

Cynulliad Cenedlaethol Cymru Pwyllgor Amgylchedd a Chynaliadwyedd	National Assembly for Wales Environment and Sustainability Committee
Egwyddorion cyffredinol Bil yr Amgylchedd (Cymru)	General principals of the Environment (Wales) Bill
Ymateb gan Ymddiriedolaeth Cadwraeth Ystlumod (Cymru)	Response from Bat Conservation Trust (Wales)
EB 07	EB 07



Ymddiriedolaeth Cadwraeth Ystlumod (Cymru)
Bat Conservation Trust (Wales)



c/o Swansea Environment Centre, Pier Street, Swansea, SA1 1RY

Committee Clerk
Environment and Sustainability Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

11 June 2015

Environment (Wales) Bill

Thank you for the opportunity to comment on the above Bill. Our response can be made available to the public.

Please note that in addition to the following observations, the Bat Conservation Trust is also a signatory to the response provide by Wales Environment Link.

There is much to be commended in the Bill but there are some areas which need to be made better to help deliver the Welsh Government's aspirations for biodiversity and sustainable development.

Part 1: Natural Resources Management

Do you agree with the Welsh Government's proposals on definitions for 'natural resources' and 'sustainable management of natural resource'? Are there things missing that you think should be included?

Section 2 We note the absence of the word 'landscape' as natural resource although 2(e) does say physiographical features. If 2(e) is another term for landscape then we welcome its inclusion and perhaps the Committee should clarify this.

If it is not, then we would recommend that landscape be included. Whist we accept that landscape is a reflection of geomorphology, flora and fauna, and that it is a result of natural and man-made factors, its absence in the list of natural resources is a serious omission given its significant contribution to the Welsh economy, especially through tourism, which needs to be managed in an appropriate manner. Recognition of landscape in the Bill would be in keeping in support of the European Landscape Convention.

Section 3(2). The objective, as worded, places the resilience of ecosystems in terms of benefits provided to society. We have consistently advised the Welsh Government that the Convention of Biological Diversity (CBD) and the subsequent decisions of the Council of Parties (CoP) do not place ecosystems solely for the benefit of society but ecosystems should be managed for their intrinsic values and for their tangible or intangible benefits for humans.

Section 4 There is no mention of managing within environmental limits. This is a fundamental element of sustainable management the principle of which is identified in CoP 7 (Kuala Lumpur, 2004)*If management of land, water, and living resources in equitable ways is to be sustainable, it must be integrated and work within the natural limits and utilize the natural functioning of ecosystems.* This is also the 6th principle of the 12 Aichi Principles. We would recommend that this section be amended to include living within natural limits.

The precautionary principle. This is a core guiding principle of the CBD and whilst section 4(d) alludes to this in terms of gathering relevant evidence in respect of uncertainties, we would wish to see the Precautionary Principle being specifically included so that where there are uncertainties, then the Precautionary Principle is invoked. We would recommend that this be clarified by including reference to Precautionary Principle.

Section 5. BCT remains concerned that NRW appears to no longer be a Statutory Nature Conservation Organisation but a body that has wider and potentially conflicting responsibilities to include socio and economic issues. Over the last few years we have witnessed a severe reduction in key expert ecological staff initially from CCW and more recently from within NRW. Furthermore, NRW appears to be in a constant state of change and restructuring. We would urge the Committee to recommend the establishment of NRW as an environmental protection agency to deliver the Resilient Wales Goal of the Well-being of Future Generations Act.

Section 6 (1) we very much welcome the strengthening of the current NERC biodiversity duty. We would wish to see the word 'promote' replaced with 'achieve'. Promotion is an output which in itself does not necessarily result in achieving anything.

In addition, we note that there is no mention of a duty to restore biodiversity and would therefore suggest that s6(1) is amended to read :

'A Public authority must seek to restore, maintain and enhance biodiversity in the exercise of its functions in relation to Wales, and in doing so, promote biodiversity, and achieve the restoration, maintenance and enhancement of ecosystems and its components'.

Section 6(2) greater emphasis could be given to this section by reference to s7(1).

BCT would ask that consideration is given to switching sections 6 and 7 about. The effect of this would be to give prominence to the list of living organisms and types of habitat of principle importance from which public authorities would be under a duty to restore, maintain and enhance.

Biodiversity targets. We are disappointed that statutory targets have not been included. We have now failed to hit the previous international biodiversity target for 2010 and the State of Nature report 2013 highlighted the on-going losses. If Welsh Government has serious intentions to achieve our biodiversity commitments, we would suggest that there is now a strong argument for greater action. The Bill has accepted the principle of 'environmental' targets in Part 2 for climate change and we see no good reason why targets could not and should not be included for biodiversity in Part 1. These could be done at fairly broad level to cover, protected sites, species, and the wider terrestrial and aquatic environments. We have started to look at possible biodiversity indicators in relation to the Well-being of Future Generations (Wales) Act and this work could inform biodiversity targets.

We would also ask the Committee to consider recommending the introduction of an independent Commissioner with appropriate duties and responsibilities to hold Welsh Government to account.

