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Welsh Government
Consultation on the White Paper

Securing a Sustainable Future

Environmental Principles, Governance and Biodiversity targets for a Greener Wales

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Action required: Responses by 30 April 2024

Mae'r ddogfen hon ar gael yn Gymraeg hefyd / This document is also available in Welsh
Rydym yn croesawu gohebiaeth a galwadau ffôn yn Gymraeg / We welcome correspondence and telephone calls in Welsh

Overview

This White Paper sets out proposals to introduce a Bill into the Senedd that will embed environmental principles into Welsh law, strengthen environmental governance in Wales by establishing a new body to oversee compliance with environmental law by Welsh public authorities, and introduce a new and ambitious biodiversity targets framework to combat the ongoing nature emergency. The proposals reflect our commitment towards “a greener Wales to tackle climate change and the nature emergency” as set out in the [Programme for Government and Cooperation Agreement](#).

How to respond

Please respond by completing the online form or completing the questionnaire and sending it to: environmental.governance@gov.wales

If you intend to respond in writing, please send completed forms to:

Land, Nature and Forestry Division
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Contact details

For further information, please contact:

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Ministerial Foreword

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

However, our environment is under increasing threat from human activities. Climate change, pollution, and overexploitation of resources are all taking a toll on our natural world. These threats not only damage the environment but also pose a serious risk to our own well-being and that of future generations.

The evidence is clear that we are facing a nature and climate emergency. Human activities are causing the Earth's climate to change at an unprecedented rate, leading to more extreme weather events, rising sea levels, and melting glaciers. 2023 was the hottest year on record. Biodiversity loss is happening at an alarming rate, with one in six species in Wales (of those monitored) facing extinction. This loss of biodiversity is not only a tragedy for the natural world but also a threat to our own well-being.

Here in Wales, we have responded by implementing policies and legislation focussed on combatting this trend and improving the environment, both in respect of Wales and in reflection of our global responsibility.

This White Paper sets out how we intend to complement and enhance that existing framework through new legislative measures. This includes embedding a set of fundamental environmental principles into Welsh law, which will be considered at the heart policy-making decisions and legislative proposals. It also presents our intended approach to establish a new environmental governance body, which will hold Welsh public authorities to account for any non-compliance with environmental law, including through enforcement action. Thirdly, it sets out proposals for biodiversity targets; ensuring we are taking active steps to protect and restore biodiversity across Wales.

It's important that we secure your participation, input and insight to ensure these measures are as effective as possible and meet the needs of the people of Wales. I look forward to hearing your views.

Julie James MS / AS
Minister for Climate Change

Introduction

1. The Welsh Government is committed to continuing to develop and strengthen environmental law in Wales. This will be essential in tackling the challenges of

climate change, biodiversity loss, and harm to the environment such as pollution.

2. This White Paper sets out proposals to introduce a Bill into the Senedd that will embed environmental principles into Welsh law, strengthen environmental governance in Wales by establishing a new body to oversee compliance with environmental law by Welsh public authorities, and introduce a new and ambitious biodiversity targets framework to combat the ongoing nature emergency. The proposals reflect our commitment towards “a greener Wales to tackle climate change and the nature emergency” as set out in the [Programme for Government and Cooperation Agreement](#).
3. The First Minister committed to bringing forward a Bill on these issues during this Senedd term in his most recent [legislative statement](#).
4. This White Paper sets out proposals for a Bill to cover three key areas and invites views from interested parties:
 - i. Embedding environmental principles into Welsh law;
 - ii. Environmental Governance, including the establishment of an environmental governance body for Wales; and
 - iii. A statutory targets framework to protect and restore biodiversity in Wales.
5. This White Paper is accompanied by a draft Integrated Impact Assessment and a draft Regulatory Impact Assessment which provide our early assessment of the costs and benefits of our proposals.

Background and Policy Context

Environmental law in Wales

6. In addition to EU-derived environmental law, the Senedd has made a significant body of legislation in relation to the environment, reflecting the Welsh Government's commitment to achieving a cleaner, greener, and more resilient Wales. This includes:
 - [The Environment \(Wales\) Act 2016](#): This Act introduces a framework for sustainably managing natural resources in Wales and places a duty on certain public bodies to maintain and enhance biodiversity and promote ecosystem resilience. It also includes duties on the Welsh Ministers in relation to addressing climate change, such as ensuring Welsh net greenhouse gas emissions are 100 per cent lower than 1990 baseline levels by 2050.
 - [The Agriculture \(Wales\) Act 2023](#): This Act introduces a range of measures to transform the Welsh agricultural sector by requiring the Welsh Ministers to exercise specified functions in the way they consider best contributes to achieving the sustainable land management objectives,

supporting farmers to meet the needs of present and future generations.

- [The Environment \(Air Quality and Soundscapes\) \(Wales\) Bill](#), which was passed by the Senedd on 28 November 2023, introduces measures that will contribute to improvements in the quality of the air environment in Wales and reduce the impacts of air pollution. The Bill includes a framework for setting national air quality targets, and places duties on Welsh Ministers to promote awareness of air pollution and publish a national soundscape strategy. Through this Bill, Wales will be the first part of the UK to include soundscapes in legislation.
7. Further, [The Well-being of Future Generations \(Wales\) Act 2015](#) makes a significant contribution to environmental outcomes, including through the duty on Welsh public bodies to carry out sustainable development, which means the process of improving the economic, social, environmental and cultural well-being of Wales. Those public bodies must set well-being objectives to maximise their contribution to the Act's well-being goals, and to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

EU Exit and the impacts on environmental law in Wales

8. The Treaty on the Functioning of the European Union and the Treaty on European Union include key environmental principles and objectives which aim to ensure high levels of environmental protection¹.
9. The environment has been a key part of European Union policy and law for decades, and much of the environmental law in Wales is derived from EU environmental law. The environmental principles set out in article 191(2) of the [Treaty on the Functioning of the European Union](#) are:
- a. precautionary
 - b. prevention
 - c. rectification at source
 - d. polluter pays
10. In addition, article 11 of the Treaty on the Functioning of the European Union states that environmental protection requirements must be integrated into the definition and implementation of the EU's policies and activities, in particular with a view to promoting sustainable development. The aim is to ensure environmental protection is integrated into all policies and activities, ensuring environmental protection is part of every policy and action, not just those about the environment.
11. Oversight of environmental law and the accountability of EU Member States was previously provided by the [European Commission](#) and the [Court of Justice of the European Union](#) (CJEU) (the latter in addition to the UK's

¹ For example, article 3(3) of the Treaty on European Union and articles 11 and 191 of the Treaty on the Functioning of the European Union.

domestic courts). If a Member State had failed to fulfil its obligations under EU law, the European Commission could investigate and bring enforcement proceedings. The CJEU's role includes ensuring the correct interpretation of EU law, deciding whether Member States have fulfilled their obligations under EU law, and to provide interpretations of EU law when requested by national judges. CJEU caselaw played an important role in the development of general principles of EU law and the application of the environmental principles.

12. Following the UK's exit from the EU, the European Commission no longer has this oversight role. Further, domestic courts can no longer refer questions of interpretation of EU law to the CJEU, and the Retained EU Law (Revocation and Reform) Act 2023 (the Retained EU Law Act) abolishes the remaining effects of retained general principles of EU law so that they no longer influence the interpretation of EU law that has been retained on the UK statute book (this is discussed further below).
13. On 1 May 2021, the [UK-EU Trade and Cooperation Agreement](#) (TCA) entered into force. The TCA includes environmental commitments in a wide range of areas, including climate change, air quality, water quality, and biodiversity.
14. Environmental protection principles are also included in international agreements such as the [Rio Declaration on Environment and Development 1992](#). This agreement, signed by 172 governments – including the UK - at the 1992 Earth Summit sets out 27 principles to guide the achievement of sustainable development.

Climate and Nature emergency

15. In April 2019, the Welsh Government declared a climate emergency, recognising the urgent need to address the threat of climate change. The declaration highlighted the climate crisis represents a serious and immediate threat to Wales health, economy, infrastructure, and natural environment, and that urgent action is needed to reduce greenhouse gas emissions and adapt to the impacts of climate change.
16. In making this declaration, the Welsh Government made a number of commitments further demonstrating commitment to taking urgent action including:
 - Setting a target of net-zero greenhouse gas emissions by 2050
 - Developing a comprehensive climate change plan
 - Investing in renewable energy and energy efficiency measures
 - Promoting sustainable transport and land use planning
 - Protecting and restoring natural habitats
17. In 2021, the Senedd declared a nature emergency in response to the alarming decline of biodiversity in Wales. This declaration recognised the urgent need to address the threats posed to wildlife and natural habitats by human activities, such as habitat loss, climate change, and pollution.

18. Since this time, the Welsh Government has taken steps to protect biodiversity, restore the natural environment and ultimately address the biodiversity crisis, including:
- Implementing [recommendations](#) from the [biodiversity deep dive](#) that focussed on Wales's response to the global target known as 30 by 30 to protect and manage 30 per cent of our land, freshwaters and seas by 2030.
 - Developing and implementing the Nature Networks Programme which aims to improve the condition and connectivity of our protected sites network contributing to our international commitments such as 30x30. This programme also encourages community engagement whilst also increasing capacity to develop a range of projects to enable our most precious habitats and species to thrive.
 - Initiatives such as the [National Peatlands Action Programme](#), [Local Places for Nature](#) and the [National Forest](#) all contribute to tackling the nature emergency as well as the climate emergency which is a key driver of biodiversity loss.
 - Ensuring tackling biodiversity is a key component of the Sustainable Farming Scheme which is due to be launched in 2025.
 - Updated [Planning Policy Wales](#) to provide further clarity on securing net benefit for biodiversity through the application of the step-wise approach, a stronger emphasis on taking a proactive approach to green infrastructure and strengthened the protection of SSSIs
 - The [Marine Protected Area Network Management Grant Scheme](#) which supports proposals to improve understanding of pressures and the introduction of measures to enhance the management of our network, contribute to tackling the nature emergency.

Previous Policy Development on Environmental Principles and Governance in Wales post European Union Exit

19. In 2019 the Welsh Government launched a consultation on **Environmental principles and governance in Wales post European Union exit**, seeking views on how to deliver an effective environmental governance framework in Wales post-EU exit (the 2019 consultation). The consultation document and summary of responses can be found [here](#).
20. The consultation was launched on 18 March 2019, and ran for a period of 12 weeks until 9 June 2019. It formed part of an ongoing open discussion with stakeholders by:
- considering how environmental principles were applied in EU law, and in law and policy in Wales and the rest of the UK.
 - outlining the current environmental governance structure within the EU and the available mechanisms in Wales.
 - outlining the context of environmental law after EU exit.
 - providing an analysis of the gaps in environmental principles and governance which would occur in Wales once the UK left the European Union.

- seeking views on which environmental principles should apply in Wales and how.
- seeking views on the key features a new governance system would require; and
- considering whether any environmental governance mechanisms may be relevant at UK level.

21. Following the 2019 consultation, the Welsh Government subsequently commissioned a stakeholder task group, the “Environmental Governance Stakeholder Task Group” (the Task Group), to assist with the development of options for environmental governance arrangements in Wales. The Task Group was chaired by Professor Robert Lee² and comprised key environmental organisations and academics.

22. The Task Group presented a concluding report with specific recommendations to the Welsh Government. The Welsh Government at the time accepted in full or in principle all recommendations relating to environmental principles and the establishment of an environmental governance body. The Task Group’s concluding report and the Welsh Government’s response to it can be found [here](#).

23. The response to the consultation and the Task Group’s report, including how the Welsh Government has used it to further shape proposals, is detailed further against the relevant proposals within this White Paper.

Interim Environmental Protection Assessor for Wales

24. Although Wales does not yet have a permanent environmental governance body in place, an [Interim Environmental Protection Assessor for Wales](#) (IEPAW) was appointed on 1 March 2021. The role of the IEPAW is to consider issues in relation to the functioning of environmental law in Wales and to submit reports on such issues to the Welsh Ministers setting out their recommendations. The IEPAW also provides members of the public with a mechanism to raise submissions about the functioning of environmental law in Wales, who then considers their validity and can make recommendations for any action they consider may need to be taken by Welsh Ministers.

25. The IEPAW has carried out a valuable role in relation to the functioning of environmental law in Wales, but their remit and powers fall short of the arrangements that existed previously under the EU environmental governance framework. In particular, the IEPAW does not have statutory investigation and enforcement powers to address complaints about compliance with environmental law by public authorities. This White Paper recognises this and seeks to build on the important work of the IEPAW by preserving and strengthening environmental governance in Wales through the creation of a statutory body.

² Professor of Law of Birmingham Law School

Part A - Environmental Principles

Background - Environmental Principles

1. Since leaving the EU, the role of EU environmental principles has changed, and the environmental governance structures no longer apply in Wales.
2. The environment and environmental protection are devolved matters, so it is for the Senedd to make legislation which would embed the environmental principles into Welsh law and to establish an environmental governance body.
3. In recognition of this, during the previous Senedd term the Welsh Government sought views on how to provide Wales with an effective environmental governance framework that built upon the frameworks contained within the Environment (Wales) Act 2016 (Environment Wales Act) and the Well-being of Future Generations (Wales) Act 2015 (Future Generations Act).
4. **The Environment Wales Act** supports environmental governance by providing the framework for the promotion of the sustainable management of natural resources in Wales. Amongst other things, it imposes a duty on Natural Resources Wales, in the exercise of its functions, to pursue the sustainable management of natural resources in relation to Wales and apply the principles of sustainable management of natural resources, so far as consistent with their proper exercise³. The Environment Wales Act also imposes some obligations directly on the Welsh Ministers and other public bodies, but not the general duty to pursue the sustainable management of natural resources.
5. **The Future Generations Act** also enhances environmental governance through its overall aim to improve the social, economic, environmental and cultural well-being of Wales. It sets out several well-being goals which are to be delivered in accordance with a sustainable development principle which describes the ways of working that support sustainable development. The Future Generations Act places a duty upon certain public bodies, including the Welsh Ministers, to carry out sustainable development which must include the setting and publishing of objectives (called “well-being objectives”) that are designed to maximise the contribution to achieving each of the well-being goals, and take all reasonable steps (in exercising its functions) to meet those well-being objectives⁴.
6. The [2019 consultation](#) on **Environmental principles and governance in Wales post European Union exit** considered the principles and objectives present within the existing Welsh legislative frameworks above, and compared with the EU environmental principles and objectives contained within the Treaty on the

³ Section 5 of the Environment Wales Act, amending article 4 of the Natural Resources Body for Wales (Establishment) Order 2012 (S.I. 2012/1903). The “sustainable management of natural resources” is defined at section 3 of the Environment Wales Act and the “principles of sustainable management of natural resources” are set out at section 4.

⁴ Section 3 of the Future Generations Act.

Functioning of the European Union and the Treaty on European Union^{5(OBJ)}. The Treaty on the Functioning of the European Union and the Treaty on European Union include key environmental principles and objectives which aim to ensure high levels of environmental^{6(OBJ)}.

7. Article 11 of the Treaty on the Functioning of the European Union states that environmental protection requirements must be integrated into the definition and implementation of the EU's policies and activities, in particular with a view to promoting sustainable development. The aim is to ensure environmental protection is integrated into all policies and activities, ensuring environmental protection is part of every policy and action, not just those about the environment.
8. Article 191(2) sets out that EU policy on the environment should be based on four principles; precautionary, preventive, rectification at source, polluter pays. The interpretation of the principles continues to develop. For reference, here are brief examples of how they may be described⁵:
 - a. Precautionary: *defined in the UN Rio Declaration on Environment and Development 1992 as, "where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation"*;
 - b. That preventive action should be taken: *the principle that preventive action should be taken to avert environmental damage*;
 - c. That environmental damage should as a priority be rectified at source: *the principle that environmental damage should as a priority be rectified by targeting its original cause at source*; and
 - d. That the polluter should pay: *the costs of pollution control and remediation should be borne by those that cause pollution rather than the community at large*.
9. The 2019 consultation considered the degree to which these were already captured within Welsh legislation. The consultation set out that the precautionary principle was represented by the design of the Environment Wales Act and described the role of the prevention principle under the Environment Wales Act's sustainable management of natural resources principles⁷ as well as the "five ways of working" under of the Future Generations Act⁸. The consultation highlighted that these two Acts were already integrated into policymaking and delivery in Wales, thus incorporating the integration requirement.

⁵ In particular at pages 12 to 20 (Part 2, Environmental Principles).

⁶ For example, article 3(3) of the Treaty on European Union and articles 11 and 191 of the Treaty on the Functioning of the European Union.

⁷ Section 4, Environment Wales Act.

⁸ Section 5(2), Future Generations Act.

10. However, the 2019 consultation also recognised that there is a difference between the extent to which the precautionary and prevention principles contained within those two Acts applied compared to the EU environmental principles⁹. In particular, that although the “five ways of working” apply across all policy areas and to a wide range of Welsh public bodies, the sustainable management of natural resources principles have a more limited application, applying to the exercise of all of the functions of Natural Resources Wales, and to the exercise of certain of the Welsh Ministers’ functions, but not more generally.
11. In addition, the 2019 consultation was clear that the principles of rectification at source and polluter pays were not included explicitly within Welsh legislation¹⁰.
12. On this basis, the previous consultation proposed embedding the EU environmental principles in existing Welsh law by:
 - a) introducing legislation to reflect the rectification at source and polluter-pays principles into existing Welsh environmental law as sustainable management of natural resources principles, and
 - b) extending the sustainable management of natural resources duty, as it applies to Natural Resources Wales, to a wider set of public bodies.
13. The 2019 consultation also asked whether there were any other principles which may need to be included in future legislation.

Outcome of previous consultation in respect of Environmental Principles

14. Respondents to the 2019 consultation were strongly in favour of bringing forward a set of environmental principles to guide the development of Welsh environmental law. However, there were mixed views on what principles should be included and how to achieve this.
15. Most respondents supported the inclusion of the four EU environmental principles: precautionary, prevention, rectification at source, and polluter pays. Additional principles were suggested by some, many referencing the integration requirement found under the EU framework.
16. Many felt that rather than amending existing legislation, as was being considered at the time, there was value in stating the environmental principles in one piece of legislation as part of an overarching structure. Respondents broadly supported the extension of the sustainable management of natural resources duty to all public bodies in Wales. However, the consensus was that sustainable management of natural resources was at an early stage and that a better

⁹ Paragraph 2.26.

