

Senedd Cymru
Y Pwyllgor Newid Hinsawdd, Amgylchedd a
Materion Gwledig
Effaith argyfwng Covid-19 a threfniadau pontio'r
UE
CCERA(5) CP&EU 02
Ymateb gan Cyswllt Amgylchedd Cymru

Welsh Parliament
Climate Change, Environment and Rural Affairs
Committee
Impact of the Covid-19 pandemic and EU
transition arrangements
CCERA(5) CP&EU 02
Evidence from Wales Environment Link



Introduction

In this paper, we've summarised members' views on Covid-19's impact and the potential and need for a truly green recovery. We have highlighted our concerns on the ending of the EU Transition period, when we no longer have any statutory environmental governance or principles in Welsh law.

These are significant and very time-sensitive issues which we're pleased to see the CCERA Committee exploring. We'd be happy to return and for members to give further and updated views as time goes on regarding either of these topic areas.

Covid-19 and a green recovery

Effect of Covid-19 on the eNGO sector

Environmental NGOs are still struggling with the impacts of Covid-19 and have been participating in the review conducted by Natural Resources Wales into the stabilisation of the sector. WEL members have found it difficult to access emergency funding throughout the crisis and we are concerned about the impact of furlough ending, and the current uncertainty around the furlough scheme, with possible repeated lockdowns becoming necessary to control the virus.

Members are clear that they need longer-term funding to enable them to plan the projects that are necessary to deliver a green recovery and tackle the climate and nature emergency. In particular, the Welsh Government has a role in providing core funding that enables eNGOs to lever in other sources of funding whilst supporting future planning and project development, which also enables NGOs to deliver on Welsh Government priorities. Grant delivery mechanisms should be reviewed and amended in order to make them fit for purpose. WEL has submitted a review of the SMS scheme, as this is currently being evaluated.

Whilst this crisis has upturned the way we do things in just about every sector, WEL has been working on the potential for a post-Covid-19 'green recovery' and warmly welcomes the Welsh Government's direction of travel as well.

A green and blue recovery with the jobs to drive it

WEL set out several months ago the 'Principles & Tests for a Green & Just Recovery'¹. It should:

1. *address the nature and climate emergency, prioritising nature restoration as well as decarbonisation measures within the fiscal stimulus package;*
2. *be based on sound evidence, with collaboration to design solutions and support prioritisation;*
3. *move Wales towards a Well-being Economy² – an economic model that includes the value of, and invests in, nature and also includes circular economy principles;*

¹ Wales Environment Link, 2020. Briefing: [Principles & Tests for a Green and Just Recovery](#).

² Wellbeing Economy Alliance, 2020. Press release: [Ten principles for building back better to create wellbeing economies post-Covid](#).

4. *ensure that social justice and equality is embedded in recovery to ensure discrimination is not built into the structural changes made, there is equality of opportunities for those currently disadvantaged, and the most vulnerable are protected; and*
5. *address intergenerational justice by putting young people's employment at the forefront of plans, as they are likely to suffer significant impacts throughout their life from early unemployment and also carry the cost of the Covid-19 recovery.*

To set out the practical examples of 'green and blue jobs' that will be needed to fully tackle the dual nature and climate crises, we've also put together a briefing³ on this and highlighted it online⁴, generating discussion across sectors which we think is equally important, so we all understand the importance of these kinds of jobs, and not just add 'greenwash' to existing jobs.

Ramblers Cymru added a very helpful annex⁵ setting out case studies on jobs which increase access to the outdoors. The expertise exists already in our network and the wider eNGO sector and we've been fulsomely inputting as much as we can to Welsh Government and Natural Resources' Wales working groups in these areas, even whilst we've been under capacity as our members' have been hit hard both in terms of income and staffing, with many furloughed for large amounts of time.

Nature targets

All of this was the background to the UN's announcement on 15th September that the international community has failed to in its 10 year mission – through the Convention on Biological Diversity – to halt the decline and loss of nature. We already knew this was the case in Wales, with the State of Nature reports and NRW's own State of Natural Resources Report, but this emphasised the global failure to take action on this escalating issue. In short – decades of international targets under the CBD have not had sufficient impact to halt nature's collapse.

We have called for new statutory biodiversity targets for Wales (in the same way that we have climate targets) and wrote to the First Minister & Environment Minister⁶ asking for them to do this in domestic Welsh law. Whilst Wales has the frameworks – via the Environment Act and Wellbeing of Future Generations Act – to prioritise biodiversity, this hasn't translated to results in actually halting its loss yet; partly because they are not clear on ambition and accountability. Statutory long term targets, back up by statutory interim targets (5 yearly milestones) would enable the evidence, policy, action framework established in the Environment (Wales) Act to be more effectively scrutinised. Failure to deliver on interim targets would lead to a requirement on Government to review policy, legislation and funding for delivery.