Section 7(1). This section requires the Welsh Ministers to publish a list of living organisms and types of habitat of principle importance. Whilst we note that section 7(2) goes on to require consultation with NRW as to the List, we consider that section 7(1) could be suitably amended to say

Welsh Ministers to publish a list of living organisms and types of habitat of principle importance which in the scientific opinion of Natural Resources Wales, are of principle importance for restoration, maintaining and enhancing biodiversity in Wales.

Section 8. We welcome the duty on NRW to report on the state of Wales' natural resources and the extent to which sustainable management of natural resources (SMNR) is being achieved. We suggest an amendment to make it clear that SoNNaR Reports should reflect not only positive performance, but obstacles preventing achievement of SMNR and how these might be overcome.

What are your views on the proposals for a National Natural Resource Policy? Is the Bill clear enough about what this will include?

We welcome the duty under section 9 as a way forward to achieving the revised biodiversity targets. We would remind Welsh Government that Ecosystem management is just one mechanism for delivering this and that this does not preclude other conservation approaches including protected sites (domestic and European) as well as single species conservation measures.

We would ask that you consider amending section 9(1) to remove the word 'contributing to' so that this section achieves sustainable management rather than simply make an un-quantified contribution

We note that there are no proposals for consultation into the documents and consider this to be an omission. Furthermore, we note that the duty applies to Welsh Ministers (plural) and there is therefore a real risk that there might be conflicting tensions between different government departments. We are surprised that this section does not include a duty on Minister(s) to consult at least NRW in developing the NNRP. We recommend this section is amended to introduce a requirement to consult NRW and other persons prior to publication of the NNRP or a revision thereof.

Do you agree with the proposals for area statements? What should these cover and is the process for their development clear enough in the Bill?

What are your views on the proposal to strengthen the biodiversity duty on public authorities operating in Wales?

We very much welcome the strengthening of the current biodiversity duty. We would wish to see the word 'promote' replaced with 'achieve'. Promotion is an output which in itself does not necessarily result in achieving anything.

In addition, we note that there is no mention of a duty to restore biodiversity and would therefore suggest that s6(1) is amended to read :

'A Public authority must seek to restore, maintain and enhance biodiversity in the exercise of its functions in relation to Wales, and in doing so, promote biodiversity, and achieve the restoration, maintenance and enhancement of ecosystems and its components'.

Section 6(2) greater emphasis could be given to this section by reference to s7(1).

Are you content with the proposals for NRW to have wider powers to enter into land management agreements and have broader experimental powers?

BCT can see some merit in having additional powers to suspend statutory requirements for experimental schemes (section 22) , but there must be sufficient safeguards in place and the decision to suspend must be open and transparent. We would suggest that there must be a form of consultation process the results of which should be made public and challengeable.

Part 3: Carrier Bags

Do you agree with the proposal that Welsh Ministers should have powers to raise a charge on all types of carrier bags not only single use bags?

No comment

Do you agree with the proposal that Welsh Ministers should have powers to raise different charges on different types of bags?

No comment


Do you agree that the profits from the sale of carrier bags should be directed to all charitable causes rather than just environmental ones?

BCT does not agree with this proposal. The levy on carrier bags was established as an environmental levy and therefore proceeds should be directed at environment projects. This is even more important at a time when funding for environmental (biodiversity) projects is under great strain and being reduced.

BCT has no comments to make on Parts 4, 5 and 6.

Please do not hesitate to contact me if you have any queries on these comments.

Yours faithfully

A handwritten signature in black ink, consisting of a stylized 'S' followed by a long horizontal flourish.

Steve Lucas

Swyddog Cymru / Wales Officer

Ymddiriedolaeth Cadwraeth Ystlumod (Cymru) / Bat Conservation Trust (Wales)

Summary of Recommendations

- Ensure that landscape is considered as a natural resource (Section 2)
- Amend the objective of the definition of sustainable management so that ecosystems should be managed for their intrinsic values as well as for their tangible or intangible benefits for humans (Section 3(2))
- Included managing within environmental limits (Section 4)
- Included / clarify the Precautionary Principle (Section 4(d))
- Repurpose the establishment of NRW as an environmental protection agency to deliver the Resilient Wales Goal of the Well-being of Future Generations Act (Section 5)
- Replace the word 'promote' with 'achieve' (Section 6(1))
- Either, make reference to section 7 in Section 6(2) or, to swap Section 6 with section 7
- Inclusion of statutory biodiversity targets (a new section)
- Establishment of an independent commissioner (a new section)
- Replace 'in their opinion' insert 'in the opinion of Natural Resources Wales' (Section 7(1))
- Include 'and obstacles preventing achievement' (Section 8(1))
- Remove the word 'contributing to' to read '...achieves sustainable management...' (Section 9(1))
- Include a duty on Minister(s) to consult at least NRW in developing the NNRP. (Section 9(1))
- When considering suspending statutory requirements for experimental schemes, there must be sufficient safeguards in place and the decision to suspend must be open and transparent. (section 22)
- BCT does not agree that the profits from the sale of carrier bags should be directed to all charitable causes but should remain available for environmental causes.