¹⁰ Paragraph 2.24, Table 1 and paragraph 2.26.

understanding of the impact and any implications of extending the duty was required before doing so.

Stakeholder Task Group

17. The Task Group recommended that the four EU environmental principles (precautionary, prevention, rectification at source and polluter pays) should be provided for in Welsh legislation and that the principles should be supported by an overarching objective setting out environmental ambitions in Wales, including the connections between environmental policy to other policy areas (integration).
18. The Task Group considered that the Environment Wales Act was not a framework for environmental governance, but that it should be viewed as a blueprint for sustainable management of natural resources that may be developed over time. The Task Group therefore concluded that the preferred way to embed the EU environmental principles would be to provide for them in a way that allowed for a more systemic approach which avoided overcomplicating existing legislation. The Task Group also recommended that a duty be imposed upon Welsh Ministers to apply these environmental principles in the development of policies and legislation.
19. The then Minister for Rural Affairs, Energy and the Environment accepted those recommendations and also, in principle, accepted a recommendation to explore the extension of the sustainable management of natural resources duty to other public bodies as a separate matter.

Legislative change during the current Senedd term

20. Since the 2019-20 policy development work relating to the principles was conducted, the legislative landscape across the UK has changed. The UK has now exited the EU and the Retained EU Law Act received Royal Assent on 29 June 2023.
21. For context, much of the existing environmental law in the UK either had direct effect or had been transposed from the relevant EU law. As such, the body of EU-derived environmental law had already been developed with regard to the EU environmental principles. Following the end of the Brexit transition period (31 December 2020), the UK is no longer bound by the Treaty on the Functioning of the EU nor any new EU law that would previously have had direct effect (such as EU Regulations), and nor is it required to transpose any new non-direct effect EU law such as EU Directives.
22. [The European Union \(Withdrawal\) Act 2018](#) (the Withdrawal Act) ensured that certain laws made while the UK was a member of the EU would continue to apply after Brexit. In doing so a new category of UK law was developed known as retained EU law. This included certain EU-derived domestic legislation and direct EU legislation that was in effect immediately before exit day. In an environmental law context, the body of EU environmental law was retained. General principles

of EU law recognised by the Court of Justice of the European Union before the end of the transition period were also incorporated onto the UK statute book under the Withdrawal Act, but with some restrictions, so that they may only be used as an aid to the interpretation of retained EU law.

23. The Retained EU Law Act abolishes the remaining effects of retained general principles of EU law so that they no longer influence the interpretation of EU law that has been retained on the UK statute book. However, there is a lot of Court of Justice of the European Union case law supplementing how specific pieces of EU environmental law should be interpreted through the lens of the EU environmental principles. There remains a degree of uncertainty as to how such legislation will be interpreted by domestic courts when applying domestic principles of statutory interpretation after these reforms.
24. This is especially important in Wales at present given the absence of the environmental principles from its statute book. The Welsh Government's intention of bringing forward primary legislation now is to incorporate the EU environmental principles so they are part of the decision-making process on a statutory basis once the Bill comes into force.

Policy statement on environmental principles

25. For the avoidance of doubt, the Welsh Ministers' policy position is that, whilst there is currently no statutory duty on the Welsh Ministers to apply the environmental principles (precautionary, prevention, rectification at source, polluter pays and integration), they will continue to underpin policy in Wales until the Bill comes into force.

Proposals to Embed Environmental Principles in Wales

Environmental principles to be embedded into Welsh law

26. The Welsh Government proposes that the Bill will make provision to set out environmental principles that reflect those of the EU noted above, comprising;
- i. Integration
 - ii. Precautionary
 - iii. Prevention
 - iv. Rectification at source; and
 - v. Polluter pays.
27. Having considered the Task Group's recommendations, and other relevant matters, it is proposed that the environmental principles will be supported by an overarching objective around aiming to ensure a high level of environmental protection and improving the quality of the environment in Wales, in particular to contribute to sustainable development. It is intended this will focus action and provide a clear purpose for the application of the environmental principles.

28. The inclusion of these particular environmental principles was well supported by consultees in 2019 and the Task Group established to consider the matter in more detail. The Welsh Government considers that embedding these environmental principles, along with an overarching objective as recommended by the Task Group, will be an important step in strengthening environmental protections in Wales.

29. While some respondents to the 2019 consultation suggested a few additional principles, there was limited evidence presented to justify including additional principles at this time.

Guidance - Understanding what is meant by the environmental principles

30. Although there are well-understood meanings of the environmental principles that, among other things, stem from case law of the Court of Justice of the European Union, their interpretation and application continue to develop. It is important that there continues to be a clear understanding and transparency around what is meant by the environmental principles and how they are intended to be applied.

31. The Welsh Government proposes that the Bill includes a duty upon the Welsh Ministers to publish guidance to explain how the environmental principles are intended to be interpreted. This follows the broad approach the UK and Scottish Governments have taken in the introduction of environmental principles in other parts of the UK.

32. The intention is that the guidance will be based on well-understood meanings of the environmental principles drawn from relevant sources including case law. It is intended the Bill will make provision to require the Welsh Ministers to publicly consult on the guidance and on subsequent changes to it. For example, changes may be appropriate if there is relevant new scientific information or if there is a significant precedent established via case law.

EP1: To what extent do you agree or disagree with the proposals relating to the preparation of guidance that will explain how the environmental principles are intended to be interpreted?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Application of the environmental principles and accompanying guidance

33. The Task Group, along with some respondents to the 2019 consultation, recommended that the environmental principles should sit above existing Welsh legislation, and thereby be provided in an overarching, systemic way.
34. Advocates for this approach noted that providing the environmental principles this way is less ambiguous and provides a more direct demonstration of intent. The Welsh Government agrees with this view and considers that this approach best reflects how the EU environmental principles provided by the Treaty on the Functioning of the EU applied to the development of policies previously.
35. As such, the Welsh Government proposes embedding the environmental principles along with an overarching objective around aiming to ensure a high level of environmental protection and improving the quality of the environment, in particular to contribute to sustainable development,] rather than by embedding the principles within the sustainable management of natural resources framework as was proposed during the 2019 consultation.
36. Having considered the recommendation of the Task Group and other relevant matters, the Welsh Government proposes that a duty will be placed on the Welsh Ministers to have due regard to the environmental principles and the accompanying guidance during the development of their policies and legislation. This will ensure that on a statutory basis, future policies and legislation will be developed with due regard to the principles.
37. The application of the environmental principles on Welsh public bodies was considered during the 2019 consultation which discussed extending the sustainable management of natural resources principles to embed the EU environmental principles and then to extend the sustainable management of natural resources duty, as it applies to Natural Resources Wales, to a wider set of public bodies. The extension of the sustainable management of natural resources duty, as noted above, was broadly supported, however, having considered the 2019 consultation responses and the Task Group recommendations, the environmental principles are not being proposed to be embedded into Welsh law in that way.
38. We have considered whether, and if so how, a duty should be placed on Welsh public bodies to apply the environmental principles and the accompanying guidance. Applying a duty upon Welsh Ministers as proposed above means that the environmental principles will be applied at the strategic policy-making stage and should cascade into operational policy and delivery by sitting at the highest level. It may be disproportionate, therefore, to place a duty on public bodies, even other public policy-making bodies, such as local authorities and arms-length bodies, to apply the environmental principles where there is already governmental oversight. At present it is considered there is not a strong case to propose including a duty on public bodies and so the Welsh Government does not propose doing so.

39. However, we are interested in views as to whether a separate duty should be placed on Welsh public bodies to apply the environmental principles, and, if so, what form that duty should take and to whom it should apply.

EP2: The Welsh Government proposes to place a duty on Welsh Ministers to have due regard to the environmental principles and accompanying guidance during the development of their policies and legislation. To what extent do you agree or disagree with this approach.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

EP3: Do you have any views on whether a separate duty should be placed on Welsh public bodies (other than the Welsh Ministers) to apply the principles and accompanying guidance? If you consider the duty should apply to Welsh public bodies, please set out in the text box below which Welsh public bodies and why, as well as any views you have on how the duty should apply to those bodies.

Yes	No

Relationship between the environmental principles and the environmental governance body

40. Once the environmental principles come into force, they will be considered a part of environmental law in Wales which the governance body will have a role overseeing and reporting on. This means that the governance body may exercise its functions in relation to the environmental principles, which would include monitoring the application of, and compliance with, those environmental principles to the extent the Bill places a duty to do so on the Welsh Ministers and any Welsh public authorities. The proposed remit of the governance body is set out in the next section of the White Paper.

EP4: Do you have any additional comments relating to the Welsh Government's intention to embed the environmental principles and overarching objective into Welsh law that are not captured in your answers to the above questions?

Part B – Establishing an Environmental Governance Body for Wales

Background to Environmental Governance

1. Robust environmental governance is crucial for a healthy, sustainable environment that safeguards our essential natural resources.
2. Wales already has a unique approach to environmental protection that distinguishes it from the rest of the UK. The overarching sustainable development context enshrined through our internationally recognised Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016 forms a strong framework to guide and support the development and implementation of policies to sustainably manage our natural resources. This commitment to protecting the environment has been strengthened by, for example, sustainable land management objectives in the Agriculture (Wales) Act 2023, as well as new measures to improve the quality of the air environment in Wales through the Environment (Air Quality and Soundscapes) (Wales) Bill which was passed by the Senedd on 28 November 2023.
3. In this context, the Welsh Government has identified a strategic opportunity to further strengthen environmental protection in Wales by establishing a new body that will enhance our collective capability to promote, preserve and sustain our environment. That is why we are establishing a dedicated environmental governance body through this Bill which will ensure robust oversight of environmental law by Welsh public authorities in Wales.
4. Prior to leaving the EU, the European Commission monitored the implementation of, and compliance with, EU law by the UK. If the UK had failed to fulfil its obligations under EU law, then the European Commission had the power to investigate and could take enforcement action. This supported compliance with environmental law obligations because much of the environmental law in Wales was either transposed, or directly effective, EU law.
5. Following the UK's exit from the EU, the European Commission no longer has this oversight role in the UK. Post-EU environmental governance arrangements were considered in depth during the 2019 consultation on **Environmental principles and governance in Wales post European Union exit**, and particular focus was placed upon developing an independent supervisory body to oversee the implementation of, and compliance with, environmental law in Wales.
6. The 2019 consultation sought views on the purpose, objectives, and functions of such a body, including ambitious objectives which would be applied to a wide range of Welsh public authorities. There was clear endorsement of both the approach and level of ambition from consultation respondents, and these proposals were shaped further by the Task Group in 2020. Further, the opportunity to reinstate as well as enhance this oversight over environmental law

since Brexit was clearly understood by respondents and strengthened the case to establish a new governance body for Wales.

7. This case for change has been further enhanced through the ongoing work of the IEPAW. The IEPAW has carried out a valuable role in relation to the functioning of environmental law in Wales, but their remit and powers fall short of the arrangements that existed previously under the EU environmental governance framework. In particular, the IEPAW does not have statutory investigation and enforcement powers to address complaints about compliance with environmental law by public authorities.
8. After the 2019 consultation and Task Group in 2020, two new environmental governance bodies have been established elsewhere in the UK:
 - The **Office for Environmental Protection (OEP)**, established by the Environment Act 2021, is an independent non-departmental public body sponsored by the Department for Environment, Food and Rural Affairs (Defra). It provides oversight of public authorities in England and Northern Ireland, and non-devolved public authorities in Wales, and monitors whether such public authorities are complying with environmental law.
 - **Environmental Standards Scotland (ESS)**, established by the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021, is an independent non-departmental public body that scrutinises, investigates, and seeks to secure improvements in the effectiveness of, and compliance with, environmental law by public authorities in Scotland. ESS also provides advice and guidance to the Scottish Government on environmental policy.
9. The Welsh Government is proposing to establish a statutory environmental governance body for Wales ("the governance body") through the Bill. The governance body will help maintain and enhance high standards of environmental protection by overseeing the implementation of, and compliance with, environmental law in Wales by Welsh public authorities.
10. This section of the White Paper provides an overview of the governance body's proposed remit and seeks input from stakeholders in shaping the purpose, objectives, functions, and form of the proposed governance body for Wales.

The Purpose and Objectives of an Environmental Governance Body for Wales

11. The primary purpose of the governance body will be to provide oversight of the implementation of, and compliance with, environmental law in Wales by Welsh public authorities.
12. In pursuit of this purpose, the Welsh Government considers the governance body should be defined by clear objectives. We therefore propose that the governance body should:

- i. Monitor and advise the Welsh Ministers on the development of environmental law and policy in Wales.
- ii. Receive complaints / representations from the public as to alleged failures to comply with environmental law by Welsh public authorities.
- iii. Monitor Welsh Ministers and Welsh public authorities' implementation of, and compliance with, environmental law. This includes investigating alleged failures to comply and, where necessary, taking enforcement action.
- iv. Provide independent scrutiny and oversight of the delivery of any statutory environmental targets set by Welsh Ministers (such as the new biodiversity target framework proposed by this Bill).
- v. Provide expert advice, as it deems necessary, to Welsh Ministers and Welsh public authorities in relation to environmental law.
- vi. Embrace a forward looking and preventative approach, promoting early detection, assessment and pro-active intervention against emerging risks relating to the environment in the context of the functioning and effective implementation of environmental law.
- vii. Exercise its functions independently from Welsh Government and with impartiality.
- viii. Work constructively to complement and be compatible with existing public bodies established to monitor, scrutinise, advise or hold Welsh public authorities to account, including the Public Services Ombudsman for Wales
- ix. Where appropriate, work collaboratively on areas of shared interest in respect of the functioning and effective implementation of environmental law, with the OEP and ESS.
- x. Draw on practice within the European Union, while recognising the distinct legislative framework applying in Wales.

GB1 - To what extent do you agree or disagree with the proposed purpose and objectives for the new Welsh environmental governance body?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Strategy And Reporting Requirements

13. In fulfilling its purpose and objectives, it will be imperative for the governance body to complement existing governance structures and reporting requirements and to work constructively and collaboratively with relevant partner organisations. This will be detailed further in the *partnership* section of this white paper, but alongside this the Welsh Government proposes that the governance body will be required to produce and publish a document setting out its strategy.

14. This strategy document will set out how the governance body intends to meet its purpose and objectives and, at a minimum, must include:
- The approach the governance body will take to effectively monitor the implementation of, and compliance with, environmental law by Welsh Ministers and Welsh public authorities.
 - How it will monitor statutory environmental targets, including how it will complement and enhance the work of other relevant public bodies, such as the Climate Change Committee, to scrutinise targets in Wales, rather than replicate.
 - The governance body's procedures for managing public complaints or representations about alleged failures by Welsh public authorities to comply with environmental law.
 - The governance body's enforcement policy, which should contain guidance on how investigations and enforcement will be managed, including how it intends to use information and compliance notices and improvement reports.
 - How it will work effectively and collaboratively with partner organisations, particularly the Future Generations Commissioner, Public Services Ombudsman for Wales, and the OEP.
15. The governance body will be independent from the Welsh Government so the development of the governance body's strategy will be undertaken by the governance body itself. The first strategy will need to be published within 12 months of the governance body's establishment. There will, however, be a requirement for the governance body to consult relevant stakeholders in the development of its strategy, and the governance body will be required to keep its strategy under review and may update it periodically.
16. Alongside its strategy, the governance body will also be required to publish an annual report setting out the work it has undertaken over the previous 12 months.
17. We propose that both the governance body's strategy and its annual report are submitted to the Welsh Ministers for them to lay in the Senedd. This approach will ensure the governance body rightly recognises the fundamental role of the Senedd in providing political accountability to the people of Wales and will enhance both the independence of the governance body as well as awareness of the governance body's work across the Welsh legislature.

GB2: To what extent do you agree or disagree with the governance body's proposed strategy and reporting requirements?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Governance Body Oversight of Relevant Welsh Public Authorities

18. To best fulfil its purpose, it is important that the governance body has an ambitious remit which clearly defines the public authorities it can oversee and, where required, bring enforcement action against.
19. During the 2019 Consultation, the Welsh Government sought views on the public authorities to be included within the governance body's remit of functions and initially proposed:
 - Welsh Ministers
 - Natural Resources Wales
 - Welsh local authorities
 - Ministers of the Crown
20. There was significant agreement to this proposal alongside a variety of views on what constituted the scope of 'Welsh local authorities', 'public bodies' and 'public authorities'. However, respondents were consistent in that they considered a wide list should be used to encompass the range of public authorities which could impact the environment in Wales.
21. Since the time of the consultation, the OEP has been established to provide oversight of non-devolved public bodies in Wales, which among others includes Ministers of the Crown and UK Government Departments.
22. Reflecting on the responses to the consultation, we propose to broaden the remit of the governance body beyond the Welsh Ministers, Welsh local authorities and Natural Resources Wales. In keeping with our desire to set a more ambitious remit and enhance cohesion, we instead propose the governance body has a remit over the **Welsh Ministers** and the **Welsh public authorities** listed in Annex 2.
23. The proposed list in Annex 2 captures bodies in Wales (public and private) who we consider may have existing powers or duties that relate to, or could impact, the environment. For example, the proposed list includes:
 - a. environmental regulators operating in Wales (such as Natural Resources Wales),
 - b. devolved Welsh authorities who have existing powers or functions that relate to, or if exercised could impact, the environment (such as the duty to seek to maintain and enhance biodiversity and promote resilience of ecosystems in the Environment (Wales) Act 2016), and
 - c. private bodies exercising functions of a public nature that relate to, or may impact, the environment (such as water companies).
24. It is important to note that the governance body will not be a 'front line' environmental regulator (such as Natural Resources Wales). By way of example, Natural Resource Wales has various powers to bring enforcement action where

persons (both public and private) have failed to comply with environmental law in Wales (such as responding to pollution incidents). We do not consider it to be reasonable for Natural Resources Wales, as the body enforcing those environmental regulations, to also then scrutinise the effectiveness of the environmental law that underpins its own regulation and enforcement functions.

25. Further, whilst a front-line environmental regulator may consider issues of non-compliance with environmental law by persons (private or public), they are not expected nor empowered to investigate what that says about the non-compliant body's interpretation of environmental law, and whether there is something more fundamental or systemic leading to non-compliance.

26. In addition, complaints or referrals that are most appropriately dealt with by the relevant regulator, or the Public Services Ombudsman for Wales, should be directed accordingly. The governance body's proposed complaints function is discussed further below.

