



Securing a Sustainable Future  
Environmental Principles, Governance and Biodiversity targets  
for a Greener Wales White Paper

A Welsh Government response to the White Paper

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## Introduction

1. The Welsh Government is dedicated to continuing to develop and strengthen environmental law in Wales. 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.
2. Environmental law will be essential in tackling the challenges of climate change, biodiversity loss, and harm to the environment such as pollution.
3. The First Minister confirmed bringing forward a Bill to establish an environmental governance body for Wales and to introduce a statutory duty and targets to protect and restore biodiversity in his [legislative statement](#) made in the Senedd on 9 July 2024.
4. [The White Paper](#), set out proposals to introduce a Bill into the Senedd to embed environmental principles into Welsh law, strengthen environmental governance in Wales by establishing a governance 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”.
5. The White Paper set out proposals to cover the three key areas and invited views from interested parties on:
  - 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.
6. It was accompanied by a draft Integrated Impact Assessment and a draft Regulatory Impact Assessment which provided our early assessment of the costs and benefits of our proposals.
7. The Consultation closed on 30<sup>th</sup> April, receiving 1171 responses in total. These contained 161 online responses, 5 Easy Read responses and 1005 campaign responses. We are grateful to all those who took the time to respond.
8. An independent analysis of the responses to this consultation has been published here: [Environmental principles, governance and biodiversity targets: White Paper | GOV.WALES](#)
9. The first section of this publication sets out the intended scope of the policy proposals and our engagement activities. The second section sets out our response to the main issues raised in the consultation.

## Engagement

10. Elements of the White paper have been consulted on previously. This engagement informed the policy proposals in the White Paper.
11. **Environmental principles and governance in Wales post European Union exit 2019** The consultation document and summary of responses can be found [here](#).
12. **The Environmental Governance Stakeholder Task Group was** commissioned in 2019 and comprised key environmental organisations and academics and presented a concluding report with specific recommendations to the Welsh Government. The Task Group's concluding report and the Welsh Government's response to it can be found [here](#).
13. These formal consultations have been complemented by a range of stakeholders including public bodies and public authorities. This engagement has been crucial in ensuring our proposals are fit for purpose.
14. During the 2024 Consultation, Welsh Government officials held a series of workshops and one to one conversations with stakeholders. Twelve one to one sessions were held with key stakeholders to walk through and discuss policy proposals. Two policy workshops were held to discuss the structure of the body and proposed enforcement powers and two further workshops were held with local authorities and public bodies to discuss the Principles and Targets.

## Section 1: The Environmental Principles, Governance and Biodiversity targets for a Greener Wales White Paper – Summary of Proposals

15. The White Paper set out proposals for a Bill to cover three key areas and invited views from interested parties across three primary areas:

### *Part A - Environmental Principles*

16. The White Paper proposed introducing environmental principles into Welsh law. These principles would be similar to, and build upon, environmental principles established for the European Union:
  - Integration -.
  - Precautionary Principle -Prevention -Rectification at Source - Polluter Pays
17. It was proposed that these principles would be supported by an overarching objective aimed at ensuring a high-level of environmental protection and improving the quality of the environment in Wales, in particular to contribute to sustainable development.
18. In relation to the principles, the White Paper also included:
  - A proposed duty on Welsh Ministers to publish guidance on how these principles will be interpreted in Wales.

- A proposed duty on Welsh Ministers to have due regard to the environmental principles and the accompanying guidance during the development of their policies and legislation.
- A request for views as to whether to require other public bodies in Wales to apply the principles and accompanying guidance (with a proposal not to do so).

### *Part B - Environmental Governance*

19. The White Paper proposed establishing a new environmental governance body whose purpose would be to oversee the implementation of, and compliance with, environmental law.

20. The key features were proposed as:

- Established in law with statutory powers to ensure high environmental standards.
- Include powers to monitor, investigate, and enforce compliance with environmental law by Welsh public authorities.
- Have powers to advise the Welsh Government (and other public authorities) on environmental policy and law.
- Ability to collaborate with other organisations to avoid duplication of effort.

21. Feedback was sought on a range of legislative measures proposed for the governance body, including:

- Monitoring and reporting powers to effectively assess the compliance with, and implementation of, environmental law by Welsh public authorities.
- Powers to provide expert advice on environmental law and policy.
- Powers to handle complaints about environmental law (except specific decisions by public bodies).
- Powers to investigate alleged breaches of environmental law by public bodies based on monitoring, complaints, or its own initiative.
- Powers to issue information notices requiring information from public bodies and take enforcement action for non-compliance.
- Powers to use enforcement tools like compliance notices (and associated appeals), improvement reports, and (exceptionally) judicial review to address non-compliance.

22. The governance body was expected to be transparent and collaborate effectively with other organizations with similar goals. In support of this, it was proposed that the governance body would have a duty to prepare and consult on a strategy setting out in detail how it proposed to exercise its functions.

23. Views were also sought on the form and operating model of the governance body, with a preference expressed for a commission model with a board comprised of a Chair, 7-8 other expert members, as well as back-office support staff.