We were disappointed by the response⁷, sent the following month, pointing to the Nature Recovery Action Plan (NRAP)⁸ as sufficient in this regard. Although we do warmly welcome the Welsh Government signing up to the Edinburgh Declaration of sub national governments calling for a post-2020 global diversity framework, it seemed to be a rejection of domestic targets (in the way we have climate targets) and the NRAP highlighted

³ Wales Environment Link, 2020. Briefing: [Jobs for a Green and Just Recovery](#).

⁴ Twitter, 2020. @WalesLink: [Tweet highlighting different kinds of green & blue jobs](#).

⁵ Ramblers Cymru, 2020. Case Study: [Green jobs for access provision](#).

⁶ Wales Environment Link, 2020. Letter: [Global Biodiversity Outlook and calling for nature targets](#).

⁷ Wales Environment Link, 2020. Letter: [Response from Environment Minister on nature targets](#).

⁸ Welsh Government, 2020. [Nature Recovery Action Plan](#).

as all we need in Welsh law. Despite many years of input to the contrary, the NRAP is less of an Action Plan and more a list of structures and initiatives that the Welsh Government **hopes** to revive biodiversity but ultimately are not given the priority, funding or impetus behind it to achieve much. Furthermore, the NRAP is not an all-encompassing list of nature conservation requirements in Wales, as it does not fully address marine conservation requirements, which are covered in separate Plans, created by separate Welsh Government Divisions. The NRAP does not contain any targets, and moreover it does not in itself have statutory weight. The actions listed within the NRAP does also not lead to the kind of work that reverses and halts the damaging activities already harming biodiversity in Wales, such as Intensive Poultry Units or deteriorating water quality in our rivers. No actions will be as effective as they should be without proper monitoring and enforcement.

This is about halting the collapse of our natural systems that sustain all life on our planet; and it's still far too often seen as a footnote to Welsh Government policy. **We maintain that we desperately need legally binding nature targets in Wales** and we hope this can be part of the future Environmental Governance & Principles legislation (more on this below) which we will need to urgently pass in 2020, as the gap will open up from 1st January onwards.

Increasing air quality and reducing congestion

The pandemic has been devastating for many, both personally and professionally, but a silver lining has been an increase in air quality and, what was only recently an unthinkable downward trend in traffic congestion. This will be difficult to sustain as only key workers are encouraged to use public transport but something which we warmly welcome the Welsh Government's direction towards a holistic modal shift and focus on this in creating sustainable transport policy.

Welsh Ministers have encouraged the continuation of working from home⁹, where possible, and recognised the need for adapting in all settings: *"If we make these new work patterns a part of our future, it will give us the ability to re-think the design and the layout of many of our town centres and high streets. We can move from a retail-dominated model to a more diverse range of activity and opportunities, providing us with the platform to revitalise our town centres¹⁰."* Deputy Minister for Economy & Transport, Lee Waters, has outlined that they're exploring a network of community-based remote working hubs within walking or cycling distance of people's homes, foreseeing around 30% of the workforce working remotely on a regular basis.

This aligns well with work that was already underway in 2019 in the South East Wales Transport Commission, which was tasked with tackling congestion in a holistic fashion in this region, after the First Minister rightly ruled out the M4 relief road which would have demolished the biodiverse Gwent Levels. Their Emerging Conclusions Report was published in July 2020¹¹, with a key focus being the need for a 'Network of Alternatives' in terms of other kinds of transport, rather than falling back on the car as the easiest mode. This will be more difficult with the move away from public transport, but if the Welsh Government is successful in promoting working from home and common hubs, genuinely restructuring and reprioritising how Wales works, there will be parts that are easier than envisioned too.

Importance of access to green space

⁹ Welsh Government, 2020. Press release: [Aim for 30% of the Welsh workforce to work remotely.](#)

¹⁰ Welsh Government, 2020. Written statement: [Embedding remote working.](#)

¹¹ Welsh Government, 2020. Press release: [South East Wales Transport Commission publishes emerging conclusions report.](#)

The pandemic has also highlighted the importance of accessible green space for all aspects of our well-being, including the mitigation of air pollution and heat stress. We welcome the Welsh Government's aspirations for the expansion of green infrastructure, for example in Planning Policy Wales and the National Development Framework 'Future Wales 2040', to ensure that habitat and green space is available.

It's important to note that not all greenspace is created equal, as greenspace with high biodiversity is substantially better for human health than greenspace with little or no wildlife¹². Therefore, it is essential to promote biodiversity in the design and management of greenspaces that enhance multiple ecosystem services.

A green recovery is an opportunity to accelerate this expansion of biodiverse greenspace, employing people to deliver high quality accessible green space in every town village and city in Wales, including providing traffic calming measures and attractive green travel routes. We suggest mandatory green space and tree cover targets for new development and infrastructure projects.