27. We also propose including a duty on Welsh public authorities to cooperate with the new governance body in connection with the exercise of the governance body's functions.

GB3 – We propose that the remit of the governance body should apply to the Welsh Ministers and the relevant Welsh public authorities exercising environmental functions Wales listed in Annex 2. To what extent do you agree or disagree with this?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

GB4 Are there any other public authorities, or private bodies exercising functions of a public nature, that you think should be added to (or removed from) the list in Annex 2? Please use the text box below to explain your answer.

Proposed Functions of the Environmental Governance Body

28. To carry out its purpose in overseeing the implementation of, and compliance with, environmental law in Wales the governance body will have a number of specific functions. These are broadly categorised under the following subheadings:

- i. Monitoring and reporting
- ii. Providing advice
- iii. Complaints and representations

- iv. Investigation
- v. Enforcement
- vi. Partnership

Monitoring and reporting

29. Monitoring the implementation of, and compliance with, environmental law by relevant public authorities in Wales will be a key function of the governance body.
30. To undertake this function, the governance body will gather data, conduct regular assessments, and evaluate the effectiveness of existing environmental laws in achieving their intended objectives. Through comprehensive monitoring, the governance body will identify areas of concern, potential gaps in legislation, and advise on emerging issues, enabling informed decision-making and timely intervention by regulators and Welsh Government.
31. This proactive monitoring will complement the proposals around advising, because the governance body will be able to use this intelligence to report findings to Welsh Government directly, or to advise Welsh public authorities to support their compliance with environmental law.
32. We also anticipate that active monitoring will enable the governance body to conduct investigations and bring enforcement action proactively based on its own intelligence gathered, rather than just relying on complaints.
33. The governance body will also have a core role in providing independent scrutiny and oversight of the delivery of environmental targets set by Welsh Ministers, which is detailed further in the next section. The governance body will also be able to report and advise on wider environmental targets as they relate to Wales, such as those contained within international conventions and agreements. The governance body would be able to make appropriate representations regarding any of its findings.
34. The outputs of this monitoring and reporting activity are therefore expected to be in the form of either:
- i. Preventative advice and recommendations to Welsh Government and / or relevant Welsh public authorities
 - ii. Pro-active investigation of alleged failures to comply with environmental law
 - iii. Trends for analysis, which could be included within its annual report.
 - iv. Bespoke reports on compliance, improvements and / or systemic failures to comply, produced on a case-by-case basis as investigations take place and enforcement action is taken

Scrutiny of statutory targets

35. Wales's approach to environmental law and policy already sets ambitious goals to safeguard our rich natural environment for future generations. With its strategic position and expert knowledge, the governance body could provide valuable

insights into whether environmental law in Wales is working effectively to secure delivery of our targets and ultimately pushing us forward to meet our collective environmental goals.

36. To support this, we propose that the governance body will monitor statutory environmental targets. The governance body must report regularly, either through their annual report or by exception when the governance body considers it appropriate, on how the Welsh Ministers and relevant Welsh public authorities are contributing to, and achieving, environmental targets.

37. Examples of the type of environmental targets the governance body will monitor and report on include (but are not limited to):

- Biodiversity (covered later in this White Paper)
- Environment Act 2016
- Environment (Air Quality and Soundscapes) (Wales) Bill

38. Whilst we consider this to be an important function, we recognise it will require analytical and reporting resource to deliver and there is a risk it could duplicate the target monitoring functions that other organisations undertake such as the Climate Change Committee. The governance body must set out in its strategy how its work will complement and enhance the work of other relevant public bodies to scrutinise targets in Wales, rather than duplicate.

GB5 – To what extent do you agree or disagree with the proposed scope and role for the governance body in relation to monitoring and reporting, including the scrutiny of statutory targets?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Providing Advice

39. The governance body will be comprised of environmental experts from various disciplines, including (but not limited to) environmental technical, regulatory and enforcement expertise. It will also be able to draw on wider expertise through external resourcing as required.

40. The provision of informed and expert advice will be an important role that will be exercised across several of the governance body's functions:

- i. Advice to Welsh Ministers on changes to environmental law and wider policy
- ii. Advice following consideration of complaints that do not warrant a full investigation

- iii. Advice on systemic compliance issues
- iv. Advice following investigation where formal enforcement action may not be necessary

41. The governance body will develop a clear and strategic view of what is working effectively, and what is not, across the environmental law landscape. It will therefore be well-positioned to provide expert advice to the Welsh Government on legislative proposals relating to the environment and it is important that the views of the governance body are considered during the development of proposed changes. This could be as part of public consultations as well as instances where Welsh Ministers specifically request advice on policy development relating to environmental law. To that end, we propose that the governance body must provide advice, as requested, to the Welsh Ministers on legislative proposals relating to environmental law.
42. Additionally, the Task Group suggested the creation of two additional and distinct advisory functions for the governance body specifically relating to addressing complaints and systemic compliance issues:
- a. On **addressing complaints**, it was suggested that advice could be given to public bodies on matters relating to specific environmental law issues to rectify complaints at an early stage.
 - b. It was also suggested that the governance body could provide advice where an investigation has identified a potential **systemic compliance issue** where two or more public bodies have failed to comply with the same (or similar) aspect of environmental law. Advice could be given in the form of recommendations to Welsh Ministers and / or Welsh public authorities with the aim of reducing the use of formal enforcement actions, though if the body thought a formal process were necessary, they could utilise the improvement plans detailed within the section on enforcement.
43. There may also be instances where, following investigation, the governance body determines that there has been non-compliance with environmental law, but as environmental harm has not yet arisen, it considers it more appropriate to address this non-compliance through advice rather than formal enforcement measures. This would be at the discretion of the governance body, but it provides another tool for the governance body to use prior to escalating to formal enforcement should they deem it preferable.
44. The Welsh Government agrees with the Task Group's assessment that advisory functions add significant value. The governance body would, however, need to ensure its advice given is restricted to these areas, and that advisory functions of other important organisations like Natural Resources Wales are not duplicated.
45. We are also considering the potential role the governance body could have in providing accessible advice and guidance for the public on environmental law, for example through an easily accessible 'explanations' webpage. This could support public authorities, private companies and the public at large to better understand what complex elements of environmental law actually mean or require in practice. This would not be specific legal advice but could help prevent environmental harm by enhancing common understanding of environmental law requirements.

GB6 – To what extent do you agree or disagree with the proposed scope and role of the governance body’s advisory functions?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Complaints and representations

46. An important role of the new governance body will be to handle representations about the functioning and implementation of environmental law and alleged failures to comply with such law by Welsh public authorities.
47. Following the 2019 consultation, the stakeholder task group recognised the importance of an open and transparent complaints procedure and added that further context on the subject matter of complaints and body’s remit would be needed to avoid jurisdictional conflicts with other agencies, as well as enable redirection of complaints, as necessary.
48. The Welsh Government concurs with this view and consider the scope of complaints should relate only to the functioning / implementation of environmental law as well as alleged breaches of such law by Welsh public authorities. This means that the governance body will not deal with complaints relating to specific decisions taken by public bodies (for example, issuing of licenses or planning consent) unless it relates to an issue with how the public body is more widely complying with environmental law.
49. Further, before making a complaint to the governance body, an organisation or member of the public must be able to demonstrate that they have sought to resolve the issue through the relevant Welsh public authority’s internal complaints procedure and any relevant regulator, where that regulator had an appropriate role. This will provide Welsh public authorities the opportunity to address issues themselves and ensure existing complaints mechanisms are followed before matters are escalated to the governance body.
50. We consider it should be up to the governance body to design a complaints procedure in line with their objectives, but as part of its strategy, the governance body should set this procedure out in a clear and accessible manner. It should also detail how progress against complaints will be communicated, the criteria against which the complaint will be assessed before investigating, as well as how complaints may be ‘escalated’. The governance body will have flexibility to decide which matters it pursues but must respond to the person raising the complaint to explain its decision.

51. This approach will build on the important work of the IEPAW, who has established a system to enable the public to raise concerns where they consider there has been non-compliance with environmental law.

GB7 – To what extent do you agree or disagree with the suggested approach for managing complaints and representations

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Investigation

52. Thorough investigation of alleged failures to comply with environmental law by Welsh public authorities will form a necessary first step in considering any potential enforcement action. Alongside the power to take enforcement action, investigation will be fundamental to the governance body’s ability to provide effective governance of the implementation of, and compliance with, environmental law in Wales by Welsh public authorities.

53. The 2019 consultation specifically sought views on what powers the governance body should have to investigate complaints, including whether the governance body should be able to commission or request additional information from other public bodies as appropriate. Respondents to the consultation concurred with our view that the governance body should be empowered to undertake its own investigations, monitoring and thematic reviews of systemic issues, and this view received further support within the 2020 stakeholder task group report.

54. Where the governance body has obtained evidence suggesting there has been a failure to comply with environmental law by a Welsh public authority, it will be able to initiate an investigation into the possible failure.

55. The governance body should be able to undertake such investigations on its own initiative (for instance, because of monitoring), or in response to a representation from the public. However, the governance body will not be required to investigate all alleged failures to comply with environmental law (whether identified by itself or through complaints) and will be given discretion to decide when and what alleged failures to investigate.

Informing the Investigation

56. To effectively carry out its investigation function, it will be necessary for the governance body to request relevant information from Welsh public authorities. Initially the governance body could rely on the general duty for Welsh public authorities to cooperate with it (which includes requests for the provision of information) in the exercise of its functions, detailed above in the ‘relevant public

bodies' section. In an investigations context the aim of the duty to cooperate is to help the governance body and Welsh public authorities to resolve, wherever possible, issues informally and without the need for formal enforcement action.

57. Informal resolution may not always be possible. Therefore, we propose that the governance body will have the power to issue 'Information Notices' to Welsh public authorities which request the provision of relevant information, data, documents, or other evidence necessary for the exercise of its functions. Welsh public authorities must respond to Information Notices within the timescale set out in the notice and provide the requested information. If Welsh public authorities do not comply with an Information Notice, either through failing to provide the information or by not responding within the set time frame set out in the notice, the governance body may then take enforcement action. We recognise that clear guidance will be necessary to maximise understanding of the procedures and we expect the governance body and Welsh public authorities to discuss any concerns they may have with an Information Notice before escalation.

GB8: To what extent do you agree or disagree with the proposals to enable the body to investigate?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Enforcement

58. To effectively oversee Welsh public authorities' compliance with environmental law, it is crucial that the governance body can bring enforcement action when it considers that Welsh public authorities have failed to comply with environmental law.

59. The 2019 consultation sought views on what informal and formal methods of enforcement a body should operate and what enforcement actions needed to be available. Respondents to the consultation gave general support for an escalatory approach by addressing issues as early as possible and utilising various tools, which would avoid or reduce the application of formal mechanisms, in particular referral to a court or tribunal.

60. The 2020 stakeholder task group report reinforced this view, agreeing that an escalatory and preventative approach should be encouraged to escalate matters where necessary to stop or prevent environmental damage, as well as be able to address issues in an appropriate manner from advising public bodies in Wales through to enforcement.

61. We have embedded this approach into the overall function of the governance body and consider that enforcement can often be a necessary 'last resort' to be used when collaboration, advice and guidance is unable or unlikely to prevent environmental damage, or if environmental damage has already been caused because of non-compliance.
62. It is on this basis that the Welsh Government proposes that if the governance body considers that a public authority has failed to comply with environmental law, the governance body has discretion as to how it may wish to take further action. Early corrective action on the part of Welsh public authorities should be favoured ahead of an enforcement response, and the governance body should seek to work constructively with Welsh public authorities where possible to reach informal resolution. This non-prescriptive approach will enable the governance body to address issues in an appropriate manner whilst ensuring they have the power necessary to take further action if needed.

Compliance Notices

63. In cases where the governance body has undertaken an investigation into a failure to comply with environmental law and it has not been possible to secure an informal resolution, or the provision of advice is not considered an appropriate means of resolution, then the governance body will be empowered to issue a Compliance Notice to Welsh public authorities.
64. This notice will detail the steps taken during investigation, outline the specific failure to comply with environmental law, and will specify the actions the Welsh public authority must take to remedy or mitigate the non-compliance including the timeframe in which such actions must be carried out.

Appeals against compliance notices

65. Welsh public authorities will have a right of appeal against a compliance notice, which will be provided in the Bill. The governance body must set out the right of appeal in the compliance notice, including the time frame in which to lodge an appeal.
66. In appealing against a compliance notice, the Welsh public authority may argue that it has not acted in the manner alleged in the compliance notice, or that their conduct does not represent non-compliance with environmental law.
67. Appeals will be considered by the relevant court or tribunal, who can then make such orders as they consider appropriate. By way of example, this could include accepting the Welsh public authority's appeal and quashing the compliance notice or rejecting the appeal and upholding the compliance notice.

Failure to comply with a compliance notice

68. We propose that if a Welsh public authority fails to comply with a compliance notice and has not submitted an appeal against the compliance notice, the

governance body can refer the non-compliance to an appropriate court or tribunal, who can then make such orders as it deems appropriate in the circumstances.

69. A similar approach is undertaken by ESS. However, the Scottish approach to issuing compliance notices is linked to non-compliance of environmental law when public authorities in Scotland are discharging ‘regulatory functions’, such as:

- a) Imposing rules, limits, or conditions on an activity.
- b) Setting standards and goals for an activity.
- c) Providing advice or instructions related to an activity.
- d) Enforcing rules, limits, conditions, standards, goals, or advice related to an activity.

70. Whilst the Scottish approach covers a broad range of activity relating to environmental law, we propose a single approach for non-compliance with environmental law, regardless of whether the functions are regulatory or not.

Relevant court or tribunal

71. We propose that a Welsh public authority’s appeal against, or non-compliance with, compliance notices be referred to the proposed Welsh First-tier Tribunal. However, the legislation to establish a new devolved tribunal system for Wales is proposed for this Senedd term, which means the new Welsh tribunal system may not be operational at the time this Bill receives Royal Assent.

72. We will explore ways in which this Bill can accommodate the existing and future Welsh Tribunals and will work to achieve this in the long term. However, if this is not considered viable, then we will explore options for the governance body to refer non-compliance to the High Court or the First-tier Tribunal of England and Wales.

GB9: To what extent do you agree or disagree with the Welsh Government’s proposed process for formally handling non-compliance through compliance notices and court or tribunal procedures?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Improvement Reports / Plans

73. To address situations where one or more public bodies have failed to comply with the same (or similar) aspect of environmental law (which we have proposed be categorised as ‘systemic compliance issues’), we are considering whether there

would be value in further developing the enforcement process for circumstances where a Welsh public authority has failed to comply with environmental law and compliance notices would not provide an effective means to resolution, as there could be an evident pattern of non-compliance by multiple public authorities indicating a structural flaw in the overall system.

74. A precedent for this approach exists in Scotland where ESS may prepare an [improvement report](#) when they consider:

- i. that a compliance notice will not resolve issue, for example the function being exercised by the public authority is not covered by a compliance notice (e.g. a non-regulatory function such as reporting), or the problem goes beyond the actions of a single public authority (e.g. reflects pattern of conduct across multiple public authorities pointing towards systemic or structural flaws)
- ii. Where there may be a need to review and amend the relevant legislation itself and consider the impact of cumulative and in-combination impacts and their contribution to systemic failure.

75. Given we are not proposing to restrict the compliance notice procedure to only regulatory functions, the value of this approach in this Bill will primarily be around the opportunity to address systemic issues through a more formal process than providing advice to Welsh Ministers.

76. In such circumstances, the governance body will be able to produce an improvement report containing recommendations that the Welsh Ministers must consider. Welsh Ministers will then be required to respond to via an improvement plan, detailing whether recommendations are accepted and if so the action they are planning to take, or if not accepted, the reasons why. As this process will be restricted to instances where Welsh Ministers should take action to resolve systemic failures, we consider it should only be applied to Welsh Ministers.

77. We consider this approach could be effective in a Welsh context by providing a clear channel through which to identify, report on and ultimately resolve systemic or complex compliance issues which may be more effective in these circumstances than the compliance notice process. If adopted, we would expect the governance body to detail their approach to improvement reports in their strategy.

GB10: To what extent do you agree or disagree with the Welsh Government's proposal to include improvement reports / plans as an enforcement stage to provide space for resolution where systemic issues are evident, and a compliance notice is not considered the optimal mechanism to address the issue.

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Judicial Review

- 78. In most cases, we expect the governance body will be able to remedy any findings of non-compliance through either an advisory approach, or through the issuing of compliance notices or improvement reports / plans and, if necessary, escalating to a relevant court or tribunal.
- 79. However, in some cases it may be necessary for the governance body to apply for judicial review, or apply to join judicial review proceedings, without first having gone through the above enforcement process. For example, where the governance body considers that the conduct of a Welsh public authority constitutes a serious or urgent failure to comply with environmental law. The governance body will be expected to set out what constitutes serious and / or urgent within their strategy.
- 80. This approach is only to be used by exception, so we propose limiting the governance body's power to apply for judicial review to circumstances where the governance body considers it is necessary to prevent, or mitigate, serious damage to the natural environment or to human health.

Intervention in Civil Proceedings

- 81. There may be circumstances when civil proceedings are already underway and the governance body considers it necessary to intervene in the proceedings.
- 82. Like the judicial review process, we consider the governance body should be able to intervene in civil proceedings for the purpose of making a submission to the court on an issue arising. This could only be made in respect of allegations that constitute a failure by a public authority to comply with environmental law. Further, we believe this intervention should be 'by exception', limited only in circumstances where it is necessary to intervene to prevent, or mitigate, serious environmental harm. In other circumstances, it would be more appropriate and proportionate to follow the previously detailed enforcement processes, for example through the issuing of compliance notices.

GB11: To what extent do you agree or disagree with the proposal for the governance body to, by exception, be able to apply for judicial review and / or intervene in civil proceedings

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

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Financial penalties

83. In determining an enforcement approach for the governance body, we have considered the potential role of fines as one of the tools that can be used to bring about compliance.

84. In the proposed context for the governance body, whilst another method of incentivising compliance would be useful, there are two main challenges we have considered.

- i. that in many cases fines levied by public bodies to other public bodies essentially circulates money within the overall public sector, it may detract from delivery and the ability to put things right.
- ii. the governance body is not designed to be a front-line regulator, many of whom have the powers to issue fines. Instead, the purpose of the governance body is to provide oversight of the functioning and effective implementation of environmental laws in Wales as well as ensuring that Welsh public authorities are complying with such laws.

