



## Statement on Environmental Governance in Wales

February 2011

**Wales Environment Link (WEL)** is a network of environmental and countryside Non-Governmental Organisations in Wales, most of whom have an all-Wales remit. WEL is officially designated the intermediary body between the government and the environmental NGO sector in Wales. Its vision is to increase the effectiveness of the environmental sector in its ability to protect and improve the environment through facilitating and articulating the voice of the sector. As an umbrella body WEL helps represent the shared interests of its 32 member organisations, who in turn represent 259,000 subscribing members in Wales.

WEL's member organisations have been engaging in the development of the Welsh Assembly Government's new Natural Environment Framework and are keen to contribute to the review of delivery arrangements and functions in Wales, in order to help ensure the best possible outcomes for delivery of environmental / nature conservation policy and practice.

WEL and its member organisations are independent of political parties. We have a dedicated commitment to the Welsh environment and possess considerable knowledge and experience of how environmental governance works on the ground. Some of our member organisations are also part of pan-UK bodies and international networks, and are therefore in a position to know how different structures of governance perform in other jurisdictions.

In the light of developing ideas and activities in this area, WEL has revised our Statement on Environmental Governance in Wales. Below, we set out nine key principles which, in our view, are essential for the effective protection, sound stewardship and promotion of the environment and ought, therefore, to be followed during the current review process.

- **A clear, statutory purpose** – WEL believes that, whatever the outcome of the review of delivery arrangements, Wales needs a public body (or bodies) with a clear purpose of protecting, conserving and enhancing the environment. CCW, FCW and EAW all currently have statutory purposes, or aspects of their primary duties, relating to this. Transferring their functions to another body or bodies could effectively separate those functions from the statutory purposes and duties that give them context. Any new arrangements put in place for Wales must be based on the objective of ensuring that the environment is protected, conserved, enhanced and positively managed for the benefit of present and future generations, thereby contributing to the delivery of a meaningful sustainable development agenda.
- **Effectiveness** – We believe the important question regarding any proposed structure is its likely effectiveness in delivering the desired outcomes, and the actions, contained in the Environment Strategy, the emerging Natural Environment Framework, and other complementary policy statements which aim to protect and integrate all the dimensions of the Welsh environment. Structures of environmental governance should be determined by the

functions that need to be undertaken to achieve the desired outcomes, and not simply through organisational expediency. Those outcomes are the protection, restoration, improvement and promotion of the Welsh natural and historic environment.

- **Independence** – While the task of environmental agencies is to deliver Government policy, we believe that to be fully effective, they need to have a significant and recognisable degree of independence from Government. This is the case for instance, where an agency exercises regulatory powers over Government (e.g. Environment Agency) or has quasi-judicial powers (e.g. through a statutory or advisory role related to the planning system, or the protection and designation of sites or areas of national conservation significance) for which the Assembly Government is the ultimate decision-maker. A lack of independence in such cases could leave the Assembly Government open to challenge under EU legislation or the Human Rights Act. Moreover, environmental policies should be informed by sound scientific evidence, which in turn requires an independence of judgement. Reviews of Environmental Governance elsewhere (for example the Macrory Report 2004, relating to Northern Ireland) have highlighted this need for formal independence from Government.
- **Compliance** – As a devolved country within the UK, Wales is subject to EU law, and is party to a number of international environmental Treaties and Conventions. We believe that independent regulatory bodies can provide greater credibility and demonstrate compliance with our international obligations, in an area where public interest and confidence is crucial.
- **Public accountability, participation and transparency** – These are important issues in the modern devolved Wales, especially as the UK is a signatory to the Aarhus Convention. In the environmental sector for example, National Park Authorities and those constituent Authorities responsible for Areas of Outstanding Natural Beauty are directly accountable to their local communities through their elected representatives. Accountability and the ability to engage with local communities are important aspects of effective environmental management and promoting a culture of environmental awareness; both should therefore be retained.
- **Consultation with stakeholders** – Any significant change to environmental governance in Wales could potentially have serious implications for the Welsh environment. We hope that, in line with the Assembly's ethos as an open institution which engages with stakeholders, there will be an opportunity for genuine public debate and consultation before firm positions or proposals for changing the current arrangements are adopted. We do not consider that the recent consultation on *A Living Wales* wholly fulfilled these requirements, and we look forward to further, more detailed consultation in due course.
- **Delivery** – We believe the Assembly should recognise that any act of reorganisation itself could have potential cost implications, both financially and in terms of the disruption to effectiveness and the continued delivery of activities. Such disruption may extend over a prolonged period, as the creation and establishment of Natural England has clearly shown. Before making major structural changes, the Assembly would need to demonstrate not just that a new structure would provide added value to the current arrangements, but that it would also be more effective in any transitional period as well as in the long term. Effective delivery is the crucial aspect of any structure, current or future.
- **Maintaining active partnerships** - The Assembly needs to consider relationships between any new public body, or bodies, and other organisations and sectors. For example, many environmental NGOs have strong co-delivery partnerships and funding relationships with the current environmental public bodies, and these relationships must be taken into account to ensure that delivery on the ground is not negatively impacted.
- **Efficient cross-border working** – Any new governance structures / arrangements which may be planned in future should take account of the need to clearly address cross-border issues. There must always be clarity regarding the management and implications of cross-

border working. This includes the need to work efficiently and effectively with other UK agencies at a European and International level.

A strong, independent body, or bodies, to champion and protect the environment are crucial to enabling a balanced approach to sustainable development by the government as a whole. We believe the principles outlined above offer a sound basis for delivering a sustainable future for the Welsh environment.

### **Public Bodies Bill**

The Public Bodies Bill, currently before the House of Lords, contains broad powers for Welsh Ministers to change – through Orders – the institutional arrangements for environmental governance in Wales. The powers available to Welsh Ministers are unrestrained apart from a requirement for the consent of the Secretary of State in certain circumstances, and a duty to have regard to certain objectives: achieving increased efficiency, effectiveness and economy, and securing appropriate accountability to Welsh Ministers.

WEL believes that the National Assembly for Wales' Sustainability Committee should engage with the Parliamentary scrutiny of this Bill, as it could have far reaching consequences in both Wales and England.

We suggest that a third objective should be added to the Bill: that of ensuring that the environment is protected, conserved, enhanced and managed for the benefit of present and future generations, thereby contributing to sustainable development.