### *Part C – Biodiversity*

The White Paper proposed establishing a strategic nature recovery framework to help strengthen our response to the nature emergency.

The nature recovery framework proposed:

- 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. To address both our response to the Kunming-Montreal Global Biodiversity Framework (GBF), 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 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.

## Section 2: Our Response to the Consultation

Introduction:

24. The following section sets out our response to the proposals outlined in the White Paper. We welcome the general support for the proposals and accept that more detail is needed in certain areas, which will be addressed during the course of the Bill's development.

### Part A – Environmental Principles

#### *Provision to establish Environmental Principles in Welsh Legislation supported by Statutory Guidance*

25. We welcome the general agreement that it is important the internationally recognised environmental principles be reflected within Welsh legislation. We noted that several organisations advocated further clarity on the intersection between existing policy and legislation, and consider it important to reflect clearly the wider policy drivers which support, and are supported by, the environmental principles. This includes the climate and nature emergencies, the resilience of ecosystems and sustainable development. We will therefore explore further how to strengthen our alignment with wider policy areas by, for example, assessing how the climate and nature emergencies and the approaches established by the Environment (Wales) Act 2016 and the Well-

being of Future Generations (Wales) Act 2015 could be framed within the overarching objective of the environmental principles.

### Statutory guidance

26. The White Paper recognised that the meaning and application of environmental principles is still evolving, and proposed a duty on Welsh Ministers to publish guidance explaining how these principles will be interpreted in Wales. This guidance was to build upon existing knowledge and case law and be subject to public consultation.
27. We acknowledge the strong views expressed that statutory guidance will be essential to provide people with a clear understanding of what the principles mean. We recognise the feedback expressed that it will be essential for the guidance to be accessible to the public, consulted on publicly, and provided in a timely manner in draft form before the Bill is commenced. We also concur with feedback that the guidance should be able to be updated, for example, to reflect scientific and technological changes. We will proceed with considering how these aspects can be effectively captured within the Bill.

### Scope of the Duty

28. The White Paper proposed a duty on Welsh Ministers to have due regard to the environmental principles and the accompanying guidance when developing policies and proposals for legislation.
29. The White Paper also considered the extent to which a duty should be placed on other Welsh public bodies to apply the environmental principles and the accompanying guidance. The White Paper proposed not doing so, but sought stakeholder feedback to further inform the position.
30. We acknowledge the concerns raised by several organisations around the term ‘due regard’ and that it would, in their view, not be sufficiently strong to achieve the objectives of the principles. We will give detailed consideration to possible alternatives which may be able to strengthen this duty to maximise the impact of this provision.
31. We also welcome the feedback from stakeholders around whether a duty to apply the principles ought to apply to other Welsh public bodies. In reflection of the mixed feedback, we are minded not to pursue an unconditional duty on Welsh public authorities to apply the principles broadly. We will, however, work with stakeholders to explore the possibility of extending the duty to apply the principles to wider bodies in specific circumstances, for example, when considering major plans and programmes which are likely to have significant environmental impact.

## Part B – Environmental Governance

### Establishing an Environmental Governance Body

32. The White Paper proposed establishing an independent, statutory environmental governance body for Wales (“the governance body”) through the Bill. The stated purpose of the governance body was to 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. In doing so, activity would include monitoring compliance with environmental law by the government and public bodies, investigating public complaints about environmental law breaches by public authorities and taking enforcement action where necessary, and advising the Welsh Government on environmental law and policy,
33. We welcome the favourable response to the establishment of the governance body, and recognise the concerns raised around ensuring the governance body is adequately resourced to effectively perform its purpose. We concur with the stakeholder view that maintaining the governance body’s independence will be essential. On that basis, we agree with stakeholders that Welsh Ministers should not have a general power to direct the governance body. We will also consider mechanisms which will strengthen the governance body’s ability to report directly to the Senedd, rather than via Welsh Government.
34. Stakeholders also raised concern around the potential overlap with other bodies who operate in a similar space, and the need to remain focussed and avoid “mission creep”. We agree with this, and in support will seek to develop a ‘principal purpose’, to be set out on the face of the bill, that will provide further clear direction. Furthermore, we will seek to bolster provision in the bill to ensure the governance body is appropriately incentivised to maintain close, effective working relationships with partners, with a view to reduce duplication and mutually enhance delivery of respective functions.

### Preparation of the Strategy

35. The White Paper proposed a duty on the governance body to publish a strategy document outlining how it will achieve its goals. This strategy was to include detail on the governance body's practices and procedures in respect of monitoring, investigating and enforcing the compliance and effectiveness of environmental law.
36. We welcome the broad endorsement from stakeholders around the strategy, in particular recognising how setting out what is to be contained within the strategy can give direction to the governance body through the legislation, whilst also offering sufficient discretion and independence to establish their own delivery methods and ways of working. We accept the strong view expressed around ensuring this strategy is developed independently, and with opportunity for public consultation, and will seek to reflect this within the Bill.



