

Cynulliad Cenedlaethol Cymru | National Assembly for Wales
Y Pwyllgor Newid Hinsawdd, Amgylchedd a Materion Gwledig | Climate
Change, Environment and Rural Affairs Committee
Ymchwiliad i lywodraethu ac egwyddorion amgylcheddol ar ôl Brexit | Inquiry
into environmental principles and governance post-Brexit
Ymateb gan : Undeb Amaethwyr
Evidence from : Farmers' Union of Wales

General comments:

1. In terms of this written response, the FUW have attempted to keep comments relevant to both the remit of the Committee and the FUW's key areas of expertise. As such, the observations provided below are not exhaustive in terms of possible areas of concern which fall within the Committee's remit.
2. The FUW has concern about the timing of the Welsh Government's current consultation and the associated CCERA inquiry given the current pressures on resources and uncertainty caused by Brexit, and the significant cuts to public funding which have reduced the capacity of departments to deal with such work.
3. The FUW believes that the consultation document adequately identifies the gaps in environmental governance structures and principles that will be created in leaving the EU.
4. That said, the FUW would highlight that in attempting to identify gaps, as opposed to carrying over EU functions in a straightforward way, there is a danger of creating large amounts of unnecessary or additional work without any consideration of the financial implications for bodies or others - and this at a time when the budgets of public bodies have been cut, workloads increased, and there is great uncertainty regarding the impact of Brexit on the public purse.
5. The FUW appreciates that Brexit provides an opportunity to take another look at the arrangements for environmental governance and consider how to make improvements in this area, but would recommend that any changes that are decided upon be regularly reviewed, and that where possible small steps - as opposed to sweeping changes - be implemented in order to minimise the likelihood of unforeseen consequences.
6. The FUW agrees that there is a need to enhance governance arrangements to encompass the current role of the European Commission (EC) and the European Court of Justice (ECJ) upon the UK's exit from the EU.

7. The FUW notes that in Wales, since 2015, there has been a programme of legislation placing sustainable development at the centre of Welsh governance through both the Well-being of Future Generations (Wales) Act 2015 (WFGA) and the Environment (Wales) Act 2016 (EA), with the latter designed to work together with the former to encourage a systematic approach to the environment by public authorities. The objectives of Sustainable Management of Natural Resources (SMNR), within the EA, show strong links to the WFGA's 'well-being goals'.
8. However, both the WFGA and the EA are still largely unknown to the general public, while similarly 'SMNR' is an unknown acronym for the vast majority of people. As such, the FUW would suggest that the terminology needs to be looked at while exploring how to better engage with the normal people to whom governments and public bodies are ultimately accountable.
9. It should be born in mind that Wales already has policies in place to deliver two of the four EU environmental principles, whereas other parts of the UK do not; Prevention - which can be delivered through the five ways of working outlined in the WFGA, and Precaution - which is encapsulated within the SMNR principles.
10. The FUW believes it makes sense to align future legislation to encompass all the EU environmental principles as well as the polluter pays and rectification at source principles. However, this should be done in a way that complements and enhances the environmental principles already reflected in the Environment Act, while adhering to the overarching context of sustainable development as outlined in the WFGA.
11. The polluter pays principle is by and large already a feature of the law, with a broad acceptance of the principle. However, clarity and recognition is needed as regards genuine accidents which occur when all the legislation has been followed correctly, as opposed to negligent or deliberate actions.
12. Critically, any actions taken after a problem has occurred (i.e. polluter pays) are far less desirable than prevention and pre-emptive action. The key merit of rectification at source is that it is more cost effective and more environmentally effective to prevent accidents rather than to pay for impacts afterwards. The First EU Environmental Action Plan describes rectification at source as *"The best environmental policy consists in preventing the creation of pollution or nuisances at source, rather than subsequently trying to counteract their effects"*.

- 13.** The FUW believes that principles which need to be further explored in order to maximise such benefits include:
- a.** Incentivisation - rewarding those who act proactively and implement good working practices.
 - b.** Education - understanding why actions are necessary and the consequences of pollution compliments the other principles and reduce the likelihood of problems
 - c.** Co-operation - Working collaboratively and adopting a holistic approach to environmental governance.
- 14.** The FUW believes that there is both value and practicality in designing a UK joint approach within which the WFGA and the EA could continue to function in Wales as intended.
- 15.** In this context it is worth noting that, following consultation with members, the Farmers' Union of Wales has agreed that frameworks should be established which prevent unfair competition between devolved regions and secure and protect adequate long term funding for agriculture, whilst respecting devolved powers over agriculture and the need for flexibility which allows devolved governments to make decisions which are appropriate for their regions.
- 16.** As such, it is believed that a UK joint approach to environmental principles would be a sensible way forward as it is important to maintain a level playing field for farmers that ensures no bias or advantage.
- 17.** However, mechanisms would have to be put in place to ensure a joint UK approach did not lead to conflict, given, for example, the number of rivers which cross boundaries between devolved regions.
- 18.** The FUW would like to emphasise that any UK joint approach needs to be co-designed by all UK Governments.
- 19.** In addition, while it is proper to consider which areas should require common or legal frameworks, it is equally important to consider how the creation, policing and enforcement of frameworks will be governed in a way which respects devolution and is sufficiently robust.
- 20.** As stated in previous submissions to committees of the National Assembly for Wales, the FUW believes mechanisms should be found to ensure sensible mutual agreement can be reached between the UK administrations in terms of the development, implementation and governance of frameworks, and arbitration of any disputes.