A renewed approach to agriculture and food in the green recovery

The Covid-19 pandemic is a stark reminder of our dysfunctional relationship with nature, with studies linking the disease outbreak to the collapse of ecosystems and destruction of wildlife. Nature, the ecosystems it creates and the resources and services these provide, are the foundation of our social and economic wellbeing. Given that over 80% of Wales is farmed, our food and farming is key to addressing nature loss and climate change, as well as tackling wider social and economic issues. However, it's evident from the Welsh Government's 'Coronavirus reconstruction: challenges and priorities' plan¹³ that the role of food and farming has been overlooked.

It's vital that we develop progressive agricultural and sustainable land management policies in Wales that help tackle climate change and drive nature's recovery. A future *public money for public goods* policy should facilitate nature-friendly, agro-ecological and regenerative farming approaches which rewards farmers for the public goods these systems provide e.g. carbon sequestration, wildlife habitats and species, pollinators, air and water quality. This will not only help to address both the climate and ecological crises, but can also help build social and economic resilience in our rural communities. It creates a new, stable income stream that isn't affected by external shocks such as market prices, consumer demand or disruption to supply chains. Furthermore, there is much evidence that shows that nature friendly farming improves the financial performance of farm businesses¹⁴. Agro-ecological farming practices can create more job opportunities¹⁵.

Covid-19 and the associated restrictions on public movement has also highlighted both the importance of the food system to our everyday lives, and the fragility in which it is currently constructed. For example, at one end of the supply chain farmers were throwing milk down the drain, whilst at the other end there was a shortage of milk in the supermarkets. We need an approach that better integrates production and consumption in

¹² Sandifer, Sutton-Greir and Ward, 2015. Ecosystem Services Journal: [Exploring connections among nature, biodiversity, ecosystem services, and human health and well-being: opportunities to enhance health and biodiversity conservation.](#)

¹³ Welsh Government, 2020. Policy: [Coronavirus reconstruction: challenges and priorities.](#)

¹⁴ RSPB, Wildlife Trust Wales & the National Trust, 2019. Report: [Less is more: improving profitability and the natural environment in hill and other marginal farming systems.](#)

¹⁵ All Party Parliamentary Group for Agroecology, 2011. [Briefing: Key Policies for Agroecology in the UK.](#)

Wales, putting more focus on the foundational and circular economies, reconnecting people with locally produced food and enabling community-developed responses that can ultimately shape a sustainable food system. This is an approach which agroecology advocates. Many 'green' jobs can form part of the Foundational Economy, particularly in food. Rebuilding food infrastructures i.e. food markets, community retailers, food processors, food cooperatives and a network of food hubs that aggregate and distribute local food, will help in providing more jobs to diversify and strengthen local economies. Wales can show the world how to secure rural livelihoods, enhance biodiversity and cut emissions rapidly.

EU Transition

The governance gap from 1st January 2021 onwards

With around 80% of our environmental laws and policies emanating from the EU – and the architecture of EU environmental governance that provides oversight and accountability mechanisms to be lost – the implications of Brexit are significant for environmental protection. From the outset, Welsh Government has recognised the need to close the environmental governance gap that will emerge as a result of Brexit, stating support for non-regression of environmental standards¹⁶ with a commitment to bring legislation forward as soon as practically possible. As Leader of the House in 2018, Julie James said¹⁷: “[We] will take the first proper legislative opportunity to enshrine the environmental principles into law and close the governance gap”. The Welsh Government’s Task Group Report on environmental governance and principles published in Spring this year was clear that measures would need to be in place by the end of the transition period.

It now transpires that the legislation required to establish statutory environmental principles and governance arrangements in Wales, has been deferred until after the 2021 Senedd election. This is **deeply regrettable** as it leaves Wales facing the prospect next year of having the weakest environmental governance arrangements of any western European country.

The Scottish Government’s UK Withdrawal from the European Union (Continuity) (Scotland) Bill¹⁸ will enable Scottish Ministers to make provision to allow Scottish law to ‘keep pace’ with EU law in devolved areas; to enshrine guiding environmental principles in statute, and to establish an environmental governance body, Environmental Standards Scotland to continue the role and functions of the European institutions in ensuring the complete and effective implementation of environmental law. The UK Government’s Environment Bill¹⁹ includes environmental principles and provisions establish the Office for Environmental Protection. The Bill also provides a legal base for new governance arrangements in Northern Ireland which the Assembly can then commence and take forward.²⁰

As things stand, from 1st January, it’s likely that citizens in Wales will have more limited access to environmental justice than citizens elsewhere in the UK. Without independent scrutiny, advice and enforcement of environmental law, the system of accountability will lack independence, durability, resources and teeth. The interim measures in Wales, due to the delay in decision-making and implementation, are expected to last longer than the other UK countries before a fully functional system is up and running. The

¹⁶ Welsh Government, 2029. Written statement: [Environmental Principles and Governance Post-EU Exit Consultation](#).

