However in Wales, as planning is a devolved function, it will be for the Welsh Ministers to decide how this commitment will be delivered.
15. Following the Planning (Wales) Act and informed by responses to the Welsh Government's recent consultation on the definition of Developments of National Significance, i.e. those applications which should be submitted to Welsh Ministers, we aim to have secondary legislation in place in the New Year. This could mean that all onshore wind farm applications over a certain scale, e.g. 25 MW, are submitted to Welsh Ministers. The evidence in Wales is that local planning authorities struggle to determine energy applications.
16. In future it is within the Welsh Government's remit for all onshore applications over a certain scale, e.g. 25 MW, to be referred to Welsh Ministers. The Powers for a Purpose document proposes the following energy measures be brought forward under the Wales Bill.;
 - Devolve the responsibility for all energy planning development consents for projects up to 350MW onshore and in Welsh territorial waters.
 - Responsibility for issuing marine licences in Welsh offshore waters should be devolved.

17. Limited discussions with UK Government have so far taken place, at this stage on energy matters proposed within the Wales Act.
18. The combination of the Energy Bill and the UK Government's stated aim to bar access for onshore wind projects to future rounds of the Contracts for Difference (CfD's) will effectively close down the on-shore wind sector to new projects in Wales.
19. The recent rejection of a number of wind farms in mid-wales by the UK government, against the advice of inspectors, has reinforced the view that without full control over energy consents Welsh Government will still have limited influence over the energy agenda in Wales, unlike Northern Ireland or Scotland.

Fracking

20. I have consistently made clear the Welsh Government's precautionary position on fracking, most recently in response to the UK Government's announcements about changes to the planning system to expedite shale gas exploration.
21. Our vision is for a clean, green future with energy generation based on embracing Wales's abundant renewable energy sources, which provide exciting and immediate opportunities. The technologies behind unconventional oil and gas extraction are unproven, in the complex geology of the UK, and on that basis we should maintain our precautionary policy framework.
22. I am currently considering whether underground coal gasification should be brought within the scope of my Notification Direction to local planning authorities. I will report on this in due course.
23. With regard to guidance, a precautionary approach is contained in current national planning policy which identifies the environmental impacts that must be addressed to ensure that any proposed development does not impact adversely on the environment, communities or wider society.

Building Regulations

24. Following the withdrawal of TAN22 (The Sustainable Buildings National Planning Policy) in 2014, related aspects of the Building Regulations are under review. We expect to consult on changes early next year.
25. We are undertaking a review of our capital funding policy that requires the Building Research Establishment Environmental Assessment Methodology (BREEAM) being marked at Excellent or the equivalent for new, non domestic buildings that receive Welsh Government funding.
26. The EU Energy Performance in Buildings Directive requires us to make new buildings 'Nearly Zero Energy' from 2018 for public buildings and 2020 for all new buildings. We need to recognise the economic importance of the house building industry in Wales. Raising standards must be done in a cost effective way. We will work with the industry to ensure that we balance the need to reduce energy demand in new housing with the need to meet new housing demand.

27. My July 2014 changes to Part L, prompted by changes made to the BREEAM methodology, raised energy performance of new dwellings by an average of 8% over the previous 2010 standards. We also raised new non domestic buildings standards by an average of 20%, which is double that achieved in England.
28. A phased introduction of the requirements for sprinklers has been introduced into the regulations. The sprinkler requirements for high risk properties, such as care homes, were introduced in April 2014. The requirements for all new and converted dwellings apply from January 2016.
29. I am committed to a further review of the energy performance requirements of the Building Regulations in 2016. We will have to consider whether off-site carbon abatement has a place not least as a consequence of UK Government scrapping their zero carbon new homes target and deferring their proposed review.
30. Transferring the responsibility for energy infrastructure to Welsh Ministers through Building Regulations will provide legal and administrative benefits in providing clear demarcation between Wales and England.

Flood and coastal erosion

31. Over the lifetime of the Government over £240 million will have been invested in flood and coastal erosion risk management. This has been supported by a further £47million from the European Regional Development Fund (ERDF). This investment will reduce flood and coastal erosion risk to over 12,000 properties, including over 10,700 homes.
32. Our Coastal Risk Management Programme (CRMP) is a unique opportunity to invest in managing the risks to our coastal communities from climate change and sea level rise. We are prioritising the CRMP in our programme of capital infrastructure investment and in our preparedness to contribute 75% of a project's costs.
33. We continue our work on the coastal delivery plan to take forward the 47 recommendations of the review into the coastal flooding of winter 2014/15. To date 11 recommendations have been completed with a further ten expected to be completed by the end of October.
34. The proposed Environment Act will introduce the Flood and Coastal Erosion Committee which will be a consultative/advisory body providing advice to me from Welsh Risk Management Authorities on all sources of flooding and coastal erosion. This will be formed following the abolishment of the Flood Risk Management Wales (FRMW) Committee.
35. The new committee will move away from its current role scrutinising the programme and budget of NRW as this function is carried out by the NRW Board. The full details of the committee are still under consideration, however it will have representation from, and linkages with, other flood risk management bodies reflecting its remit as an advisory body on all aspects of flood and coastal erosion risk management in Wales.

