

# Y Pwyllgor Amgylchedd a Chynaliadwyedd

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Lleoliad:

Ystafell Bwyllgora 4 – Tŷ Hywel

Dyddiad:

Dydd Mercher, 3 Rhagfyr 2014

Amser:

09.15

Cynulliad  
Cenedlaethol  
Cymru

National  
Assembly for  
Wales



I gael rhagor o wybodaeth, cysylltwch â:

**Alun Davidson**

Clerc y Pwyllgor

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## Agenda

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- 1 Cyflwyniad, ymddiheuriadau a dirprwyon
- 2 Cynnig o dan Reol Sefydlog 17.42 i benderfynu gwahardd y cyhoedd o eitem 3

Sesiwn breifat

- 3 Gorchymyn Deddf Llywodraeth Cymru 2006 (Diwygio): Trafod adroddiad drafft (09:15 – 09:30) (Tudalennau 1 – 4)

E&S(4)–30–14 Papur 1

Sesiwn gyhoeddus

- 4 Bil Cynllunio (Cymru): Cyfnod 1 – Sesiwn dystiolaeth 6 (09:30 – 10:15) (Tudalennau 5 – 46)  
Cyfoeth Naturiol Cymru

Emyr Roberts, Prif weithredwr

Sarah Wood, **Arweinydd tîm Seilwaith, Ynni a Chynllunio Gofodol y Tir**

Rhian Jardine, Pennaeth cymunedau cynaliadwy

E&S(4)-30-14 Papur 2

## **5 Bil Cynllunio (Cymru): Cyfnod 1 – Sesiwn dystiolaeth 7 (10:15 – 11:15)**

(Tudalennau 47 – 57)

Roisin Willmott, Cyfarwyddwr, RTPI Cymru

Lyn Powell, Fforwm Ymgynghorwyr Cynllunio Cymru

Mark Roberts, Fforwm Ymgynghorwyr Cynllunio Cymru

E&S(4)-30-14 Papur 3

E&S(4)-30-14 Papur 4

## **6 Bil Cynllunio (Cymru): Cyfnod 1 – Sesiwn dystiolaeth 8 (11:15 – 12:15)**

(Tudalennau 58 – 73)

Morag Ellis QC, Cadeirydd, Cymdeithas y Bar ar Gynllunio a'r Amgylchedd

Huw Williams, Geldards LLP, yn cynrychioli Cymdeithas y Cyfreithwyr

Tim Morgan, Pwyllgor Cynllunio a Chyfraith Amgylcheddol, Cymdeithas y Cyfreithwyr

Dr Victoria Jenkins, Prifysgol Abertawe, yn cynrychioli Cymdeithas Cyfraith

Amgylcheddol y DU

Dr Haydn Davies, Cyd-gynullydd, Gweithgor Cymru, Cymdeithas Cyfraith

Amgylcheddol y DU

E&S(4)-30-14 Papur 5

E&S(4)-30-14 Papur 6

## **7 Papurau i'w nodi**

**Bil Llesiant Cenedlaethau'r Dyfodol (Cymru): Gohebiaeth gan Archwilydd Cyffredinol**

**Cymru** (Tudalennau 74 – 76)

E&S(4)-30-14 Papur 7

**Ymchwiliad i'r ystâd goedwig gyhoeddus yng Nghymru: Gohebiaeth gan Cyfoeth**

**Naturiol Cymru** (Tudalennau 77 – 78)

E&S(4)-30-14 Papur 8

**Cyllideb Ddrafft Llywodraeth Cymru 2015–16: Gohebiaeth gan y Gweinidog Cyfoeth Naturiol a'r Dirprwy Weinidog Ffermio a Bwyd (Tudalennau 79 – 90)**

E&S(4)–30–14 Papur 9

**Ymchwiliad i Dlodi yng Nghymru: Gohebiaeth gan Gadeirydd y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol (Tudalennau 91 – 92)**