¹⁷ National Assembly for Wales, 2018. Plenary transcript for 21st March 2018: [Debate: Stage 3 of the Law Derived from the European Union \(Wales\) Bill](#).

¹⁸ Scottish Government, 2020. Overview: [UK Withdrawal from the EU \(Continuity\) \(Scotland\) Bill](#).

¹⁹ UK Parliament, 2020. Bill documents: [Environment Bill 2019-2021](#).

²⁰ DEFRA, 2020. Policy Paper: [30 January 2020 – Environment Bill 2020 Policy Statement](#).

Welsh Government's commitment to ensure that Wales' environmental standards are maintained and enhanced, rather than weakened, as a result of our leaving the EU will not be met.

Lack of clarity on Welsh plans to fill the gap

In lieu of the necessary legislative action, the Welsh Government intends to apply environmental principles and establish interim governance arrangements on a non-statutory basis only, with the recruitment of an Environmental Protection Assessor for Wales in progress²¹. The detail of the interim arrangements and guidance on the application of principles are yet to be finalised. **There also remains lack of clarity on the future role of the Senedd in relation to both interim and longer term governance arrangements, which requires consideration.**

The delay in bringing forward primary legislation means that the interim arrangements, which were initially intended to last for only a few months in a worst case scenario, now risk being in place for several years, and could even become permanent should inaction continue and especially if a Bill isn't passed quickly by any new Welsh Government from May 2021 onwards. This Interim Assessor (as currently proposed) will have no powers to investigate complaints and, except from the most serious and urgent complaints, will hold the complaints for future investigation by the statutory environmental governance body when established. This could mean that serious environmental damage – be that a persistent pollution incident from a power station, to a systemic failure to protect key species or habitats – is permitted to continue without an effective investigation or potential remedy, shy of the prohibitively expensive route of judicial review by civil society organisations, which itself lacks the corrective remedies currently available through the CJEU.

In addition, citizens' complaints will be effectively stockpiled and remain un-investigated so that any public failures to uphold and enforce laws may remain unchallenged, leaving Wales' environment especially vulnerable and citizens unable to effectively discharge their rights under our existing international commitments. It is also possible this is a breach of the Aarhus Convention which establishes a number of rights of the public (individuals and their associations) with regard to the environment such as access to justice.

While coronavirus has impacted the legislative schedules in Westminster, Stormont and Holyrood, legislation has nevertheless been published and will be passed either before or shortly after the end of the transition period. Difficulties in managing so much Brexit-related legislation should not be an excuse for not prioritising urgent environmental governance protections in this Senedd term's legislative schedule.

The role of the Senedd in interim and longer term environmental governance arrangements

The future role and functions of the Senedd within any new interim and longer term environmental governance arrangements remain unclear. This includes, for example, the Senedd's role in dealing with complaints of breaches of environmental law by Welsh Ministers. The proposals developed by the Welsh Government Task Group are yet to be decided upon by Ministers and have not been the subject of discussion in the Senedd. Our concerns have been communicated in writing to the Counsel General and Minister for European Transition Jeremy Miles MS²² and Presiding Officer Elin Jones MS²³.

²¹ Welsh Government, Public Appointments, 2020. Vacancy: [Interim Environmental Protection Assessor for Wales](#).

²² Wales Environment Link, 2020. Letter: [To the Counsel General on the environmental governance gap](#).

²³ Wales Environment Link, 2020. Letter: [To the Presiding Officer on impacts to the Senedd on governance gap](#).

In relation to the Senedd's role in particular we are seeking clarity as to:

- Any dialogue between Welsh Government Ministers and or officials and the Presiding Officer on this matter.
- Any work undertaken to identify and develop the Senedd's role within the proposed arrangements, including the scoping of powers to support the Assessor in their duties, and to censure Welsh Government Ministers who have been found to have breached environmental law.
- Given the potential quasi-judicial functions this approach may create, how will it be ensured that the political balance of the Senedd does not give the appearance of influencing proceedings

The Senedd and the Climate Change, Environment and Rural Affairs Committee also have a crucial role in scrutinising the Welsh Government's proposals and progress in implementation in the run up to the end of the transition period and beyond. Discussion of the detailed proposals and timescale for implementation has been limited to date.

Wales Environment Link (WEL) is a network of environmental, countryside and heritage Non-Governmental Organisations in Wales. WEL is a respected intermediary body connecting the government and the environmental NGO sector in Wales. Our vision is a thriving Welsh environment for future generations.