37. Furthermore, respondents throughout the consultation expressed a desire for a clearer role in respect of the governance body's oversight of statutory environmental targets – particularly in relation to biodiversity targets. We recognise this should be a particular focal point for the governance body, but do not wish to overly constrain its ability to focus on the priorities it identifies. As such, we will explore a requirement for the governance body to set out in its strategy how it intends to monitor and, if necessary, report on statutory environmental targets, alongside its other core functions.

#### Public Authorities within Oversight Scope

38. The White Paper proposed the governance body would oversee a broad range of public authorities in Wales which can impact the environment and provided an indicative list (in Annex 2 of the White Paper). This list included environmental regulators (e.g. Natural Resources Wales), devolved Welsh authorities with environmental responsibilities and private bodies with environmental functions (e.g. water companies). The White Paper also recognised the governance body will not be a front-line regulator itself and will not duplicate the work of existing regulators like Natural Resources Wales.

39. We recognise the caution expressed by stakeholders around listing 'individual bodies' within the Bill and concur that an approach which captures relevant public authorities within a 'general definition' would be both more encompassing and future proof. In developing this approach, we will take care to ensure that the governance body is appropriately constrained in respect of overseeing public authorities only in relation to the compliance with, and effectiveness of, environmental law.

#### Monitoring and Reporting Function

40. The White Paper proposed providing powers to the Governance Body to enable it to monitor the effectiveness and implementation of environmental law, as well as compliance with environmental law by public authorities. This was because it was recognised the Body would need to use data and assessments to fulfil its defined functions. As a result, the Body would, at times, advise the government and public authorities based on its findings.

41. The governance body would also be able to scrutinise the delivery of statutory environmental targets set by the Government, which are considered environmental law. This includes the proposed biodiversity targets.

42. We welcome the general agreement with the proposed monitoring and reporting scope and role of the governance body expressed through the consultation responses. We recognise that respondents have urged caution against duplication both in relation to data collection, and more widely. Similarly to the concerns around overlap, we will seek to strengthen the focus and purpose of the governance body, as well as enhance partnership working, to mitigate this risk as much as possible.

43. Many respondents highlighted the importance of accountability, advocating for a provision which would require Ministers and public authorities to respond to the Governance Body's requests for information and reports in a timely fashion. We agree the governance body should have the necessary supporting powers to fulfil its monitoring and reporting function. We will investigate the benefit of a general duty on Welsh Ministers and public authorities to co-operate with the Governance Body and provide reasonable assistance to any requests in relation to the governance body's functions, which would include the provision of information.
44. As highlighted in the section on the strategy, stakeholders expressed a view that the governance body's role in respect of statutory targets – including biodiversity targets – should be strengthened and clarified. We will seek to address this through a requirement to reflect this within their strategy, which would include how the governance body will work to complement and enhance the work of other relevant public bodies to scrutinise targets in Wales, rather than duplicate.

#### Advisory Function

45. The White Paper proposed the new governance body should have the power to provide informed and expert advice, which includes changes to environmental law and wider policy associated with implementation, following consideration of complaints and systemic compliance issues.
46. We welcome the feedback that respondents were generally supportive of the proposed scope and role of the Body's advisory functions. Some respondents suggested there was a need for clarity around whether the governance body could give advice based on its own initiative as opposed to when it is asked for advice, with many responses expressing a preference for the former. We agree the capability for the body to act on its own initiative is important and will develop the bill with a view to ensure this capability is clearly articulated. We will also give further consideration towards a requirement on the body to ensure the advice they give is made available to the public, where appropriate.
47. Some concerns were expressed around to what extent the governance body must give regard to requests for advice from the Welsh Ministers. We consider the governance body should be provided discretion over how such requests are dealt with. It will not be mandatory for the governance body to provide advice, but if the body determines not to provide the advice requested it must explain why. Advice given to Welsh Ministers must be published by the governance body.
48. Stakeholder engagement raised concerns on how ambiguous concerns around non-compliance could be dealt with. For example, if the governance body, through the course of an investigation, had concerns about Welsh Ministers or a public authority's implementation of environmental law which did not result in a clear-cut case of non-compliance, but nevertheless highlighted some concerns around interpretation or conduct which the governance body considers would be helpful to address.

49. In these circumstances, we are considering the merits of the body having scope to issue an advisory notice to set out relevant recommended improvements to processes or guidance to mitigate the risk of that public authority's future non-compliance with environmental law in those areas. These advisory notices should be published on the governance body's website. It is envisaged this could provide an additional tool through which the governance body could drive positive change, as well as heighten transparency.

#### Handling Complaints or Representations Function

50. The White Paper outlined how the new environmental body in Wales will handle complaints or representations about the functioning and implementation of environmental law, as well as alleged breaches of environmental law by Welsh public bodies. It highlighted that complaints would not be accepted in relation to specific decisions by public bodies (e.g., licenses or planning consents) unless they relate to broader compliance with environmental law. Further, it was expected that issues should also be addressed through the relevant public body's internal complaint procedure and any relevant regulator in the first instance.