36. It is currently expected that the first meeting of the Flood and Coastal Erosion Committee will be in September 2016 following public consultation on draft Regulations.

Water

37. I published in May the Water Strategy for Wales which sets out our key policy priorities for Water in Wales over a 25 year period and beyond. Our aim is to ensure that we have a more integrated and sustainable approach to managing our water and associated services in Wales. The Strategy was developed within the context and will contribute to the implementation of our wider policy about natural resource management. The Strategy is supported by a high level action plan and work has already started on a number of key policy commitments.
38. For instance, we are actively working with the UK Government with a view to securing devolution of all matters relating to water and sewerage and the removal of the unilateral of power of the UK Government to intervene in respect of water resources in Wales. We have recently issued two consultations which will secure sustainable sewerage systems and support sustainable drainage solutions in Wales.
39. In order to better manage our water resources now and for the future, we have also undertaken extensive work which will enable us to reform the abstraction license system in Wales and bring in to control many currently unlicensed abstractions.
40. We are also currently undertaking a review of all Nitrate Vulnerable Zones and aim to publish a 12 week consultation in December seeking the public's views before coming to a final decision. The Nitrates Directive requires the Welsh Government to identify surface or groundwaters that are, or could be high in nitrate from agricultural sources. When a water body has been identified as vulnerable, all land draining to that water is designated as a Nitrate Vulnerable Zone. Within these zones, farmers must observe an action programme of measures which include restricting the timing and application of fertilisers and manure, and keeping accurate records.

Marine and Fisheries

41. The delivery of economic and social benefits to Wales needs to be seen in the context of the European statutory obligations. These include the implementation of the Common Fisheries Policy (CFP), the Marine Strategy Framework Directive (MSFD), and the introduction of a marine planning system for Wales. Both CFP and MSFD contain challenging targets that we simply must meet.
42. The European MSFD 2008/56/EC asks that Member States put in place measures to achieve Good Environmental Status in European waters by 2020. The Welsh Government and other UK administrations are committed to developing a UK Marine Strategy to implement the Directive.
43. The EU Directive on Maritime Spatial Planning 89/2014 introduces the requirement for all Member States to introduce marine plans no later than March

2021. The marine plan for Wales is progressing towards introduction with a draft being shared for comment this autumn.

- 44. The Marine and Fisheries Strategic Action Plan sets out challenging targets for the growth of the aquaculture sector in Wales and I will be setting out an Aquaculture Strategy developed in collaboration with the industry to ensure a long-term economic benefit for Wales.
- 45. The European Maritime and Fisheries Fund will help to implement the CFP and ensure the future of fisheries management is underpinned by appropriate evidence.
- 46. I am considering NRW's advice on potential new marine Special Protection Areas for birds and Special Areas of Conservation for harbour porpoise. I anticipate a 12 week consultation this autumn.

Forestry

- 47. The Welsh Government works closely with Natural Resources Wales and the private forestry sector on the delivery of its 50 year vision for trees and woodlands – Woodlands for Wales.
- 48. We are currently identifying further ways in which we can drive woodland creation in Wales and a workshop has been convened for later this month to explore just that. It will consist of members of the Woodland Strategy Advisory Panel, Natural Resources Wales and representatives of organisations with an interest in forestry in Wales. It will also discuss how the woodland sector can contribute to the goals expressed in the Well being of Future Generations Act.
- 49. The intention is to then deliver a Woodlands for Wales 5-year Action Plan - which will be published and put into operation in the coming months.
- 50. I have also received a very positive response to our Glastir woodland creation scheme and I am encouraging the sector to take forward new and innovative proposals for woodland management such as shelter belts, more urban trees and the creation of more community woodland, especially in urban areas.
- 51. Furthermore, Defra and the Scottish Government have announced their intention to seek the further devolution of forestry functions. I have indicated to them that our access to shared services such as forestry research currently delivered by the Forestry Commission must be maintained.

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Minister for Natural Resources
October 2015