85. We considered this in more depth during the 2019 Welsh Government consultation, where views were sought as to whether the governance body should have the power to levy financial penalties on public authorities whose conduct constituted a failure to comply with environmental law. Views were mixed on the application and appropriateness of fines as an enforcement tool, and this position was repeated within the 2020 stakeholder task group report, whereby the majority (but not all) considered an approach to fining public bodies to be ineffective and potentially counter productive.

86. In balancing these risks and challenges, we consider that issuing fines would not provide an appropriate or effective method of resolving public authority non-compliance with environmental law, particularly given the tools already proposed to enable collaboration, advice, compliance notices and, if necessary, tribunal action.

GB12: The Welsh Government consider financial penalties would be an ineffective and, in some cases, counterproductive method by which to remedy the non-compliance of Welsh public authorities with environmental law. To what extent do you agree or disagree with this position?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Partnership

87. Reflected the role envisaged for the governance body in holding other public bodies to account, it will be crucial to ensure it carries out its functions in a way

that is open and transparent. The governance body will be required to work with a broad range of stakeholders with diverse interests and will need to be able to adapt flexibly to changing circumstances. It will be important that stakeholders have a high level of trust in the governance body, so they are confident that they can have their say in how the governance body sets out in its strategy how it will perform its functions and allocates its resources.

88. As previously noted, we intend for the governance body to develop its own strategy and ways of working. However, guidance will be provided on areas the governance body must detail in its strategy, which is detailed further above in the *strategy and reporting* subsection. Further, in preparing their strategy, the governance body will need to consult before finalising their approach and will need to account for the views and representations of their public partners.
89. We consider it will be particularly important for the governance body to set out in its strategy how it will work with certain organisations where strategic objectives are more closely aligned.

Interaction with other oversight bodies

90. As discussed above, the OEP has oversight of non-devolved public bodies in Wales, which among others includes Ministers of the Crown and UK Government Departments. The Welsh Ministers expect the governance body to work very closely with the OEP, setting out in its strategy how it intends to work collaboratively with the OEP. The governance body is likely to wish to undertake joint consideration of common challenges working with the OEP and Environmental Standards Scotland.
91. **The Future Generations Commissioner for Wales** reports on the progress public bodies have made and should make in relation to setting and meeting well-being objectives in line with the sustainable development principle under the Well-being of Future Generations (Wales) Act 2015. They can provide advice to public bodies as well as carry out reviews into how public bodies are taking account of the long-term impact of their decisions
92. There are also several bodies operating in Wales which already provide key governance functions, including:
- a. **The Public Service Ombudsman for Wales**, which receives complaints about the delivery of functions by public bodies and hold them to account.
 - b. The **Auditor General for Wales**, as the external auditor of most of the Welsh public sector, examines how public bodies manage and spend public money, including how they achieve value in the delivery of public services.
93. Whilst these bodies provide differing degrees of oversight, we do not intend for there to be overlap with the functions of the proposed governance body. They

have not been expressly established to oversee proper compliance with environmental law, and do not themselves provide a suitable replacement to the previous role held by the EU Commission. They are also not specialised to address complex environmental issues, and do not have the equivalent functions to undertake the continuous monitoring or enforcement relating the environmental law envisaged for the governance body.

94. However, there are clear areas of shared interest, especially in relation to the advisory functions of the governance body, which may overlap with other bodies, such as NRW’s role in providing advice to Welsh Government in relation to the sustainable management of natural resources, or the Climate Change Committee. The governance body will have its own niche in respect of environmental law, but we consider that the governance body should set out who it intends to work in partnership. At a minimum, this will include how it intends to work jointly and collaboratively with

- i. Natural Resources Wales (in its role as a statutory nature conservation body)
- ii. The Public Services Ombudsman for Wales
- iii. The Auditor General for Wales
- iv. the Climate Change Committee
Future Generations Commissioner

95. The ways of working will need to clearly set out how the governance body intends to co-operate whilst avoiding duplication and overlap when exercising their functions.

GB13 – The Welsh Government proposes that the governance body should set out how it intends to co-operate with the organisations specified, including how they will avoid duplication and overlap when exercising their functions? To what extent do you agree or disagree with this approach?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

The Form and Operating Model of the Environmental Governance Body

Operating Model

96. To fulfil the principal aim of the governance body to scrutinise implementation of, and compliance with, environmental law, it will be imperative for the governance body to be constituted in a manner which ensures it has sufficient resource and expertise to fulfil its objectives, as well as act independently from Welsh Ministers.

97. The 2019 consultation set out our view that any oversight body should be independent of Welsh Government and that it will need to operate in a transparent and impartial manner. Responses relating to the exact model the governance body should take were mixed, with many respondents not indicating a specific preference. However, respondents were overwhelmingly in agreement with the Welsh Government's view that the governance body should be independent.
98. The 2020 Task Group noted that the environmental governance body should be independent of Welsh Government, would require certainty of budget across an extended period of time, and the performance of the governance body should be audited by the Auditor General for Wales. The Task Group also considered a range of potential forms the governance body could take to best fulfil its purpose and concluded that the commission model scored most highly against their governance criteria, with double the score of other options considered. The Task Group recommended a Commission model as being the most appropriate form for the new body, and these findings were accepted in principle during the previous Senedd term by the then Minister for Environment, Energy and Rural Affairs, subject to further consideration of the Commission, Commissioner and Arms-length body models.

Operating model options

99. In response to the Task Group recommendations, the Welsh Government further considered the commission model, a commissioner model, and an arm's length body models.
100. Our appraisal of the **commission model** recognised that this typically consists of multiple members with diverse backgrounds and expertise. This can ensure a well-rounded decision-making process, incorporating different perspectives and knowledge. This was considered a particular strength in the context of the environmental governance body, as to work effectively it will require a multidisciplinary approach across different specialist areas, such as environmental law, science, audit and regulation. Potential disbenefits of this model included the risk that decision-making process of a commission may be slower due to the need for consensus among its members, though this could be mitigated through appointment of a chair, or a majority ruling. Further, there is presently no precedent for this type of model in Welsh legislation. This could potentially add an additional layer of complexity to the process as there is no 'off-the-shelf' model that could be used as a comparator. In addition, given the specific expertise the body requires, if Commissioners are not full-time, there is a risk of conflicts of interest arising between their other responsibilities in linked fields and the role of the body.
101. When considering a single '**commissioner' model**, we considered the benefits of this approach could mean expedited decision-making processes, allowing for faster responses to environmental challenges. A single commissioner

could have the ability to adapt and respond quickly to emerging issues, as they could make unilateral decisions without needing to seek consensus or a majority ruling.

102. Appointing a single commissioner could make it easier to hold the individual accountable for the actions and decisions of the environmental governance body. There may also be greater visibility in having a named individual as a figure head instead of a Board / Commission composed of multiple people, and there are already precedents for this type of commissioner in Welsh legislation. These benefits could also, however, be met through the commission and arms-length body models by appointing a dedicated chair.
103. However, disbenefits included recognition that a single commissioner could not possess the same breadth of multi-disciplinary expertise that a commission or arms-length body could provide. Particularly given the range of expertise needed to address complex environmental issues, and the scope of the governance body's proposed functions. This could be mitigated through providing expert panel and back office support, but this would be at a less strategic, decision making layer when compared with the other two models. The experience of the IEPAW has demonstrated the need for additional capacity and a process to appoint a Deputy Interim Assessor is currently underway. Even with the more significant staff resource which would be available to support a Commissioner, compared to the interim arrangements, it would not resolve all the challenges, based on experience.
104. Thirdly, we have considered an '**Arms-Length Body Model**', which is generally headed by a Chair and non-executive board of members, supported by an executive team to handle day-to-day operations. The arms-length body model could yield similar benefits to the commission model by allowing for the appointment of a wider range of experts at board-level, supporting the diverse functions of the governance body and specialist knowledge required. Further, this model would provide for a high degree of independence and operational flexibility by being established autonomously from government, promoting decisions to be made based on professional judgment rather than political considerations.

Preferred operating model

105. The Welsh Government's preferred approach is for a **commission model**, on the basis that:
- A commission comprised of experts in their fields would provide for a wide range of specialised knowledge at board level, supporting the diverse and technical nature of the governance body's functions, which is advantageous over the commissioner model. This is particularly relevant in relation to the inclusion of statutory functions like enforcement within the body's remit.
 - The commission can be designed to operate independently from direct government control, allowing them to make objective decisions based on their expertise, functions and the objectives set out in their strategy without undue political interference.

106. Welsh Government intends to establish a robust public appointments process to balance the independence, impartiality and integrity of the body against specialist knowledge and policy alignment, ensuring the commissioners are accepted by a wide range of organisations and across the political spectrum. The process will reflect the Welsh Government’s wider commitments to promote use of the Welsh language, end bias and promote equality and diversity.

GB14 – Our preferred model for the governance body is a ‘Commission’, but consider alternative models, such as an arms-length body, could provide similar benefits. To what extent do you agree or disagree with this approach?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Funding

107. Providing both the financial resources to enable the governance body to effectively perform its objectives, as well as certainty of budget across an extended period of time, will be paramount to support the effective establishment and performance of the governance body. In reflection of this, we have considered two primary funding mechanisms to achieve this purpose:

- The governance body is funded directly by the Welsh Government, as is the case with the current IEPAW.
- The governance body is funded directly from the Welsh Consolidated Fund, as is the case for the Wales Audit Office.

108. The Welsh Government proposes to fund the governance body directly on the basis that it would provide for far more budgetary flexibility, enabling capability for swift financial intervention if additional resource is required and the ability to transfer underspends easily within overall ministerial budgets, which would not be feasible under a Welsh Consolidated Fund approach.

109. Furthermore, as the Welsh Consolidated Fund is allocated to Wales by the UK Government via the Secretary of State for Wales, the approach would be subject to budgetary decisions by the UK Government, which could leave the governance body exposed to funding challenges with limited options to mitigate and preserve their important function.

110. Given the role of the governance body is to scrutinise the Welsh Ministers, we recognise there could be a perceived conflict for the budget to be controlled by Welsh Ministers, with the potential for Welsh Ministers to be accused of withholding or limiting funding in order to limit scrutiny of its actions.

111. We have considered this and concluded that existing Commissioners have previously mitigated this risk by ensuring that where there is an apparent conflict of interest, the Minister for Finance or the Permanent Secretary themselves will make the funding decisions instead of the Minister with policy responsibility.
112. Enabling the Welsh Government to directly fund the governance body is consistent with the current funding arrangement for the interim environmental commissioner. It has also consistently been used for a number of public bodies and commissioners in Wales.

Appointment

113. We propose the commission should have a chair and between seven to eight other commissioners, who will be appointed for terms of up to five years by the Welsh Ministers.
114. To discharge its functions and objectives effectively, the commission will comprise of a diverse but expert range of individuals. This includes, but is not limited to:
- Knowledge and expertise in relation to environmental law, and in particular its application in Wales and the UK,
 - Strong analytical skills and judgement based on an expert capability to process and interpret complex and technical information and transform these into proportionate and actionable instructions for public bodies to undertake
 - Communication capabilities, including interacting with Welsh Government, the Senedd, media and wider public audiences, and building relationships at all levels and across Welsh public authorities.
 - Capability to ensure the organisation's financial dealings are prudently and systematically accounted for, audited and publicly available showing a commitment to transparency and openness;
 - Capability to measure and report on corporate governance, including performance, risk management, transparency and decision making.
 - Understanding of, and commitment to, [the Nolan principles](#) of public life; and
 - Ability to demonstrate commitment to and notable delivery against principles of equality and diversity.
115. The Chair will need provide strategic leadership for the Commission, setting priorities and ensuring the independence of the Commission's decisions, with demonstrable skills around setting direction, harnessing wider skills, experience and expertise, engaging stakeholders at all levels and representing the commission appropriately and effectively.
116. Welsh Ministers will consult the appropriate Senedd Committee when appointing the Chair and Commissioners.

Size of Body

117. In terms of size of the governance body we are continuing to consider the most appropriate size of the governance body commensurate with its intended objectives and functions. The current proposal is for the governance body to be roughly equivalent in size to Environmental Standards Scotland (currently comprised of eight board members) due to Scotland’s similar devolved environmental powers and functions. This approach would result in around with a chair and around seven-eight commissioners for the governance body, with back office support for additional twelve staff.

118. The Welsh Government has further policy thinking to carry out in relation to the body’s size but would welcome comments regarding the appropriate number of Commissioners needed to ensure the core functions of the governance body can be delivered effectively.

GB15 – To what extent do you agree or disagree with the Welsh Government’s approach in respect of appointing members and allocating resources to the governance body?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

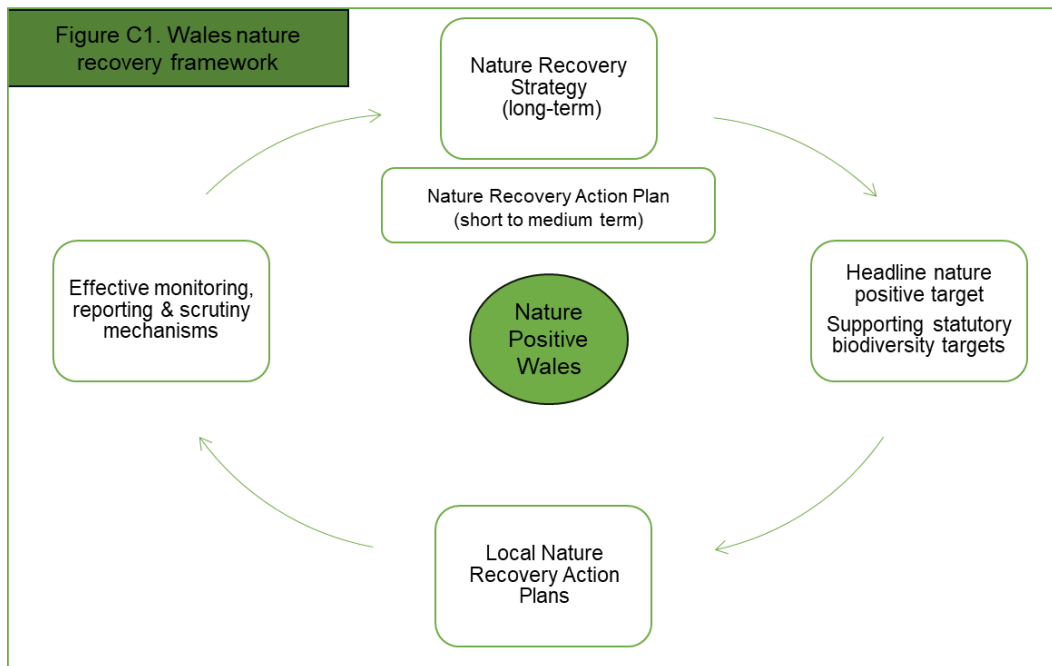
If you would like to explain your answer, please use the text box below.

GB16 – Are there any other views you would like to provide in relation to our proposals to set up a governance body?

Part C - Targets for the protection and restoration of biodiversity

Introduction

1. Wales, along with the rest of the world is facing a biodiversity crisis, with one in six species in Wales at risk of extinction.
2. To strengthen and focus our delivery to tackle the nature emergency, the Welsh Ministers have committed through their current Programme for Government to “*work towards the establishment of an Environmental Governance Body, a statutory duty and targets to protect and restore biodiversity.*”
3. Tackling the nature emergency will require urgent as well as sustained and long-term action to deliver the transformative change needed. Recognising this Welsh Ministers will introduce a strategic nature recovery framework to protect and restore nature as well as providing increased accountability and transparency.
4. The Wales nature recovery framework will include:
 - a) Statutory biodiversity targets comprising a headline nature positive target in the Bill and a suite of supporting biodiversity targets to be set by the Welsh Ministers in secondary legislation.
 - b) Effective monitoring, reporting and scrutiny requirements for both the headline and supporting targets that will complement and enhance mechanisms.
 - c) A Nature Recovery Strategy which will set out the Welsh Government’s long-term vision for a nature positive Wales where biodiversity is protected and restored setting the strategic pathway for delivery of the statutory biodiversity targets. This will address both our response to the Global Biodiversity Framework, and the longer-term change needed to respond to the nature emergency.
 - d) a Nature Recovery Action Plan which will detail the action needed to achieve the statutory biodiversity targets and in doing so achieve our long-term vision of a nature positive Wales.
 - e) Local Nature Recovery Plans to be produced by Welsh public authorities. Which we propose should outline local action and priorities reflecting the Wales Nature Recovery Strategy and their contribution to help achieve the statutory biodiversity targets.



5. This White Paper contains our proposals for the Bill to establish the strategic nature recovery framework to help us strengthen our response to the nature emergency.

Background – current issues and trends that we are seeking to address

Biodiversity a Global Issue

6. Biodiversity refers to the variety of all living things, including all species of plants and animals, the variety of different habitats and ecosystems which these species inhabit, in addition to the genetic variety within and between species. Biodiversity and healthy ecosystems are critical for our survival, providing us with clean air, water, food, medicines, fuel, fibre and timber, as well as supporting our health and wellbeing. See Annex A, section 1 for more information on the benefits healthily functioning ecosystems provide.
7. Globally biodiversity has been in decline, with a 69 per cent decline in relative abundance of monitored wildlife populations between 1970 and 2018 (WWF, 2022). In the UK, the abundance and distribution of species has also, on average, declined since the 1970s (Hayhow et al., 2019). Prior to the 1970s, depletion had already occurred for centuries, so this decline is from an already degraded baseline.
8. The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) global assessment [report](#) in 2019 states:

“An average of around 25 per cent of species in assessed animal and plant groups are threatened, suggesting that around one million species already face extinction, many within decades, unless action is taken to reduce the intensity of drivers of biodiversity loss. Without such action, there will be a further acceleration in the global rate of species extinction, which is already at least tens to hundreds of times higher than it has averaged over the past 10 million years.”

Biodiversity in Wales

9. In 2021, the Welsh Government declared a nature emergency with one in six species in Wales at risk of extinction.
8. The [2023 State of Nature Report](#) states that “Wales along with the other countries of the UK and like most other regions worldwide, has experienced a significant loss of biodiversity. The trends in nature presented here cover, at most, 50 years, but these follow on from major changes to Wales’s nature over previous centuries. As a result, Wales is now one of the most nature depleted countries on Earth”. Key species figures from the report are set out in Annex 3, section 2.