51. The complaints procedure was to be designed by the new body and published in its strategy and would include details on how progress on complaints is communicated, the criteria used to assess complaints before investigation, how complaints can be escalated and the decision-making process.

52. Most respondents agreed with the approach outlined in the White Paper to manage complaints and representations, though we acknowledge a considerable number of respondents raised concerns about the inability of the body to handle complaints about specific / individual decisions. Furthermore, stakeholders expressed concern around the difficulties of navigating public authority internal complaints procedures. This was perceived as a potential barrier to effectively fulfilling the governance body's purpose if it were mandatory to exhaust other complaint procedures before being considered by the governance body.

53. We have reflected on these concerns and revised our approach. We do not propose to put any restrictions on representations being made to the governance body by individuals or organisations, including previously stated requirements around exhausting complaints procedures. In removing these restrictions, we want to be clear that the governance body will not act as an 'appeals body' and be expected to act on every submission it receives.

54. However, we consider it important the body has the discretion to act on intelligence provided by the public in respect of environmental law. In considering these 'representations', the governance body may decide to launch an investigation to explore these concerns further. Equally, the governance body may not feel it has enough information to take action, and it would be perfectly valid not to do so, provided this is clearly communicated. This

revised approach would, however, put this decision with the governance body itself, rather than seek to place restrictions within legislation.

55. In that context, it will be even more important that the governance body outlines in its strategy its procedures for managing representations about the effectiveness of environmental law and or alleged failures by Welsh public authorities to comply with environmental law.

### Investigation Function

56. The White Paper proposed the new governance body will be empowered to investigate alleged breaches of environmental law by Welsh public authorities. It suggested that these investigations could be initiated by the body itself, based on findings from its monitoring, as well as in response to public complaints and representations.

57. As part of the investigation function, it was proposed that the body could issue "Information Notices" requiring information from public bodies with deadlines for responses and take enforcement action against public bodies that don't comply with these notices.

58. We welcome the general support for the governance body having the power to investigate alleged breaches of environmental law, including scope for the governance body to investigate under its own initiative as well as in response to representations from the public, and the power to issue 'information notices' when further information is required. A number of respondents suggested the publication of guidance for the public to understand the principles underpinning decisions to investigate and that all decisions be published. To reflect this, we intend to place a duty on the governance body to set out its approach to investigation within its strategy. This should include (but not necessarily be limited to) how investigations will be handled, prioritised, how it intends to use information notices, and at which stage a public authority will be informed of an investigation being considered or undertaken.

### Enforcement Function

#### **Approach**

59. The White Paper proposed a range of enforcement powers for the governance body. The approach was to be escalatory in nature; whereby the body would prioritise informal resolutions and advice before resorting to enforcement actions. Further, the body was to be enabled to exercise its discretion, deciding itself how to address non-compliance based on the situation.

60. In the consultation there was support for the escalatory approach, including the use of tools and more informal processes to resolve issues, and avoid the more formal procedures.

61. The positive stakeholder feedback on the proposed approach to enforcement is welcome. We will continue developing provision to enable the Governance Body

to enforce compliance with environmental law. The Governance Body will also be required to produce an enforcement policy as part of its strategy. The policy will include details of the circumstances in which enforcement will be launched, at which stage a public authority will be informed and how it is intended to prioritise cases.

62. During our engagement, stakeholders endorsed our view that, in situations where it is deemed Welsh public authorities have failed to comply with environmental law, early corrective action is favoured ahead of an enforcement response. The governance body will therefore be empowered to work constructively with Welsh public authorities to reach an informal resolution where possible, and in doing so, the outcome must be published to aid transparency.

### **Compliance Notices**

63. The Compliance Notices mechanism was outlined in the White Paper as the primary formal method to resolve non-compliance by Welsh public authorities with environmental law. Responses endorsed this approach, though many stressed the importance of non-compliance procedures being timely and cost effective, avoiding costly legal fees between public sector bodies. It was suggested there must be processes that encourage quick resolution over a drawn-out process which could waste resources and that court action must be a last resort.

### **Appeals**

64. The White Paper welcomed views on the suggestion that a Welsh public authorities appeal against, or non-compliance with, compliance notices be referred to the proposed Welsh First-tier Tribunal. As the legislation to establish a new devolved tribunal system for Wales has not been passed yet the new Welsh tribunal system may not be operational by the time this Bill receives Royal Assent. It was highlighted that ways in which this Bill could accommodate Welsh Tribunals in the longer term would be explored. However, if this was not considered viable, then we would explore options for the Governance Body to refer non-compliance to the High Court or First-tier Tribunal of England and Wales.

65. Regarding action following an appeal against a Compliance Notice some respondents felt the tribunal system offered several advantages over the High Court, referring to access to environmental expertise and meaningful and effective remedies.

66. We gave very careful consideration to the various options and implications for action following non-compliance with a Compliance Notice by a Welsh public authority. During both engagement and in response to the consultation, certain stakeholders urged the need for proportionality and ensuring costs and added burdens placed on already stretched public authorities were minimised.

67. To reflect this, we have considered whether the prospect of costly legal fees and procedures between public sector bodies arising from the appeal process could be lessened, and whether an appeals process could be devised which reduced financial and administrative burden placed on public authorities. In addition to resource requirements, appeals to the judicial system could cause lengthy delays in the enforcement process, although it is noted that an appeal to the tribunal system could be quicker than an appeal to the High Court.
68. On balance, we have determined that a system of empowering public authorities, who wish to dispute their compliance notice, to make written representation to the governance body would be a more proportionate method for Welsh public authorities to appeal. In doing so, we will give further consideration to mechanisms that will strengthen the ability for any such appeals to be treated with fairness and transparency.
69. This could, for example, include establishing internal ‘screens’ to ensure different ‘person(s)’ handling the appeal than the ‘person(s)’ who initially issued the Compliance Notice, We are keen to work further with stakeholders on this matter to ensure confidence in a robust system.

### **Referrals to the Court**

70. Many responses to the consultation agreed that court action must be available, but only as a last resort.
71. If the Welsh Ministers or Welsh public authorities unsuccessfully appeal and /or otherwise choose not to take action in line with compliance notice, we intend to empower the governance body to refer this non-compliance to the High Court of England and Wales. This will ensure that the enforcement functions are given sufficient weight. Furthermore, this would mean that failure to adhere to the court order could result in a contempt of court under existing powers of the court providing access to the normal range of remedies available in this circumstance (which could include financial penalties).
72. We intend to explore strengthening this by including direct provision in the bill which could clarify that failing to adhere to a court order to act on the compliance notice would result in a contempt of court.

### **Judicial Review and Intervention in Civil Proceedings**

73. The White Paper outlined that, in most cases, it is expected the governance body would remedy any non-compliance with environmental law through either an advisory approach or by compliance notices (including, if necessary, escalation to the justice system). However, in some exceptional circumstances, it may be necessary for the governance body to apply for judicial review, or apply to join judicial review proceedings, without first going through the above enforcement process. For example, where the conduct of a Welsh public authority constitutes a serious or urgent failure to comply with environmental law

and it is necessary to prevent, or mitigate, serious damage to the natural environment or to human health.

74. It was also proposed that the governance body should be able to intervene in civil proceedings that are already underway for the purpose of making a submission to the court on an arising issue relating to their functions. Such intervention should be 'by exception', limited only to what is necessary to intervene to prevent, or mitigate, serious environmental harm.
75. We welcome the agreement of the majority of respondents to this approach. Stakeholders suggested powers to apply for judicial review as well as the power to intervene in civil proceedings should be explicitly stated in the Bill. Feedback also supported clarification on what is meant by 'urgent' and 'serious' failure to comply with environmental law in a judicial review context. We will give further thought to how the governance body's power to apply for judicial review is only applied by exception, such as when cases are serious or urgent.

### **Financial penalties**

76. The White Paper clarified that the body would not have the power to issue fines to public bodies, on the basis that it would be ineffective (e.g. fines may circulate money within the public sector without fixing the problem), and result in duplication of effort given existing regulators already have the power to issue fines where necessary.
77. On balance, more respondents agreed than disagreed that financial penalties would be an ineffective and, in some cases, a counterproductive method by which to remedy the non-compliance of Welsh public authorities with environmental law. While many respondents agreed that financial penalties would be ineffective, they still believed that it should be included as an option of 'last resort' after other approaches have failed.
78. We have considered this feedback and can see the merits in the enforcement process having access to financial remedies as an option of last resort. However, we think this would sit better with the courts rather than providing an express power for the governance body to issue fines. This is on the basis of ensuring that all other avenues should be exhausted first. In that respect, we consider the aforementioned approach in respect of referrals to the court would enable the courts to seek remedies for failure to comply with an Order of the Court which they consider suitable, which includes financial penalties.

### **Improvement Reports**

79. The White Paper also suggested providing a power for the body to produce Improvement Reports and submit recommendations to Welsh Ministers to consider, which could be used to address systemic compliance issues, such as when multiple public bodies fail to comply with similar aspects of environmental law. Improvement reports could also be used to report on the ineffectiveness of environmental law. These reports would include recommendations for the Welsh Ministers (and other public authorities as necessary). A duty would be placed on

Welsh Ministers to respond to these reports with an improvement plan outlining their actions or reasons for rejecting recommendations.

80. The majority of respondents agreed with the Governance Body having the scope to issue improvement reports, though clarity was sought, for example, on whether they would be available to the Senedd and placed in the public domain, as well as the proposed process if Ministers do not accept their recommendations. During engagement, stakeholders raised concerns that the approach defined in the White Paper in relation to improvement reports could also be too restrictive, as there may be wider instances in which the governance body, following investigation, does not think the non-compliance will be effectively dealt with by a compliance notice. In that respect, it may be necessary to send improvement reports to Welsh public authorities beyond only the Welsh Ministers.
81. Following the consideration of responses and engagement with stakeholders, we will develop proposals for the Governance Body to issue Improvement Reports to Welsh Ministers and, where relevant, Welsh public authorities. In doing so, we will consider provision which provides that before preparing an improvement report, the governance body must be satisfied the matter cannot be effectively addressed by a compliance notice. The report will recommend measures that should be taken to address the governance body's concerns, and also include the reasons for reaching that decision, the impact of the failure and outline the timescale for receipt of a response. The Improvement Report would need to be laid in the Senedd.