Key drivers of biodiversity loss

9. The 2020 State of Natural Resources Report (SoNaRR) said that the key pressures affecting terrestrial biodiversity loss in Wales and across the UK result from: agricultural management; climate change; urbanisation; pollution; hydrological change; invasive non-native species and woodland management. The marine chapter states key pressures from the marine environment are climate change, some human activities, non-native species and inputs from freshwater catchments (i.e. pollution). For more information on global drivers of biodiversity loss see Annex 3, Section 3.
10. The 2023 State of Nature Report has identified the management of agricultural land as the most significant factor driving species population change in the UK. [With 90 per cent of Welsh land area used for agriculture](#), over 50 per cent of Wales landcover is improved grassland dominated by rye grass. Nature across the uplands and lowlands has been, and remains, vulnerable to farming practices such as:
 - more intensive grassland and moorland management
 - loss of landscape scale habitat diversity
 - high input and intensive livestock grazing
 - and impacts on specialist species such as those associated with declining agricultural habitats such as low-intensity arable land
11. The State of Natural Resources Report identifies climate change as the second most important driver of species change across the UK and this is likely to also be the case in Wales. For example, the abundance of hundreds of moth species has declined substantially in Wales in the last 50 years and climate change has been highlighted as a major pressure on moth populations. Whilst it is likely that

the net impact of climate change on moths in Wales is negative, it is also likely to have supported increases in other species, as well as impacting species' phenology (the timing of seasonal events).

12. Climate change is projected to become increasingly severe throughout this century. Already, average UK temperatures have increased by nearly 1°C since the 1980s with widespread impacts on nature evident. There is growing evidence that climate change is driving widespread and rapid changes in the abundance, distribution and ecology of species, causing changes to species communities which are projected to continue for decades or even centuries to come (Hayhow et al., 2019). Climate change is driving species to move location. Arctic-alpine species within mountain habitats could disappear from Wales as their habitats retreat northward and to higher elevations due to rising temperatures. Where coastal plants and wildlife cannot move inland, sea-level rise and increased land erosion could lead to widespread loss. The number and range of invasive non-native species is likely to increase with the changing climate which is also causing global biodiversity declines at rates not previously encountered in human history. The rate of species extinctions is accelerating.
13. Climate change is also highlighted as a key pressure for marine life in Wales, alongside water quality issues and, separately, marine litter. Although critical to plans to mitigate climate change, ambitious targets to upscale renewable energy generation at sea also have the potential to negatively impact marine life, if not planned, managed and monitored sensitively.

Biodiversity, ecosystems and well-being

14. Biodiversity underpins the healthy functioning of ecosystems and their ability to continue to deliver essential ecosystem services or benefits for our well-being. These services, such as the provision of clean water, climate regulation, flood risk, soil health for food production and many more are continuing to be degraded by biodiversity loss.
15. One of the key messages from the 2011 UK National Ecosystem Assessment was that “achieving sustainable development will require an appropriate mixture of regulations, technology, financial investment and education, as well as changes in individual and societal behaviour and adoption of a more integrated, rather than conventional sectoral, approach to ecosystem management”.
16. Ecosystem resilience, and the biodiversity (habitats and species) which underpin it, is at the core of the integrated approach to managing our natural resources and ecosystems envisaged through the Sustainable Management of Natural Resources (see the Current legislation and approach in Wales section).
17. SoNaRR 2020 reports on the resilience of Welsh ecosystems by assessing them against the criteria of Diversity, Extent, Condition, Connectivity and Adaptability known as the DECCA framework. The assessment of ecosystem resilience in Wales is set out in Annex 3, section 4.

18. Given these assessments the proposed statutory biodiversity targets need to relate to the health and resilience of ecosystems as well as the elements of biodiversity which underpin this, the species richness and abundance of species and habitats.
19. Restoration of ecosystems is required to increase ecosystem functions and services of degraded ecosystems. Restoration, within the context of the Global Biodiversity Framework, is defined as the process of actively managing the recovery of an ecosystem that has been degraded, damaged or destroyed. The role that ecosystems play in providing ecosystem services, such as the provision of clean air, water and flood risk management should be considered as an outcome for our ecosystem restoration actions. The aim is forward looking by working with nature to maintain and enhance biodiverse and resilient ecosystems which work alongside our social economic and cultural development.
20. The Senedd has debated the concept of ‘restoring’ nature, for example in relation to the Agriculture Act 2023, which seeks to identify a point in time in the past to which nature in Wales should be restored. Whilst the biodiversity and ecosystems before the industrial revolution, for example, were undoubtedly in better shape, they were defined by past land uses and management which no longer hold true today – Wales’ population is more than five times larger today than in 1750, for example. We believe that maintaining and enhancing biodiversity will rely on existing areas of high nature value from the past as well as enabling recovery of ecosystems in areas where they are currently degraded. Our approach to restoring nature will encompass both, and be forward looking, drawing on our wider approach in respect of ecosystem resilience. This approach recognises that nature is complex and dynamic, that factors like climate change mean that healthy ecosystems in Wales in the future will look different to those in the past. Nature restoration can in this way be evidence-based and fit for the future.
21. The statutory biodiversity targets we develop for Wales will not only need to reflect the biophysical elements such as those identified in the State of Nature Report but also to address the wider drivers, pressures and levers to tackle the nature emergency.

The United Nations Convention of Biological Biodiversity Global Biodiversity Framework

22. The (post 2020) Kunming-Montreal Global Biodiversity Framework which was adopted in December 2022 at the 15th UN Convention on Biological Diversity (COP15) sets out an ambitious pathway to reach the global vision of a world living in harmony with nature by 2050. It confirmed a global mission to halt and reverse the loss of nature by 2030, and achieve recovery by 2050, so that nature will thrive, ‘sustaining a healthy planet and delivering benefits essential for all people’.
23. In December 2022 the Welsh Government reiterated its commitment to addressing the nature emergency in response to the COP15 Kunming Montreal Global Biodiversity Framework and identified its intent to become a “global

leader” through implementation and “learning from people all over the world on forestry and nature restoration.

24. The Global Biodiversity Framework includes four outcome-oriented goals to achieve by 2050, covering protection and restoration of ecosystems, species, and genetic diversity, as well as the sustainable use of biodiversity, the equitable sharing of benefits arising from biodiversity, and resource mobilisation. These are underpinned by 23 targets to achieve by 2030, falling under three headings:

- 1) Reducing threats to biodiversity
- 2) Meeting people’s needs through sustainable use and benefit sharing
- 3) Tools and solutions for implementation and mainstreaming

Figure C2 – Global Biodiversity Targets for 2030

Goal A: Outcomes for the recovery of species and ecosystems	Goal B: Sustainable uses and nature’s contributions to people	Goal C: Equitable sharing of benefits from genetic resources	Goal D: Means of implementation, including finance
<p>Reducing threats to biodiversity</p> <p>Target 1: Spatial planning Target 2: Ecosystem restoration 30% Target 3: Protected areas 30% Target 4: Species recovery Target 5: Overexploitation Target 6: Invasive alien species Target 7: Pollution Target 8: Climate change</p>	<p>Meeting people’s needs</p> <p>Target 9: Sustainable use of wild species Target 10: Sustainable production Target 11: Nature’s contribution to people Target 12: Urban environment Target 13: Access and benefit sharing</p>	<p>Tools and solutions</p> <p>Target 14: Mainstreaming Target 15: Business action Target 16: Sustainable consumption Target 17: Biosafety Target 18: Subsidy reform Target 19: Financial resource mobilisation Target 20: Capacity building Target 21: Knowledge and data sharing Target 22: Indigenous peoples & local communities Target 23: Gender</p>	

25. The 23 action-oriented targets set out urgent action which needs to be initiated immediately and completed by 2030. Successful implementation of the Global Biodiversity Framework requires Parties (including UK Government) to take responsibility and provide transparency, supported by effective mechanisms for planning monitoring, reporting and review. National Biodiversity Strategies and Action Plans set out country level implantation of the Global Biodiversity Framework, targets and goals as a key vehicle for implementation.

26. The UK, as a whole, is party to large Multilateral Environmental Agreements such as the United Nations Convention on Biological Diversity, the United Nations Framework Convention on Climate Change, and the recently agreed Kunming-Montreal Global Biodiversity Framework.

27. As environmental policy is devolved within the UK, each of the four countries of the UK has its own Biodiversity Strategy and Action Plan to implant the Global Biodiversity Framework and to try to protect and restore biodiversity. In addition to these there is also the UK Marine Strategy which co-ordinates actions to

achieve good environmental status of our seas. Collectively, these help to deliver the UK's international biodiversity commitments.

28. The Four Countries' Biodiversity Group (4CBG) is the lead governance body for responding and reporting for the Global Biodiversity Framework. The UK and Devolved Governments are now confirming and formalising their approach to the Global Biodiversity Framework through a new UK Biodiversity Framework. The new framework facilitates the collation and aggregation of information on activities and outcomes across all four countries. It also provides a means for the four countries to communicate what they are doing individually and collectively to meet the UK's international biodiversity commitments.

Current Wales legislation

Further detail relating to relevant Welsh legislation will be included in the Annex (to follow)

Legislative proposals

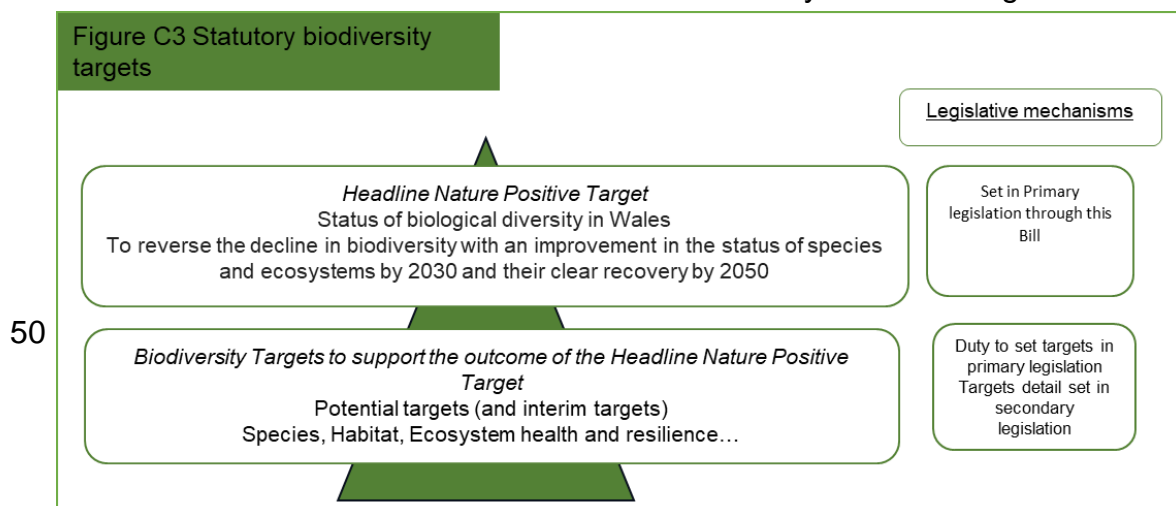
Statutory Biodiversity targets comprising a headline and supporting suite of targets

29. Urgent action is required to halt and reverse biodiversity loss in Wales. Welsh Government proposes to set targets to set the level of ambition and trajectory required to respond to the nature emergency.

30. Setting appropriate targets will ensure we drive long term positive action required to tackle the nature emergency drawing upon the approach set out in the Global Biodiversity Framework.

31. We propose the introduction of a headline nature positive target in this Bill as part of a Wales Nature Recovery Framework (see Fig C1) aimed at driving ambition and actions to reverse the decline of biodiversity underpinned by a suite of supporting targets.

32. The purpose of the new statutory biodiversity targets is to set the trajectory for improvement which will guide actions and the scale of action needed to respond to the biodiversity loss. Setting long term and interim targets will enable the Welsh Ministers to plan for outcomes over the longer term, spanning electoral cycles, to be accompanied by appropriate monitoring and reporting provisions, providing a clear trajectory to work towards. In a similar way [carbon budgets plan](#) towards the Welsh Ministers' 2030 and 2050 statutory Net-Zero targets under



Part 2 of the Environment (Wales) Act. Since declaring a climate emergency in 2019, and the Welsh Ministers have made various regulations that aim to reduce Welsh greenhouse gas emissions (also referred to as carbon emissions) to net zero by 2050, including setting a series of statutory five-year carbon budgets.

Headline nature positive target

33. We propose the introduction of a headline nature positive target in this Bill aimed at driving ambition and actions to reverse the decline of biodiversity underpinned by a suite of supporting targets. We will need to consider the balance between the ambition of the headline target and a potential dispersal of effort in introducing supporting targets as part of this consultation. We also propose including the potential to set interim targets if appropriate.

34. We propose the headline target would reflect the existing [Well-being of Future Generation \(Wales\) Act 2015's milestone](#) where we have already committed to

'Reverse the decline in biodiversity with an improvement in the status of species and ecosystems by 2030 and their clear recovery by 2050'

35. This well-being milestone was developed in parallel with the COP15 negotiations in 2022 and aimed to reflect the scale of ambition required to tackle the nature emergency in Wales as well as aligning with the new Global Biodiversity Framework. However, the well-being milestone is not underpinned by a strategy or action plan. We propose including this headline nature positive target in the Bill to put in place a strengthened process to ensure we achieve the desired outcomes.

36. We propose to put this new headline nature positive target as an apex target underpinned by a suite of supporting targets. Interim targets may also be set to better assess progress over a long time period.

37. The well-being milestone / headline nature positive target will continue to be monitored and reported by the Future Generations Commissioner recognising its contribution to achieving the wellbeing goals.

38. Progress towards the headline nature positive target will be underpinned by the monitoring and reporting on the suite of supporting biodiversity targets. The headline nature positive target will also be subject to the reporting and oversight proposed later in the paper.

Supporting biodiversity targets

39. We propose that the Welsh Ministers set in secondary legislation supporting targets which underpin the headline nature positive target to reflect Wales response to the Global Biodiversity Framework, encapsulate the ecosystems approach outlined in the Environment (Wales) Act 2016, and align with biodiversity priorities in Wales.

40. The development of new and ambitious biodiversity targets is a complex process. We will ensure targets are evidence based and that we develop them using the five ways of working under the Well-being of Future Generations (Wales) Act 2015. Critical to this will be engagement and co-design our approach with key experts and stakeholders.
41. Wales has a number of indicators, targets and milestones in place across a number of areas including climate change, circular economy, forestry, marine, peatland, planning and water, some of which have a statutory basis (see Appendix 4 for further details). While these targets will address some of the key drivers of biodiversity loss, they do not focus on direct action to protect and restore biodiversity. Additional statutory biodiversity targets will need to complement, not replicate, those that are already in place. Bringing new and existing measures together will enable us to paint the picture of the how we measure progress on biodiversity.
42. Identifying the right targets is crucial to driving the most appropriate actions to really address the key issues underpinning biodiversity loss. We will need to undertake robust analysis and modelling to ensure the targets meet the key criteria outlined below in the process of designing the right targets. Further, we will need to ensure that the targets are not aspirational to the point of becoming academic; they will need to be crafted with a reasonable expectation that the bodies with a duty to contribute to the target are able to take practical steps to make that contribution.
43. This may require us to focus on setting a small number of supporting targets. It is imperative to get analysis on the specific detail of the targets right as we need to ensure we don't drive unintended consequences in this complex space because this could have a detrimental effect. The supporting targets will need to be both considered on their own merits but also as part of the wider suite of targets, to ensure that collectively they are sufficiently supporting how we deliver the headline nature positive target. Whilst recognising the need for transformative change, effective implementation of targets will also be reliant upon cost of implementation coupled with available resources including budgets.
44. The timeline for introducing the Bill does not allow us to undertake sufficient modelling and the robust analysis needed to ensure the biodiversity targets meet the criteria outlined in the next subsection, which we need to adhere to while designing the targets to ensure their effectiveness. As such, the specific details of the supporting I suite of targets would need to be included in secondary legislation which we propose to introduce as soon as practicable following this Bill receiving Royal Assent.
45. It is proposed the high-level topics for the potential supporting targets underpinning the headline nature positive target are will be based around:
- Species (distribution, abundance and extinction risk) aimed at halting and reversing the decline in our wildlife populations.
 - Habitat (protection, management and restoration) recognising the need to protect and restore some of the key habitats (such as grasslands, hay meadows, moorland, marches, peat bogs, river, coastal or marine)

including those recognised as protected areas as such sites are key to driving nature's recovery, and improving their condition is essential in meeting the environmental targets.

- Ecosystem health, resilience and restoration in recognition of the key role ecosystems play in contributing valuable services which underpin our own health and wellbeing.

46. These are areas of focus. Supporting targets proposals will be subject to further analysis and consultation as part of the process of introducing them in secondary legislation. This approach allows for targets to be adapted, if necessary, to changing circumstances such as the implementation of the proposed environmental principles and environmental governance body.

47. Supporting targets could also be identified with the aim of addressing some of the key pressures and drivers of biodiversity loss, including joining up with some areas where targets have already been set such as air quality, carbon and waste.

How we intend to set targets

48. In undertaking our robust evidence-based analysis we will consider all relevant factors including the following aspects:

- Whilst our targets would contribute to our international obligations, Welsh biodiversity targets should address the key issues in Wales. We will need to draw upon key evidence such as the State of Natural Resources Report (SoNaRR) 2020, because this has highlighted the key issues in freshwaters, marine and terrestrial environments in Wales as well as the Sustainable Land Management report (once published).
- Development of the new targets must reflect the legislative framework already set out in the Well-being of Future Generations (Wales) Act 2015 and the Environment Act ensuring we take an ecosystems approach to the development and implementation of the new targets. This must also take account of the current Biodiversity Milestone and the indicator framework set as part of the Well-being of Future Generations (Wales) Act 2015 which Ministers report progress against at the start of each financial year to the Senedd (The last report is the [Wellbeing of Wales, 2023](#)). It will also need to take account of other, linked targets including those relating to climate change and targets proposed by the Environment (Air Quality and Soundscapes) Bill.
- Communication of targets within and outside of Welsh Government should be accessible to all.
- Targets should encourage participation and meaningful collaboration with stakeholders.

49. Historically targets in the past have not always been clearly connected to the actions which are needed to deliver them. By way of example, the Aichi targets formed part of the Strategic Plan for Biodiversity 2011 – 2020, the predecessor to the (post-2020) Kunming-Montreal Global Biodiversity Framework, and offered a framework of 20 targets to address the growing rates of biodiversity loss. While

progress was made towards addressing biodiversity loss, most Aichi targets were unmet by 2020. This failure is partly due to the Aichi target's structure and wording, which failed to provide clear, measurable goals, unambiguous language, and a focus on direct outcomes (Green et al., 2019).