### Partnership

82. The White paper highlighted that transparency and collaboration will be key to the effectiveness of the proposed environmental governance body. In support of this, the White paper proposed the governance body must include within its strategy a section outlining how it will collaborate effectively with other organisations that share similar goals. The governance body was expected to establish clear methods for cooperation to avoid duplication of effort.
83. Respondents acknowledged our view that partnership working would be essential to clear understanding of the role and functions of the new governance body, particularly in respect of the potential for overlap with other, similar organisations, such as the Public Services Ombudsman for Wales as well as the equivalent governance bodies established through UK and Scottish legislation.
84. We will explore legal provision that best strengthens partnership working arrangements, with particular focus on avoiding the potential for duplication, overlap and inefficient use of resources. We will also seek to explore opportunities for shared resources, particularly where back-office functions can be shared to improve efficiency for the governance body, but also wider public authorities. We will, however, exercise caution to ensure the approach would not compromise the independence of the governance body, nor its effective oversight of public authorities.



## Form and Operating model of the Governance Body

### **Operating Model**

85. The White paper included consideration of the most appropriate operating model that would support the governance body's principal purpose. As part of this, particular consideration was given towards the governance body's independence from the Welsh government, the range of expertise required to address complex environmental issues, as well as the efficacy of the decision-making process. The White paper concluded a 'commission model' as a preferred approach but sought wider views.
86. The responses identified benefits (and concerns) which could emerge from both commission and arms-length body models. In reflection of this, we have determined that a 'hybrid' approach would best fit the policy intent of the governance body. For example, this would allow us to realise some of the key benefits from the commission model, such as establishing a board of experts who can advocate for the environment, whilst also using common aspects of arms-length bodies in focussing this board on providing strategic direction as 'non executive' members; and enabling a sufficiently resourced executive function (including a Chief Executive member of the board) to run the day-to-day operations. In essence, we will not be constrained by a single model, but seek to utilise relevant aspects to best achieve a well-resourced, capable, expert and independent governance body.

### **Size of the Body**

87. The White paper suggested the governance body would be led by a Board comprised of a Chair and around 7-8 other commissioners. It suggested that the Board should comprise of skillsets which included, for example, expertise in environmental law.
88. The governance body would also need to be provided with support staff. The white paper proposed back-office support for around twelve additional staff, but acknowledged further policy thinking was necessary in relation to the governance body's size and welcomed stakeholder input.
89. The responses largely agreed with the range of expertise suggested but advocated instead for a slightly reduced number of 'commissioners', who would be focused on providing strategic direction, and a stronger executive function who would focus on delivering on this direction. We recognise the merits of this approach, and particularly agree that the board should focus on strategic direction and be supported by a strong executive, with the Chief Executive sitting as a member of the board. We will develop this further with a view to better balancing direction and delivery, ensuring that the governance body can deliver its functions effectively.

## Funding

90. The White paper considered how the governance body will be funded, particularly considering the merits of funding directly through Welsh Government budgets, or otherwise exploring the Welsh Consolidated Fund. It concluded that direct funding by Welsh Government was the preferred option, as it provides more budgetary flexibility and capability to respond to changing needs. However, we also recognise additional procedures may be needed to manage potential conflicts of interest in respect of a Welsh Minister setting the budgetary allocation for a body that may be scrutinising them. By way of example, decisions on funding the governance body could be made by the Minister responsible for Finance instead of the Minister with policy responsibility for the environment.
91. We acknowledge the resourcing concerns raised by respondents, who emphasised that the governance body should be as efficient as possible and avenues should be explored to co-locate with other public bodies where possible, as well as share back-office functions, provided this does not compromise its independence and / or oversight of public authorities. We concur with this approach and will seek to develop further cost-saving mechanisms through the implementation of the governance body, though will give careful thought to ensuring this does not erode the bodies independence and ability to oversee Welsh public authorities.
92. Funding mechanisms were also raised as a particular concern, with many advocating for provision to ensure the governance body has sufficient resources as well as endorsing the role of 'ring fenced budgets'. We will develop this further and investigate the role of legislative provision as a mechanism to ensure that sufficient resources are provided by Welsh Government.

## Part C – Biodiversity

### Wales Nature Recovery Framework

93. The White Paper proposed a Wales nature recovery framework comprising of several components as outlined in Section 1 Part C above.
94. There was broad support for our proposal although respondents requested more detail on each of the separate components and raised concerns around the resources and funding needed for data collection, monitoring and to implement actions.
95. Some respondents took the opportunity to highlight the existing work of Local Nature Partnerships (LNPs) in relation to the duty in section 6 of the Environment (Wales) Act 2016 to maintain and enhance biodiversity and promote the resilience of ecosystems, and their possibility to act as a delivery mechanism for the proposed nature recovery framework.