50. We intend to avoid that mistake by ensuring targets are more focused on practical action, whether that be stopping specific activities, expanding others, or making changes to how we go about undertaking activity that could result in biodiversity loss. This will include the use of a SMART (Specific, Measurable, Attainable, Relevant and Time-bound) template. Attainability in particular will be important, as we must ensure we and other relevant authorities are able to positively and directly contribute towards these targets.

Additionally in developing targets we will consider other relevant criteria, including the following:

- Focused on addressing the most impactful issues to achieve the required positive environmental outcomes
- Deliverable within likely budget and resource envelopes
- Desirable, acceptable and socially robust to key stakeholders and the public and for future generations
- Deliver value for money to society taking account of the best balance of costs, benefits, risks and nonmonetizable factors
- Resilient and 'future proof' based around key drivers of biodiversity change and on future scenario planning based on modelling

Placing targets on a statutory footing

51. It is proposed this Bill will introduce a duty on the Welsh Ministers to

- establish new supporting targets in secondary legislation and
- powers to make secondary legislation to amend, revoke or replace existing biodiversity targets to address the nature emergency.

52. The Bill will make provision for the supporting targets to be set by the Welsh Ministers in secondary legislation as soon as practicable after the Bill receives Royal Assent.

53. It is proposed provision will be made to review the targets from time to time, enable targets to be remade if necessary and enable additional targets to be set in the future to achieve effective and long-term positive outcomes for current and future generations.

54. It is proposed the Bill will make provision requiring the Welsh Ministers through secondary legislation to specify a date by which each target must be achieved.

Effective monitoring, reporting and scrutiny

55. We propose the Bill will introduce a cycle of effective monitoring, assessment and reporting to provide greater accountability and transparency. This will be similar

to the carbon budgeting process under Part 2 of the Environment (Wales) Act 2016.

56. The Bill will set out requirements for implementation, monitoring (including supporting indicators), reporting, scrutiny and oversight of the targets by Welsh Ministers and the Welsh public authorities in Annex A (outlined later in this section).

Current mechanisms

57. Convention of Biological Diversity reporting requirements – successful implementation of the Global Biodiversity Framework requires responsibility and transparency. Reporting is a key part of this process. The Welsh Ministers contribute to UK reporting and provide an update of our progress based around key indicators outlined in the Global Biodiversity Framework.
58. SoNaRR – Natural Resources Wales produces the SoNaRR which currently assesses Wales’s sustainable management of natural resources and sets out a range of opportunities for action. The SoNaRR report is published before the end of the calendar year preceding a year in which an ordinary general election is due to be held. The next editions of SoNaRR are expected in 2024 and 2028.

Monitoring

59. The Welsh Ministers will be required to ensure effective monitoring is put in place to chart progress towards achieving the targets including the nature positive headline target. Effective monitoring will also underpin decision making to enable an adaptive management approach required to deliver resilient ecosystems. To achieve this, we will appraise our data needs, building on existing data sets and good practice and identifying future needs. We will create opportunities for better collaboration, an increased role for citizen science and make better use of technological advances.
60. A set of indicators will need to be developed to chart and monitor progress against the targets. Targets set the ambition whilst indicators can be used to assess progress towards desired objectives at various scales and to signal key issues to be addressed through policy interventions and other actions. Indicators are, therefore, important for monitoring the status and trends of biological diversity and, in turn, feeding back information on ways to continually improve the effectiveness of biodiversity management programmes.
61. The Global Biodiversity Framework is accompanied by a detailed monitoring framework comprised of a set of agreed indicators for tracking progress towards the Goals and Targets of the Framework. The monitoring framework includes [headline indicators](#) which are recommended for national, regional and global monitoring, and more detailed component and complementary indicators. We propose to align our monitoring to ensure that our data collected for our national targets can also be used to report internationally.

Assessment and Reporting

62. Citizens of Wales have a right to know about the quality of their environment and whether the actions to deliver the statutory targets are making a real difference. Reporting on progress provides the evidence and information for decision making. Our aim is for focussed reporting with access to information which is easy to retrieve and use underpinned by more effective monitoring. It is important that we streamline our processes as far as possible, so that we do not increase the administrative burden whilst delivering a strengthened evidence base as well as increased transparency.
63. We propose an integrated process which takes account of the requirements set out in the Global Biodiversity Framework but also uses as far as possible some of the key reporting mechanisms we already have in place such as the SoNaRR, the three yearly report under the section 6 Environment (Wales) Act 2016, and annual reporting on progress towards meeting the well-being objectives under the Well-being of Future Generations (Wales) Act 2015. We recognise the need for streamlining our processes propose that provision is made through the Bill to ensure that SoNaRR includes reporting of the statutory biodiversity targets.

Additional reporting requirements

64. We are proposing to include the following additional reporting requirements in the Bill:
- **SoNaRR** – We propose that SoNaRR will report against the biodiversity targets which will be set by Welsh Ministers to create a single definitive and accessible report for nature in Wales.
 - **Statement – the Welsh Ministers will be required to publish a statement** and lay it before the Senedd to report whether targets have been met by a date specified in regulations. This statement will draw amongst other things from the proposed Nature Recovery Strategy and Nature Recovery Action Plan, the evidence provided by NRW in the latest version of SoNaRR as well as any other robust evidence sources. We are considering whether adapting existing, related statements would be optimal, or whether a separate statement should be made.
65. If and when a target has been met, it is proposed the statement will explain how this has contributed to achieving the headline nature positive target.
66. It is proposed reporting timescales for each target will also be set within the secondary legislation as they will depend on the duration of each target, in addition to the availability of key data and modelling.
67. The Bill will also set out provision for a case where the biodiversity targets are not met so that the Welsh Ministers will need to seek independent and expert advice to obtain views on the reasons why the targets have not been met and on any further action considered necessary to achieve them. It is proposed the Bill will require the Welsh Ministers to take further reasonable action to achieve the targets as soon as is practicably possible after receiving such advice.

- **Wider reporting responsibilities** – In addition to the Welsh Ministers, Natural Resources Wales and the proposed list of Welsh public authorities will be required to support the implementation of the targets. Their proposed role in reporting will also be set as part of the following section.

Independent scrutiny and oversight

International

68. As part of the Convention of Biological Diversity reporting requirements, there will be global reviews of collective progress in the implementation of the Global Biodiversity Framework based on the national reports. This also can include voluntary peer reviews. Parties may take account of the outcomes of this in future revisions and implementation with a view to improving actions and efforts. Future meetings of the Conference of the Parties will consider and provide any additional recommendation, as necessary, including on the basis of the outcomes from the reviews, with a view to achieving the goals and targets of the Framework. As a sub-national government Wales will be subject to this scrutiny and oversight as part of the UK.

Wales

69. In addition to the scrutiny provided by the Senedd and bodies such as Audit Wales, there will also be a role for the environmental governance body for Wales in providing independent scrutiny and oversight of the delivery of the statutory targets set by Welsh Ministers.

70. **Part B** of this White Paper sets out the role of the governance body with respect to statutory targets. This sets out that as part of the governance body's general duty to monitor the implementation of, and compliance with, environmental law in Wales, we expect the governance body will monitor the Welsh Minister's progress and achievement of these proposed statutory biodiversity targets. The governance body will report regularly on how these targets are being met, either through their annual report, or by exception when the situation warrants it.

Consultation questions

BT1. To what extent do you agree or disagree with the inclusion within the Bill of the Wales Nature Recovery Framework proposed in the paper?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below?

BT2. To what extent do you agree or disagree with the inclusion within the Bill of the statutory nature positive headline target: ***‘to reverse the decline in biodiversity with an improvement in the status of species and ecosystems by 2030 and their clear recovery by 2050’.***

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you disagree, do you propose a different headline nature positive target or not having a headline target at all?

BT3. To what extent do you agree or disagree with the proposal to include a duty that the Welsh Ministers must set statutory biodiversity targets in secondary legislation?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

BT4. Potential suite of supporting targets, to underpin the headline target, are likely to be:

- Species – distribution abundance and extinction risk;
- Habitat – protection, management and restoration; and
- Ecosystem health and resilience – recognising the key role and contribution of ecosystems

To what extent do you agree or disagree with the key areas proposed for the biodiversity targets to be introduced in secondary legislation in the Wales Nature Recovery Framework?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

BT5. To what extent do you agree or disagree that Natural Resources Wales reports on the biodiversity targets as part of the State of Natural Resources Report?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

BT6. To what extent do you agree or disagree that Welsh Ministers publish a statement, before the Senedd, to report whether the statutory biodiversity targets have been met by the date specified in regulation?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Wales Nature Recovery Strategy and Nature Recovery Action Plan

Strengthening Wales response to the Nature Emergency by Placing our Strategy and Action Plan on a Statutory Footing

71. Whilst Welsh Government would expect to update its current biodiversity strategy and action plan to reflect the new Global Biodiversity Framework, placing these policy documents on a statutory footing will provide additional strength to the commitments within them as well as reinforcing the requirements for implementation, monitoring governance and scrutiny as an integral part of the Wales Nature Recovery Framework.

72. While nature and environmental targets serve as a catalyst for action, it is crucial to recognize that this action must be deliberate and purposeful. More than simply setting ambitious goals is required; there needs to be a concerted plan and a clear intent to translate these targets into concrete initiatives and implement them effectively. This requires strategic planning, resource allocation, and ongoing monitoring to ensure progress towards achieving the desired outcomes. Some recent examples of framework and target successes in Wales include:

- The success of the previous air quality standard, the Air Quality Standards (Wales) Regulations 2010, demonstrated by the decline in the annual mean of nitrogen dioxide (NO₂) and particulate matter (PM₁₀ and PM_{2.5}) shown in the Air Quality Wales annual reports is illustrative of how a well-defined plan and a commitment to intentional action can deliver tangible results.
- The recent publication of an action plan to relieve pollution pressures on Special Areas of Conservation (SAC) river catchments following three Ministerial led Summits demonstrates how a robust monitoring and assessment framework with defined targets can spur action when

commitments aren't being met. This action was prompted by an assessment by NRW of JNCC targets

- Data released on the 7th of December has shown that Wales has exceeded its own recycling targets, continuing its trajectory as one of the world leaders in recycling. The Welsh Government has announced the overall recycling rate for the 2022/23 financial year is 65.7%, beating this year's statutory target of 64%. In total 17 of Wales' 22 local authorities exceeded the 64% target, with five rushing ahead to meet the minimum target of 70 % by 2024-25 already. The proportion of waste it sends to landfill has also fallen in a decade from 42 % to just 1.6%. This supports the Welsh Government's 'Beyond Recycling' ambition which has set a bold target to achieve zero waste in Wales by 2050 by moving to a circular economy which keeps resources in use.

73. We therefore propose that the Bill includes a duty on the Welsh Ministers to prepare, publish and implement:-

- A long-term Wales Nature Recovery Strategy which would be linked to the headline nature positive target and
- A shorter / medium term Wales Biodiversity Action Plan which will be reviewed every four years and revised as necessary, and which sets out how those targets would be achieved.

74. These proposals are set out in more detail below.

The Wales Nature Recovery Strategy

75. The Wales Nature Recovery Strategy will set out our long-term vision for a nature positive Wales, where biodiversity is protected and restored, setting the strategic pathway for delivery of the statutory biodiversity targets.

76. Addressing the nature emergency requires a long-term commitment to the shared vision and goals of nature recovery whilst recognising the need to deliver systemic change, through an adaptive approach..

77. The proposed Wales Nature Recovery Strategy will outline the approach to delivery of the statutory targets as well as the Welsh Government's response to the Global Biodiversity Framework. This long-term strategy may need to be refreshed to reflect any relevant future changes either to our targets, development of additional targets provision of supporting evidence or a new global biodiversity framework .

78. The Strategy will provide more detail on the anticipated contribution that the proposed list of Welsh public authorities, who are subject to the duty to contribute to the achievement of the targets, will make towards their delivery. Further detail on this duty is included in a following section. It will also set out how other people, communities and sectors can contribute. It is proposed that this would also be subject of further consultation.

The Nature Recovery Action Plan

79. The Nature Recovery Action Plan will underpin the Nature Recovery Strategy which will detail the action to achieve the statutory biodiversity targets and the long-term vision of a nature positive Wales.
80. The Nature Recovery Action Plan will detail the programme of work required to deliver the statutory biodiversity targets and the long-term vision of a nature positive Wales. It is proposed the Nature Recovery Action Plan will be reviewed every four years and revised as necessary. This will also enable us to identify where the scale and pace of delivery needs to be escalated based on progress to date.

Context

81. The Convention of Biological Diversity guidance highlights the role of National Biodiversity Strategies and Action Plans to deliver the new Global Biodiversity Framework. At COP15 the UK was instrumental in agreeing strengthened planning, monitoring, reporting and review mechanisms to hold Parties to account to their commitments. These strengthened mechanisms require Parties to, by COP16 (December 2024):
- revise and update their national biodiversity strategies and action plans to align with the Global Biodiversity Framework; and
 - include in their national biodiversity strategies and action plans a summary of their national targets and actions reflecting all the applicable goals and targets of the Global Biodiversity Framework using a standardised template.
82. The four countries of the UK have committed to work together to implement the Global Biodiversity Framework. Each of the four countries is developing or revising its strategies and plans in response to the Global Biodiversity Framework and other domestic priorities. The Joint Nature Conservation Committee (JNCC) is facilitating the cross-UK work necessary for developing the UK's response to the Global Biodiversity Framework, to meet the UK's international commitment to update our national biodiversity strategies and action plans to align with the Global Biodiversity Framework. We are working collectively towards an ambitious timetable of actions to meet this commitment in advance of COP16 in December 2024.
83. The current approach in Wales to addressing the nature emergency is set out in the [Nature Recovery Action Plan \(NRAP\)](#) which was first published in 2015 and consists of Part I - Our Strategy for Nature and Part II - Our Action Plan. It is an all-Wales plan for everybody involved in biodiversity action in Wales. This is a policy initiative rather than being required by statute. Part II has been refreshed for 2020-21 following input from a range of stakeholders. We have agreed to include our updated Wales Biodiversity Strategy setting out our approach to

meeting the Global Biodiversity Framework, as an Annex to a UK National Biodiversity Strategy and Action Plan.

Consultation Questions

BT7. To what extent do you agree or disagree with the proposal that Welsh Ministers be required to produce a statutory long term Wales Nature Recovery Strategy, outlining the approach to delivery of the statutory targets as well as the Welsh Government’s response to the Global Biodiversity Framework?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

BT8. To what extent do you agree or disagree that the Wales Nature Recovery Action Plan sets out a detailed programme of work required to deliver the statutory biodiversity targets?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer, please use the text box below.

Mainstreaming delivery of the statutory biodiversity targets through Local Nature Recovery Action Plans

84. As has been identified earlier in this section, there is need for greater impetus in our action for biodiversity. A collaborative approach is needed across the public sector if we are to successfully meet the proposed statutory biodiversity targets and effectively tackle the nature emergency.

85. The Global Biodiversity Framework recognises the role of the whole of society and the importance of subnational, regional and local delivery in ensuring we protect and restore biodiversity for the future.

86. [Section 6](#) of the Environment (Wales) Act 2016 places a duty on public authorities, as defined in subsection (9), to seek to maintain and enhance biodiversity when they are carrying on any functions in Wales, or in relation to Wales. A public authority, other than Ministers of the Crown or government departments, must publish a plan outlining how it will meet its duty [Section](#)

6(7) requires that every three years, all public authorities must publish a report on how they have met their obligations under the biodiversity duty.

87. The Wales Nature Recovery Framework aims to provide a cohesive approach to raise the profile and prioritise action to tackle the nature emergency through the introduction of statutory biodiversity targets and the statutory Wales Nature Recovery Strategy and Wales Nature Recovery Action Plan as outlined in previous sections. These duties will be imposed on the Welsh Ministers, but action is also needed by a range of actors to support the delivery of the statutory targets. In addition, there will be a requirement on NRW to report on the biodiversity targets.

88. We are therefore proposing placing a duty on Welsh public authorities which requires them to contribute to the delivery of the statutory biodiversity targets.

89. We also propose an additional duty to demonstrate implementation of the duty through production of Local Nature Recovery Action Plans which:

- outline local action and priorities for protecting and restoring biodiversity based on local evidence (such as Area Statements or other evidence sources. Area statements are a local evidence base produced by NRW)
- reflect the Wales Nature Recovery Strategy (including vision) and Wales Nature Recovery Action Plan
- demonstrate how actions contribute to the delivery of the headline nature positive target and supporting suite of statutory nature targets
- Set out how biodiversity considerations will be embedded within other key strategic documents such as local development plans and Green Infrastructure Plans

90. Whilst we have suggested a duty to produce a Local Nature Recovery Action Plan as being a mechanism to deliver this duty as we acknowledge that there may be other approaches to mainstream delivery of the targets.

91. We propose the Bill will include a duty on the named Welsh public authorities which requires them to implement and report on the progress of actions identified in their Local Nature Recovery Plans. Public authorities are already required through section 6 (7) to publish a report on how they have met their obligations under the section 6 biodiversity duty. We will explore whether this can be achieved through integrating the reporting of this duty into Welsh public authorities' current section 6 reporting requirements.

92. Appropriate monitoring will be required in collaboration with other key actors, such as Natural Resources Wales, and Local Environmental Record Centres to measure impact and progress on their contribution to the target outcomes.

93. We propose that the Bill will also include a requirement for Welsh Ministers to issue guidance relating to the content, process for developing the strategy and further detail regarding monitoring and reporting. Public authorities must have regard to the guidance in preparing their Local Nature Recovery Action Plans.

94. We also propose that additional oversight of the implementation of, and compliance with, this duty would be provided by the new governance body.

Who are we proposing the duty would apply to?

95. A list of Welsh public authorities has been included at Annex 2 to this paper.

96. Whilst we want to strengthen delivery of targets and Welsh Government's statutory Biodiversity Strategy and Action Plan, we want to do this in a way which is equitable and proportionate. We do not want to place additional burden on public authorities in Wales who have little influence on and delivery of the targets or the Welsh Government's statutory biodiversity strategy and action plan.

97. We are therefore keen to seek views on whether the new duty should apply to the full list identified in Annex 2 or whether it should only apply to those public authorities who have a substantial land management and land-use planning responsibilities for managing land and who can therefore have the biggest influence in delivering the targets.

98. The Local Nature Recovery Action Plan has been so called to reflect the action which the public authorities take at a local level. It is acknowledged that some of the authorities do in fact have a pan Wales mandate.

99. The proposed shorter list which includes Natural Resources Wales, local authorities, the three national parks, Dwr Cymru, Hafren Dyfrdwy and Transport for Wales is detailed in Annex 6.

Consultation Questions

BT9. To what extent do you agree or disagree that there should be a duty on public authorities which requires them to contribute to the delivery of the statutory biodiversity targets?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer including other suggestions, please use the text box below.

BT10. To what extent do you agree or disagree that named public authorities should produce a Local Nature Recovery Action Plan to outline local action and priorities for delivery of the statutory biodiversity targets?

Strongly Agree	Agree	Neither Agree nor Disagree	Disagree	Strongly Disagree

If you would like to explain your answer including other suggestions, please use the text box below.

BT11. Please indicate whether you would prefer the duties proposed in this section to apply to:

	Please indicate preference
a) list of Welsh public authorities has been included at Annex 2	
c) The shorter list of Welsh public authorities included at Annex 6	

If you would like to explain your answer, please use the text box below.

ANNEX 1 – List of Consultation Questions

Part A – Environmental Principles

- EP1: To what extent do you agree or disagree with the proposals relating to the preparation of guidance that will explain how the environmental principles are intended to be interpreted?
- EP2: The Welsh Government proposes to place a duty on Welsh Ministers to have due regard to the environmental principles and accompanying guidance during the development of their policies and legislation. To what extent do you agree or disagree with this approach.
- EP3: Do you have any views on whether a separate duty should be placed on Welsh public bodies (other than the Welsh Ministers) to apply the principles and accompanying guidance? If you consider the duty should apply to Welsh public bodies, please set out in the text box below which Welsh public bodies and why, as well as any views you have on how the duty should apply to those bodies.
- EP4: Do you have any additional comments relating to the Welsh Government's intention to embed the environmental principles and overarching objective into Welsh law that are not captured in your answers to the above questions?

Part B Establishing an Environmental Governance Body for Wales

- GB1 - To what extent do you agree or disagree with the proposed purpose and objectives for the new Welsh environmental governance body?
- GB2: To what extent do you agree or disagree with the governance body's proposed strategy and reporting requirements?
- GB3 – We propose that the remit of the governance body should apply to the Welsh Ministers and the relevant Welsh public authorities exercising environmental functions Wales listed in Annex 2. To what extent do you agree or disagree with this?
- GB4 Are there any other public authorities, or private bodies exercising functions of a public nature, that you think should be added to (or removed from) the list in Annex 2? Please use the text box below to explain your answer.
- GB5 – To what extent do you agree or disagree with the proposed scope and role for the governance body in relation to monitoring and reporting, including the scrutiny of statutory targets?
- GB6 – To what extent do you agree or disagree with the proposed scope and role of the governance body's advisory functions?
- GB7 – To what extent do you agree or disagree with the suggested approach for managing complaints and representations
- GB8: To what extent do you agree or disagree with the proposals to enable the body to investigate?

- GB9: To what extent do you agree or disagree with the Welsh Government's proposed process for formally handling non-compliance through compliance notices and court or tribunal procedures?
- GB10: To what extent do you agree or disagree with the Welsh Government's proposal to include improvement reports / plans as an enforcement stage to provide space for resolution where systemic issues are evident, and a compliance notice is not considered the optimal mechanism to address the issue.
- GB11: To what extent do you agree or disagree with the proposal for the governance body to, by exception, be able to apply for judicial review and / or intervene in civil proceedings
- GB12: The Welsh Government consider financial penalties would be an ineffective and, in some cases, counterproductive method by which to remedy the non-compliance of Welsh public authorities with environmental law. To what extent do you agree or disagree with this position?
- GB13 – Our preferred model for the governance body is a 'Commission', but consider alternative models, such as an arms-length body, could provide similar benefits. To what extent do you agree or disagree with this approach?
- GB14 – To what extent do you agree or disagree with the Welsh Government's approach in respect of appointing members and allocating resources to the governance body?
- GB15 – Are there any other views you would like to provide in relation to our proposals to set up a governance body?

Part C: Targets for the Protection and Restoration of Biodiversity

- BT1: To what extent do you agree or disagree with the inclusion within the Bill of the Wales Nature Recovery Framework proposed in the paper?
- BT2. To what extent do you agree or disagree with the inclusion within the Bill of the statutory nature positive headline target: '***to reverse the decline in biodiversity with an improvement in the status of species and ecosystems by 2030 and their clear recovery by 2050***'.
- BT3. To what extent do you agree or disagree with the proposal to include a duty that the Welsh Ministers must set statutory biodiversity targets in secondary legislation?
- BT4. Potential suite of supporting targets, to underpin the headline target, are likely to be:
 - Species – distribution abundance and extinction risk;
 - Habitat – protection, management and restoration; and
 - Ecosystem health and resilience – recognising the key role and contribution of ecosystems

To what extent do you agree or disagree with the key areas proposed for the biodiversity targets to be introduced in secondary legislation in the Wales Nature Recovery Framework?
- BT5. To what extent do you agree or disagree that Natural Resources Wales reports on the biodiversity targets as part of the State of Natural Resources Report?

- BT6. To what extent do you agree or disagree that Welsh Ministers publish a statement, before the Senedd, to report whether the statutory biodiversity targets have been met by the date specified in regulation?
- BT7. To what extent do you agree or disagree with the proposal that Welsh Ministers be required to produce a statutory long term Wales Nature Recovery Strategy, outlining the approach to delivery of the statutory targets as well as the Welsh Government's response to the Global Biodiversity Framework?
- BT8. To what extent do you agree or disagree that the Wales Nature Recovery Action Plan sets out a detailed programme of work required to deliver the statutory biodiversity targets?
- BT9. To what extent do you agree or disagree that there should be a duty on public authorities which requires them to contribute to the delivery of the statutory biodiversity targets?
- BT10. To what extent do you agree or disagree that named public authorities should produce a Local Nature Recovery Action Plan to outline local action and priorities for delivery of the statutory biodiversity targets?
- BT11. Please indicate whether you would prefer the duties proposed in this section to apply to:

	Please indicate preference
a) list of Welsh public authorities has been included at Annex 2	
b) The shorter list of Welsh public authorities included at Annex 6	

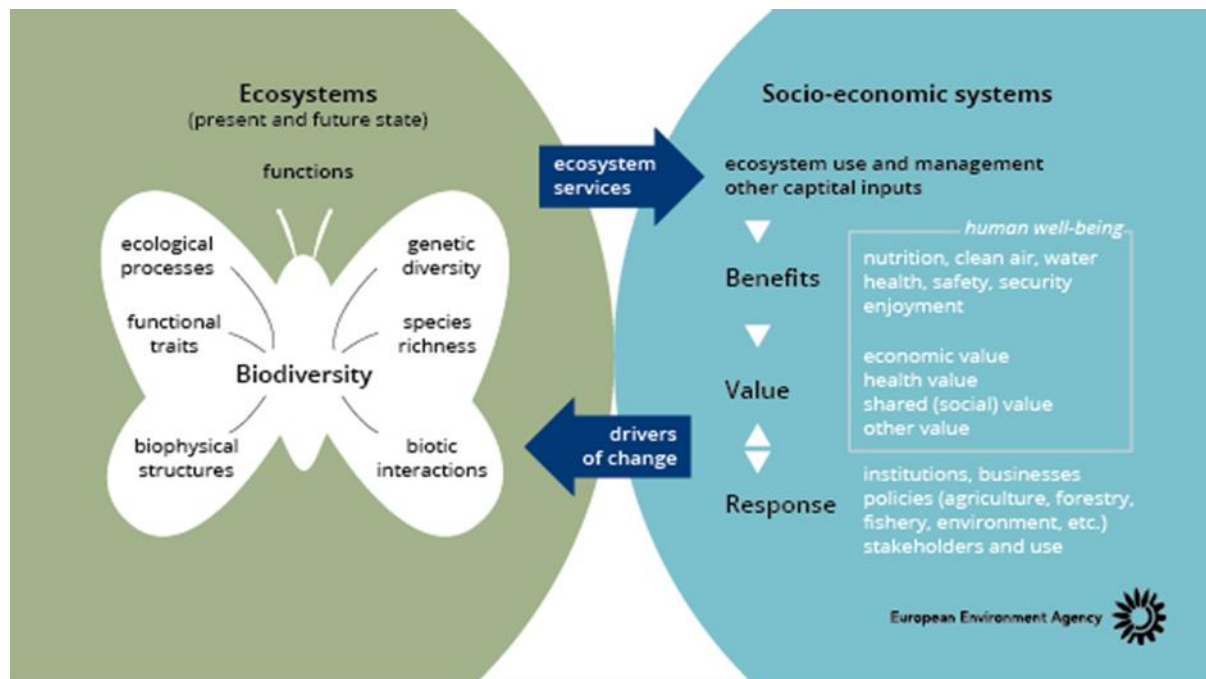
ANNEX 2 - Suggested List of Relevant Welsh Public Authorities to be Overseen by Welsh Environmental Governance Body

- The advisory committee for Wales established under section 5 of the Food Standards Act 1999.
- The Agricultural Advisory Panel for Wales
- Cardiff Harbour Authority
- Chief Inspector of Drinking Water for Wales or any other person appointed by the Welsh Ministers under section 86 of the Water Industry Act 1991 (assessors for the enforcement of water quality)
- The Board of Community Health Councils
- A county council, county borough council or community council in Wales.
- the Controller of Plant Variety Rights
- Dwr Cymru Welsh Water
- A fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies, for an area in Wales.
- The Flood and Coastal Erosion Committee
- Food Standards Agency
- Hafren Dyfrdwy
- Hybu Cig Cymru or Meat Promotion Wales.
- The Independent Groundwater Complaints Administrator.
- A joint planning board constituted under section 2(1B) of the Town and Country Planning Act 1990.
- The Local Democracy and Boundary Commission for Wales
- A Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.
- The National Museum for Wales
- A National Park authority established by an order under section 63 of the Environment Act 1995 for an area in Wales.
- The Natural Resources Body for Wales
- An NHS Trust established under section 18 of the National Health Service (Wales) Act 2006.
- The Royal Commission on the Ancient and Historical Monuments of Wales
- Transport for Wales
- A strategic planning panel established for an area in Wales by regulations under section 60D of the Planning and Compulsory Purchase Act 2004.
- The Water Services Regulation Authority (Ofwat) ;
- The Welsh Ministers or Gweinidogion Cymru.
- The Welsh Pharmaceutical Committee or Pwyllgor Fferyllog Cymru.
- The Welsh Scientific Advisory Committee or Pwyllgor Ymgynghorol Gwyddonol Cymru.
- Water and Sewerage Undertakers

ANNEX 3: Further Background

Section 1: Economics of Ecosystem Services

Figure 1: Ecosystems and Socio-economic systems



In a recent [review](#) on the Economics of Biodiversity led by Professor Sir Partha Dasgupta, it was reported that:

Nature is essential for human existence and good quality of life. Most of nature's contributions to people are not fully replaceable, and some are irreplaceable.

Nature across most of the globe has now been significantly altered by multiple human drivers, with the great majority of indicators of ecosystems and biodiversity showing rapid decline.

Biodiversity is declining faster than at any time in human history. Current extinction rates, for example, are around 100 to 1,000 times higher than the baseline rate, and they are increasing. Such declines are undermining Nature's productivity, resilience and adaptability, and are in turn fuelling extreme risk and uncertainty for our economies and well-being.

Section 2: Biodiversity in Wales Statistics

18% (663 species) of the 3,897 species assessed using Red List criteria, are threatened with extinction in Wales. The abundance of 380 terrestrial and freshwater species has on average fallen by 20% across Wales since 1994. Within this general trend, 140 species have declined in abundance (37%) and 107 species have increased (28%).

Moth species on average showed the strongest decline: 43%. Separate data shows that Atlantic Salmon (*Salmo salar*) abundance has declined markedly across Wales

in the past decade, and in 2021 all river stocks were assessed as 'at risk' (91%) or 'probably at risk' (9%).

Since 1970, the distributions of 42% of flowering plant species and 44% of bryophytes (mosses and liverworts) declined markedly across Wales in the past decade. Flowering plants associated with upland habitats have on average declined, whereas many epiphytic bryophytes (plant which grows on surface of another plant e.g., mosses, ferns, lichens) are recovering from the effects of previous industrial pollution.

The abundance of seven regularly monitored species of seabird has showed little change on average since 1986, in contrast to average declines in some other parts of the UK. However, there is variation within this average trend, and these figures pre-date the recent outbreaks of Highly Pathogenic Avian Influenza in our seabird colonies since 2022.

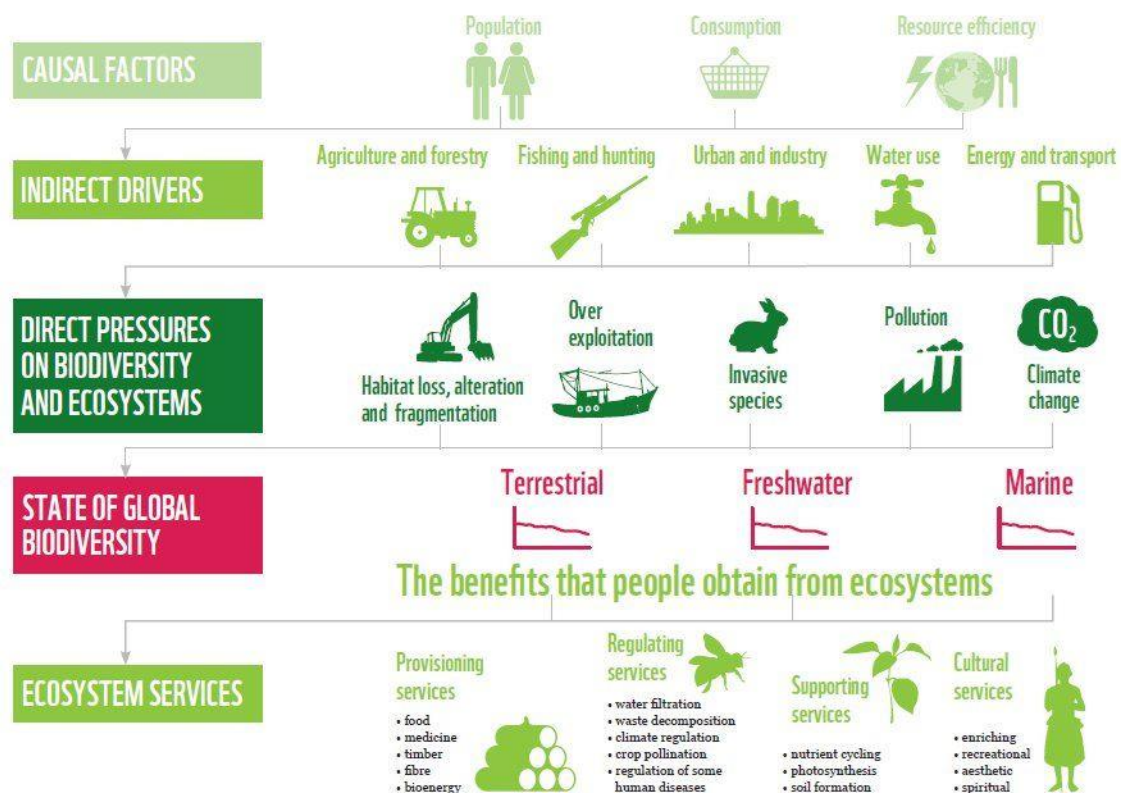
Section 3: Drivers of Biodiversity Loss

According to the Intergovernmental Science Policy Platform on Biodiversity and Ecosystem Services (IPBES) Global Assessment Report:

The rate of global change during the past 50 years is unprecedented in human history. The drivers of change in nature with the largest global impact have been changes in land and sea use, exploitation of organisms, climate change, pollution and invasive alien species. Those drivers reflect indirect drivers of change underpinned by social values. Prominent indirect drivers include increases in population and per capita consumption, changes in nature deterioration per unit of consumption due to technological innovation and, critically, governance and accountability. Trade has shifted where goods are produced, contributing to opportunities for economic development, but also increasing inequities in both economic development and environmental pressures.

In the past 30 years, global trade has increased eightfold, coupled with a six-fold increase in the global economy, and the demand for living materials from nature has doubled to meet the increasing demands of a growing global population and of ever more distant consumers, shifting the environmental burden of consumption and production. Increasing demand for food, timber and fibre in higher-income countries is often satisfied by production in distant, lower-income countries.

These five direct drivers result from an array of underlying causes – the indirect drivers of change – which are in turn underpinned by societal values and behaviours that include production and consumption patterns, human population dynamics and trends, trade, technological innovations and local through global governance. The rate of change in the direct and indirect drivers differs among regions and countries.



Section 4: Ecosystems Assessment

State of Natural Resources Report 2020 reports on the resilience of Welsh ecosystems by assessing them against the criteria of **Diversity**, **Extent**, **Condition**, **Connectivity** and **Adaptability** known as the DECCA framework. The assessment of ecosystem resilience in Wales is set out below.

Diversity matters at every level and scale, from genes to species, and from habitats to landscapes. It supports the complexity of ecosystem functions and interactions that deliver services and benefits. Most habitat types have seen a reduction in diversity over the last 100 years, with the rate of decline increasing from the 1970s onwards. This indicates that ecosystems are not resilient, and many species are not recovering. If diversity continues to be lost, then it may result in the collapse of ecosystems and the services they provide.

Extent The size of an ecosystem will affect its capacity to adapt, recover or resist disturbance. Fewer species can survive in a smaller area, and the number of species is altered when habitat is lost, leading to species loss and ecosystem decay. SoNaRR2020: Executive Summary December 2020 Version 2.2 42 Only 31% of Wales is considered to be semi-natural habitat. At least 40% of Welsh habitats are spread out in such small patches that this implies low resilience.

Condition The condition of an ecosystem is assessed using biological and environmental factors linked to habitats and species. Very few Welsh habitats are reported as being in good condition due to a number of pressures.

Freshwater habitats, for example, are mainly affected by nutrient enrichment and physical modifications.