### Headline Target

96. The White Paper proposed the Bill would include a headline target, which reflected the language of the biodiversity milestone, as developed in 2022 under the Well-being of Future Generations (Wales) Act 2015. The biodiversity targets would be developed with the aim of achieving this headline target.
97. There was general agreement for the introduction of a headline target however some respondents were concerned the proposed wording of the headline target would be unenforceable and unachievable.
98. The feasibility of the timescales specified in the wording of the headline target (particularly 'by 2030') and being able to measure progress against the headline target was also a concern for some.
99. As a result of feedback, we are considering replacing the headline target with a nature positive 'purpose or mission statement'. This will encapsulate our ambitions for a nature positive Wales to benefit people and planet and provide the basis towards which statutory and non-statutory components of the Wales Nature Recovery Framework will be directed. The purpose of legislating for biodiversity targets is to drive action with the urgency the nature crisis requires. We will continue to explore through legislation how all aspects of the nature recovery framework can best reflect that and signal key milestones, for example progress by 2030, on a journey towards nature recovery.
100. We agree with respondents to the consultation and participants in engagement workshops that in broadening the wording, we can encourage and enable action from the whole of society and support transformative change. By delivering the target more holistically, we can also address the drivers, threats, and pressures on biodiversity.
101. We stated in the White Paper that this legislation was intended to form part of our response to the GBF, which addresses the need for urgent action to tackle the biodiversity crisis. In developing a purpose or mission statement, we will consider the wording of the GBF's vision and mission, and how it could be adapted for a Welsh context. This would embed the need for transformative action to address the nature crisis within the Welsh legislative framework. The role of a headline target could be further considered as part of the development of statutory biodiversity targets in secondary legislation.
102. Recognising the proposed change from the White Paper we will undertake a targeted programme of stakeholder engagement to gain feedback on our proposal for a purpose or mission statement.

### Biodiversity Targets

103. The White Paper proposed that biodiversity targets which underpin the headline nature positive target would be set by the Welsh Ministers in secondary legislation, primarily around the following high-level topics; species (distribution, abundance and extinction risk), habitat (protection, management and restoration) and ecosystem health, resilience and restoration.

104. Respondents were positive around the proposals for the Welsh Ministers to set biodiversity targets in secondary legislation around these high-level topics although respondents wished to see a broader scope e.g., addressing drivers of biodiversity loss, tool-based targets on education, resourcing, management of natural resources, and mainstreaming, among others.
105. Respondents felt the biodiversity targets should be developed in partnership with stakeholders and experts and be timebound with both long-term and interim targets set in secondary legislation.
106. We will introduce a target-setting framework to give the Welsh Ministers the power to set biodiversity targets through secondary legislation, and there will be a duty on Welsh Ministers to set targets through regulations. Guidance will be published alongside the target regulations. When setting, amending or revoking targets the Welsh Ministers will be required to seek independent and expert advice. We will consider how the target setting framework can be utilised to link with, and contribute towards, the nature positive purpose or mission statement
107. In addition to the power and duty to set targets, there will be a duty on Welsh Ministers to ensure the targets are met.

#### State of Natural Resources Report (SoNaRR)

108. The White Paper proposed that the State of Natural Resources Report (SoNaRR), compiled by Natural Resources Wales (NRW), will report against the biodiversity targets set by Welsh Ministers to create a single definitive and accessible report for nature in Wales.
109. There was general agreement with the proposal to use SoNaRR to report against the biodiversity targets however the current resourcing available to NRW in compiling SoNaRR and the strain the additional reporting requirements could put on the organisation were highlighted as concerns.
110. Respondents also noted the need for significant additional evidence and data gathering. There was a suggestion from stakeholders to simplify the current reporting format of SoNaRR with a greater emphasis on presenting the available evidence.
111. We will continue to use SoNaRR to report on the state of natural resources in Wales. However, while reporting on the state of biodiversity SoNaRR will also report on the Welsh Ministers' progress towards achieving the nature positive purpose or mission statement and biodiversity targets. To assist this progress reporting, we will develop headline indicators which may be drawn, in part, from the indicators named in the GBF as well as other relevant Welsh, UK and international indicators. As a number of the GBF indicators are already well established, with data collected at an international or UK level, we hope to minimise the additional data monitoring required in Wales.

112. We will work closely with NRW to review the current SoNaRR format and further consider how progress could be reported in reference to the headline indicators.

### The Welsh Ministers' Statement

113. The White Paper proposed, by a specified date, that the Welsh Ministers will lay before the Senedd, and publish, a statement to report if the biodiversity targets have been achieved.

114. Respondents were positive around the proposal of a Welsh Ministers' Statement although some considered the process followed when a target was not met as weak. The original proposal would have required the Welsh Ministers to explain why a target was not met and to seek independent and expert advice on what actions are necessary to achieve the targets. Respondents asked for greater transparency and accountability of the Welsh Ministers' actions in relation to environmental policies and a raising of awareness of the importance of biodiversity throughout Wales.