Connectivity is the link between and within habitats. For wildlife, it is related to the distance an animal can move to feed, breed and complete life cycles which may need different environments. It can take the form of natural corridors, stepping-stones or patches between the same or related vegetation types. Environmental factors such as geology, soil type or movement of water affect a landscape's connectivity. In Wales connectivity is at its lowest in lowland habitats where the landscape has been simplified by the loss of semi-natural habitats and intensively managed land dominates.

Adaptability is based on the outcome of the above four criteria and given the assessment, ecosystems in Wales are not considered to be adaptable.

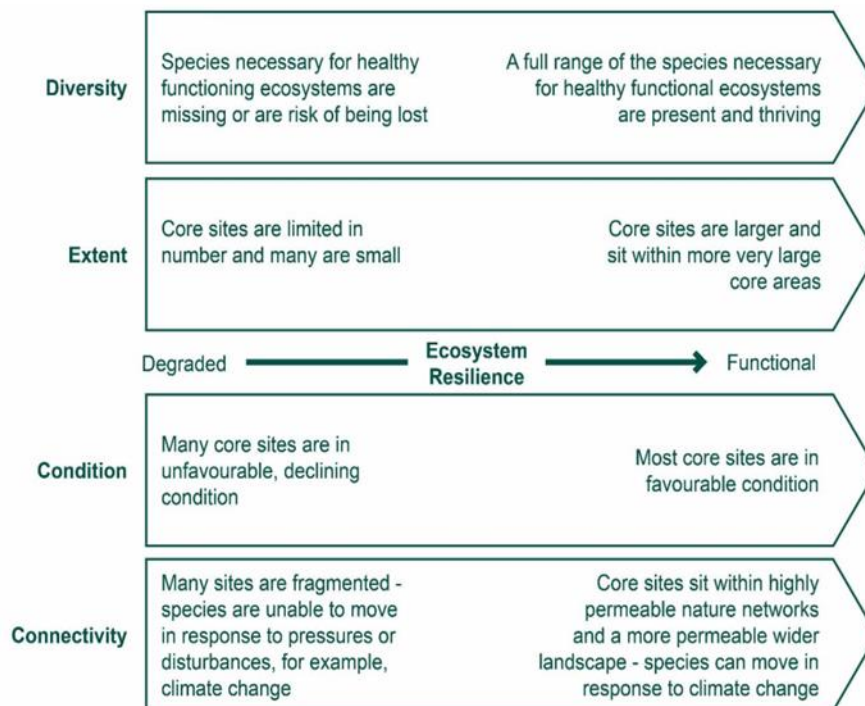


Figure 17 Direction of travel for building ecosystem resilience using the four attributes Adapted from Crick et al., 2020

Note on Figure 17: Core sites to be interpreted as protected sites that are already been designated, for example, Sites of Special Scientific Interest. Core areas have no standard definition but would depend on local priorities

ANNEX 4: Existing Targets And Milestones

National Milestones

Under section (10)(3) of the Well-being of Future Generations (Wales) Act 2015, the Welsh Ministers must set milestones in relation to the national indicators which the Welsh Ministers consider would assist in measuring whether progress is being made towards the achievement of the well-being goals.

In setting a milestone, the Welsh Ministers must specify:

- a. the criteria for determining whether the milestone has been achieved (by reference to the value or characteristics by which the indicator is measured), and
- b. the time by which the milestone is to be achieved.

No.	National Well-being Indicator	National Milestone
43	Areas of healthy ecosystems in Wales	
44	Status of Biological diversity in Wales	To reverse the decline in biodiversity with an improvement in the status of species and ecosystems by 2030 and their clear recovery by 2050. This fully aligns with the Global mission confirmed by COP 15 and the Nature positive goal demanded by many organisations leading up to COP 15

No.	National Well-being Indicator	National Milestone
4.	Levels of nitrogen dioxide (NO ₂) pollution in the air	
13.	Concentration of carbon and organic matter in soil.	
14.	The Ecological Footprint of Wales.	Wales will use only its fair share of the world's resources by 2050
15.	Amount of waste generated that is not recycled, per person.	
41.	Emissions of greenhouse gases within Wales.	Wales will achieve net-zero greenhouse gas emissions by 2050
42.	Emissions of greenhouse gases attributed to the consumption of global goods and services in Wales.	
45.	Percentage of surface water bodies, and groundwater bodies, achieving good or high overall status.	

Existing Targets

Area of focus	Description
Air Quality	
Clean Air Plan	The Air Quality (Wales) Regulations 2000 contains

	national air quality objectives, as amended by the Air Quality (Wales) (Amendment) Regulations 2002.	
	Pollutant levels are currently under revision and will be published shortly.	
Carbon	Budget	Limits
Climate Change Adaptation Plan for Wales (Welsh Government, 2019).	Carbon budget 2 (2021-2025)	Average 37% reduction Offset limit 0%
	Carbon budget 2 offset limit	0%
	Carbon budget 3 (2026-2030)	Average 58% reduction: - 2030 target 63% reduction. - 2040 target 89% reduction. - 2050 target At least 100% reduction (net zero)
Circular Economy		
‘Beyond Recycling’ strategy , published by Welsh Government in March 2021	Aims to make the circular economy a reality in Wales: - Commits to a target of reducing avoidable food waste by 50% by 2025, relative to a 2007 baseline, and - A reduction of 60% by 2030.	
Forestry		
Woodlands for Wales strategy	Target of 2,000 hectares planted per annum.	
Marine		
UK Marine Strategy and OSPAR	Comprehensive list of marine targets which WG (by law) have to put in place measures to achieve. Marine Strategy Part One: UK updated assessment and Good Environmental Status (publishing.service.gov.uk) this was published 2019 – will be reviewed next year. There are also non-specific targets (but still legal requirements) e.g. to achieve ‘favourable condition’ of marine MPAs which by definition means achieving the site conservation targets. Non-legal targets aligned to UKMS. North-East Atlantic Environment Strategy 2030 OSPAR Commission	
Peatland		
Peatland Action Plan and	Restoring a minimum of 25% (~c.5,000ha) of the most modified areas of peatland (ca. 600-800ha per year). Annex A – National Peatlands Action Programme .	

<p>National Peatlands Action Programme, 2020-2025</p> <p>and</p> <p>UK Peatland Strategy 2018-2040</p>	<p>2020-2025 (cyfoethnaturiol.cymru)</p>
<p>Planning</p>	
<p>Future Wales: The National Plan</p>	<p>Future Wales outcomes – A Wales where people live:</p> <ol style="list-style-type: none"> 1. and work in connected, inclusive and healthy places. 2. in vibrant rural places with access to homes, jobs and services. 3. in distinctive regions that tackle health and socio-economic inequality through sustainable growth. 4. in places with a thriving Welsh Language. 5. and work in towns and cities which are a focus and springboard for sustainable growth. 6. in places where prosperity, innovation and culture are promoted. 7. in places where travel is sustainable. 8. in places with world-class digital infrastructure. 9. in places that sustainably manage their natural resources and reduce pollution. 10. in places with biodiverse, resilient and connected ecosystems. 11. in places which are decarbonised and climate-resilient.
<p>Water</p>	
<p>The EU Water Framework Directive</p>	<p>Focused on establishing an integrated approach to the protection and sustainable use of the water environment.</p>
<p>Water body</p>	<p>Each water body must achieve 100% good ecological status by 2027.</p>
<p>Bathing Waters directive</p>	<p>Contribute to improving water quality</p>
<p>Urban Waste Water Treatment and Nitrates directive</p>	<p>Contribute to improving water quality</p>

ANNEX 5: Legislation in Wales

Section 1: Current legislation and approach in Wales

Recognising the complex and interdependent relationships between biodiversity, natural resources and human well-being, the Environment (Wales) Act 2016 put in place the sustainable management of natural resources which is underpinned by a set of principles based upon the UN Convention on Biological Diversity [ecosystem approach](#).

The ecosystem approach makes explicit the link between the status of natural resource systems and ecosystem services that support human well-being. It seeks to maintain the integrity and functioning of ecosystems as a whole to avoid rapid undesirable ecological change. It also recognises that the impacts of human activities are a matter of societal choice and are as integral to ecosystem interactions as ecosystems are to human activities. As such the Sustainable Management of Natural Resources approach introduced in the Environment (Wales) Act 2016 places maintaining and enhancing biodiversity, and the resilience of ecosystems and the benefits they provide to our well-being, at the core of our biodiversity and Natural Resources Management Policy. In addition, the general purpose of Natural Resources Wales (NRW) is to pursue and apply the principles of the Sustainable Management of Natural Resources in the exercise of their functions.

The aim is to sustainably manage our natural resources in a way and at a rate that meets the needs of the present generation without compromising the needs of future generations and which contribute to the seven well-being goals in the Well-being of Future Generations (Wales) Act 2015. (see below)

Section 2: The Environment (Wales) Act 2016

The Environment (Wales) Act 2016 provides an adaptive delivery framework which aims to ensure we are managing our natural resources sustainably. Key components of that framework include:

- **The State of Natural Resources Report (SoNaRR)** produced by NRW providing an assessment of natural resources and how well we're doing to manage them in a sustainable way. The report must be published before the end of the calendar year preceding a year in which an ordinary Senedd election is due to be held. Two State of Natural Resources Reports (SoNaRR) have been produced by Natural Resources Wales since the passing of the Environment Act with the latest being published in [2020](#).
- **A National Natural Resources Policy** – the Welsh Ministers must produce a national policy that sets out the key priorities, risks and opportunities for managing our natural resources sustainably including what they consider should be done in relation to climate change and biodiversity. The policy must be reviewed after each Senedd election considering the findings of the State of Natural Resources Report (SoNaRR) with any revisions published. The first National Natural Resources Policy was published in [2018](#) and a new one is due

to be published following the last State of Natural Resources Report (SoNaRR) in 2020.

- **Area statements** – these are a local evidence base produced by Natural Resources Wales, which help to implement the priorities, risks and opportunities identified in the National Natural Resources Policy and how Natural Resources Wales intends to address these. Seven area statements covering the whole of Wales were published by [Natural Resources Wales in 2020](#).
- **A biodiversity duty (Section 6 of the Act)** sets out a requirement on public authorities subject to the Act to seek to maintain and enhance biodiversity and the resilience of ecosystems in the exercise of their functions in Wales. This is aimed at reversing the decline and securing the long-term resilience of biodiversity and ecosystems in Wales. The duty also requires those bodies to prepare and publish a plan setting out what they intend to do to comply with that duty ([section 6](#)) and also to report on that plan.

The Environment (Wales) Act 2016 was designed to work in concert with the **Well-being of Future Generations (Wales) Act 2015** which is Wales' overarching sustainable development legislation. This aims to improve the social, economic, environmental and cultural well-being of Wales.

Section 3: The Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 defines [seven well-being goals](#) for Wales, which the Welsh Ministers and other named public bodies are required to work towards achieving. One of these wellbeing goals 'a Resilient Wales' is '**to reverse the decline of our biodiverse natural environment**', to develop better awareness of our impacts. This "A resilient Wales" goal recognises the importance of nature and biodiversity as an integral part of building a sustainable future. The Well-being of Future Generations (Wales) Act 2015 requires public bodies subject to the Act, including the Welsh Ministers, to carry out sustainable development which includes setting and publishing well-being objectives which show how the relevant public body will work to achieve the well-being goals. Public bodies must then take all reasonable steps in exercising its functions to achieve those objectives.

The Well-being of Future Generations (Wales) Act 2015 also requires Welsh Ministers to publish 'national indicators' for measuring progress towards the achievement of the well-being goals and to lay a copy of the national indicators before the Senedd. Two indicators specifically relate to biodiversity these being the "Areas of healthy ecosystems in Wales" (no.43) and "Status of Biological diversity in Wales" (no 44). Details of additional relevant indicators which align with the Global Biodiversity Framework can be seen [Here](#).

Welsh Ministers must also set milestones in relation to the national indicators. The milestone 'To reverse the decline in biodiversity with an improvement in the status of species and ecosystems by 2030 and their clear recovery by 2050' was set in November 2022 and aligns with the indicators 43 and 44.

The Future Generations Commissioner's role is to promote the sustainable development principle and, in particular to act as a guardian of the ability of future generations to meet their needs, and to encourage public bodies to take greater account of the long-term impact of the things that they do. To do this, the Commissioner has a duty to monitor and assess the extent to which well-being objectives set by public bodies are being met.

Section 4: The Agriculture (Wales) Act 2023

The Agriculture (Wales) Act 2023 (Agriculture Act) imposes a duty on Welsh Ministers to exercise certain functions in a way that they consider best contributes to achieving the sustainable land management objectives. The duty requires Welsh Ministers to publish and lay before the Senedd a statement of indicators and targets that measure progress towards achieving the sustainable land management objectives, and to report by reference (amongst other things) to the indicators and targets set on the progress made towards achieving the objectives. These provisions provide a framework for the development and implementation of agricultural policy, including the Sustainable Farming Scheme.

As noted above, with 90 per cent of the land area used for agricultural activities in Wales, the sustainable land management duty and objectives in this Act will drive a range of actions across the programmes developed for this sector and will make a significant contribution to many of the goals and targets of the COP15 Kunming Montreal Global Biodiversity Framework. The sustainable land management duty and objectives and the indicators and targets that will be developed to measure progress towards achieving them, will need to complement and contribute to the statutory biodiversity targets proposed in this White Paper.

The sustainable land management provisions in the Act establish a clear response to the nature emergency. The third sustainable land management objective, in particular, imposes a clear requirement to maintain and enhance ecosystem resilience and the benefits they provide.

The Agriculture Act expressly provides that relevant factors for this purpose include, among other things (a) diversity between and within ecosystems; (b) the connections between and within ecosystems; (c) the scale of ecosystems; (d) the condition of ecosystems (including their structure and functioning); (e) the adaptability of ecosystems.

Nature recovery cannot be seen in isolation. That is one of the reasons why the objectives are designed to be complementary and mutually supportive insofar as possible. For example, nature recovery also depends on action to address climate change, which is the focus of the second sustainable land management objective.

The four Sustainable Land Management Objectives are:

1) To produce food and other goods in a sustainable manner.

This may include considering impacts from, for example, climate change, soil degradation, water quality and biodiversity loss on food security. This

objective delivers action towards target 10 of the Global Biodiversity Framework and other targets, including targets 7, 11 & 12.

2) To mitigate and adapt to climate change.

This can contribute to delivery of the 2050 net-zero goal. This may include, for example, the impacts and benefits of good soil health and lowering agricultural carbon emissions. Maximising carbon sequestration and storage by increasing and creating carbon stocks on farmland will deliver action for target 8 of the Global Biodiversity Framework and contribute towards other targets, 2, 3 and 10.

3) To maintain and enhance the resilience of ecosystems and the benefits they provide.

This objective references the Global Biodiversity Framework, with consideration towards promoting connectivity and increasing ecosystem condition and scale. This objective will deliver action towards targets including targets 2, 3, 4, 6, 7, 8, 9 and 10 of the Global Biodiversity Framework

4) To conserve and enhance the countryside and cultural resources, and promote public access to and engagement with them, and to sustain the Welsh language and promote and facilitate its use.

This objective includes important social and cultural elements. An important link to the Global Biodiversity Framework targets relates to protecting the beauty of the natural environment and encouraging access to the countryside, which will contribute to Global Biodiversity Framework targets, including targets 4, 6, and 11.

The sustainable land management indicators and targets required by the Agriculture Act are being designed to measure the performance of the programmes in the agriculture and land management sector in achieving sustainable land management. As such, they will contribute to the overarching statutory biodiversity targets and National Biodiversity Strategy and Action Plan proposed by this White Paper. As far as possible the sustainable land management indicators and targets are intended to align closely with the Global Biodiversity Framework and the statutory biodiversity targets to be developed following this White Paper.

Section 5: The Environment (Clean Air and Soundscapes) Wales Act 2023

The Environment (Clean Air and Soundscapes) Wales Act 2023, enacted as part of the Welsh Government's Clean Air Plan, creates an air quality target-setting framework for Welsh Ministers to set specific targets for air pollutants. The Act puts two duties on Welsh Ministers to, first, promote awareness of air pollution and, secondly, to publish a national soundscapes strategy. In addition to positive impacts on public health, improved air quality also addresses the biodiversity emergency and climate crisis. The national air quality strategy and targets set out in the Act will positively contribute to nature in the following ways:-

- Air pollution contributes to acidification of soil and surface water, eutrophication in sensitive habitats and damages vegetation through exposure

to ozone. Emission controls have enabled air quality improvements at a local, national and international level.

- Poor air quality can also adversely affect wildlife through widespread changes to species distribution and the quality of habitats in the UK and is a threat to the Conservation Status of many habitats listed under the Habitats Directive.

The duty to create a national soundscapes strategy set out within the Environment (Clean Air and Soundscapes) Wales Act will support biodiversity through by limiting disruptions caused anthropogenic noise pollution on species behaviours, such as increasing bat activity in high traffic areas and potentially expanding suitable habitat.

ANNEX 6: Duty to identify local action and priorities which contribute to the delivery of the statutory biodiversity targets through a Local Nature Recovery Action Plan - Proposed shorter list of Public Authorities

	Type
Blaenau Gwent County Borough Council	LA
Bannau Brycheiniog National Park	NPA
Bridgend County Borough Council	LA
Caerphilly County Borough Council	LA
Carmarthenshire County Council	LA
Ceredigion County Council	LA
City and County of Swansea	LA
City of Cardiff Council	LA
Conwy County Borough Council	LA
Denbighshire County Council	LA
Flintshire County Borough Council	LA
Gwynedd Council	LA
Isle of Anglesey County Council	LA
Merthyr Tydfil County Borough Council	LA
Monmouthshire County Council	LA
Neath Port Talbot Council	LA
Newport City Council	LA
Pembrokeshire Coast National Park Authority	NPA
Pembrokeshire County Council	LA
Powys County Council	LA
Rhondda Cynon Taf County Borough Council	LA
Eryi National Park	NPA
Torfaen County Borough Council	LA
Vale of Glamorgan Council	LA
Wrexham County Borough Council	LA
Albion Water	Utility
Dwr Cymru	Utility
Hafren Dyfrdwy	Utility
Natural Resources Wales	
Transport for Wales	
PAs who operate in Wales and England (will not be subject to duty)	
National Grid	Utility
Severn Trent Water	Utility
SSE Water	Utility
Wales and West Utilities	Utility
Western Power Distribution	Utility
Crown Estate	

Ministry of Defence	
Network Rail	