115. Considering this feedback, we will strengthen the duties in the Welsh Ministers' target completion statement to include the steps to be taken if a target is missed. In the case of a missed target, we will publish further details on why the Welsh Ministers did not achieve the target and what future actions are proposed to ensure the target is achieved as soon as is reasonably practicable.

116. We will also require the Welsh Ministers to complete an evaluation report on the effectiveness of policy action taken by Welsh Ministers toward achieving the biodiversity targets and the nature positive purpose or mission statement. This report will be published the calendar year preceding a general election to inform the review of the Natural Resources Policy (NRP).

117. We agree there is a need to raise awareness of the importance of biodiversity throughout Wales and for the whole-of-society to 'act as one for nature.' We propose including a new duty on the Welsh Ministers to enhance communication, education and promote awareness of the importance of biodiversity.

### Nature Recovery Strategy

118. The White Paper proposed that the Bill includes a duty on the Welsh Ministers to prepare, publish and implement a long-term Wales Nature Recovery Strategy, outlining the approach to delivery of the biodiversity targets as well as the Welsh Government's response to the GBF.

119. A large proportion of the consultation responses support the proposal to implement a long-term nature recovery strategy, particularly one which is developed in collaboration with stakeholders, linked with other environmental

priorities and builds on existing mechanisms such as the Environment (Wales) Act 2016 and Local Nature Partnerships (LNPs).

120. Rather than creating a new strategy, we will deliver the long-term Wales Nature Recovery Strategy by adapting the existing NRP to ensure it reflects the nature recovery framework including nature positive purpose or mission statement, targets, and response to the GBF. The Welsh Ministers produce the NRP in accordance with the Environment (Wales) Act 2016. This will enable us to provide a strategy which focusses more broadly in addressing not only species and habitats aspects of biodiversity policy but also tackling pressures and drivers, adopting a more ecosystems-based approach.

### Nature Recovery Action Plan

121. The White Paper proposed that the Bill includes a duty on the Welsh Ministers to prepare, publish and implement an action plan which sets out how the biodiversity targets will be achieved.

122. There was general support for a plan which sets out the detailed programme of work required to deliver the biodiversity targets and the persons responsible for delivering the work, although some respondents doubted the impact of such a plan if it was not implemented effectively.

123. Respondents felt strongly that actions to deliver the biodiversity targets should be designed and implemented in collaboration with LNPs, and other local actors, as they already aim to deliver national targets at a local level, bringing together a wide range of expertise and experience. Respondents also suggested the programme of work should interact closely with other schemes for example, the Sustainable Farming Scheme.

124. Considering this feedback, we will look to develop a clear set of actions in collaboration with internal and external stakeholders.

125. Instead of a statutory action plan, we are considering the use of detailed delivery plans, as suggested by stakeholders, to set out the actions needed to ensure delivery of the nature recovery framework including the nature positive purpose or mission statement and biodiversity targets. We will look to work closely with organisations such as the LNPs to develop actions which support delivery of the biodiversity targets at a local level in Wales.

### Public authorities' contribution to the delivery of the biodiversity targets and mainstreaming delivery of biodiversity targets through Local Nature Recovery Action Plans

126. The White Paper proposed placing a duty on Welsh public authorities requiring them to contribute to the delivery of the biodiversity targets. The White Paper also proposed placing a duty on named public authorities to produce a Local Nature Recovery Action Plan (LNRAPs) to outline local action and priorities for delivery of the biodiversity targets.

127. There was broad support for these proposals, although there were concerns around the resource and funding implications for public authorities and the relevance of the duty to organisations with no significant land control or service provision.
128. As to which public authorities these duties should apply to, there was support for the larger list in Annex 2 of the White Paper although most respondents did not answer the question. Some respondents suggested there was an opportunity to build on the existing collaborative work between local authorities and LNPs in the development of LNRAPs.
129. Engagement with stakeholders highlighted LNPs have or are already producing local biodiversity action plans with a range of partnership organisations including ones from the private sector. There was support to utilise these and not duplicate work.
130. We will therefore not take forward the proposal to require public authorities to produce an LNRAP but will instead consider providing detailed statutory guidance and targeted support to strengthen their delivery of targets at a local level.
131. A duty on public authorities to contribute to the delivery of the biodiversity targets will be introduced. We will explore what form this duty will take and to whom the duty will apply. This will include guidance to assist public authorities in complying with this duty.

#### Resourcing for Implementation of the Framework

132. Throughout the consultation responses stakeholders highlighted the need for adequate resources – including ensuring adequate capacity-building, skills' availability, and financial resources – to implement the proposals outlined in the Bill.
133. We will consider addressing these concerns by setting targets across a broad scope. We will also examine resource availability thoroughly to ensure we can support the effective implementation of each component of the framework. As part of the legislative process, we will be undertaking a regulatory impact assessment which includes a cost-benefit analysis of each policy proposal.