E&S(4)–30–14 Papur 10

**Lles anifeiliaid: Gohebiaeth gan Monima O'Connor (Tudalennau 93 – 96)**

E&S(4)–30–14 Papur 11

**Lles anifeiliaid: Gohebiaeth gan Shechita UK (Tudalennau 97 – 100)**

E&S(4)–30–14 Papur 12

**Lles anifeiliaid: Gohebiaeth gan y Gynghrair Cefn Gwlad (Tudalen 101)**

E&S(4)–30–14 Papur 13

Mae cyfyngiadau ar y ddogfen hon

Mae cyfyngiadau ar y ddogfen hon



**Cyfoeth  
Naturiol  
Cymru**  
**Natural  
Resources  
Wales**

**Ymchwiliad Pwyllgor Amgylchedd a  
Chynaliadwyedd Cynulliad Cenedlaethol  
PB 39  
Bil Cynllunio (Cymru)**

**Ymateb gan Cyfoeth Naturiol Cymru**  
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Cynulliad Cenedlaethol Cymru  
Bae Caerdydd  
CF99 1NA

Annwyl Syr / Madam

## **Ymchwiliad i Egwyddorion Cyffredinol y Bil Cynllunio (Cymru): Tystiolaeth Corff Adnoddau Naturiol Cymru**

Dyma ymateb ffurfiol Corff Adnoddau Naturiol Cymru (CNC) i ymchwiliad Pwyllgor yr Amgylchedd a Chynaliadwyedd i egwyddorion cyffredinol y Bil Cynllunio (Cymru).

Diben Corff Adnoddau Naturiol Cymru (CNC) yw sicrhau bod amgylchedd ac adnoddau naturiol Cymru yn cael eu cynnal, eu gwella a'u defnyddio'n gynaliadwy. Yn y cyd-destun hwn ystyr 'yn gynaliadwy' yw gyda golwg ar wneud lles ac mewn modd sydd wedi ei ddylunio i wneud lles, i bobl, amgylchedd ac economi Cymru yn awr ac yn y dyfodol. Nodir ein swyddogaethau yng Ngorchymyn Corff Adnoddau Naturiol Cymru (Swyddogaethau) 2012. Felly, rhoddir ein sylwadau yng nghyd-destun y cylch gorchwyl hwn.

Rydym yn croesawu'r cyfle i gyfrannu at yr Ymchwiliad, am ein bod o'r farn bod y Bil Cynllunio (Cymru), ynghyd â Bil yr Amgylchedd a Bil Llesiant Cenedlaethau'r Dyfodol, yn cynnig cyfle na ddaw ond unwaith mewn cenedlaeth i wella'r fframwaith statudol ar gyfer rheoli a chynllunio adnoddau amgylcheddol a naturiol yng Nghymru mewn modd integredig yn sylweddol er mwyn ateb yr heriau sy'n wynebu Cymru. Ymhlith yr heriau hyn mae effeithiau newid yn yr hinsawdd, yr angen i ddiogelu ffynonellau ynni a defnyddio ynni'n effeithlon, adnoddau naturiol yn lleihau ac yn dirywio gan gynnwys y dirywiad parhaus mewn bioamrywiaeth, yr angen i greu a chynnal swyddi ac anghyfartalwch o ran y cyfleoedd sydd i bobl Cymru fanteisio ar y buddiannau a rydd yr amgylchedd.

Rydym o'r farn bod Bil yr Amgylchedd a Bil Llesiant Cenedlaethau'r Dyfodol, Cynllun Morol Cenedlaethol Cymru, yr Adolygiad o Dirweddau Dynodedig a'r Bil Cynllunio (Cymru) yn cyd-fynd â'i gilydd ac yn ategu ei gilydd. Er mwyn sicrhau yr eir i'r afael â'r heriau amgylcheddol, cymdeithasol ac economaidd sy'n ein hwynebu mewn modd cydgysylltiedig, mae'n bwysig bod y cysylltiadau hyn yn cael eu cydnabod a'u cyfleu'n glir yng nghyd-destun y broses ehangach o ddiwygio a darparu gwasanaethau cyhoeddus yng Nghymru.

O fewn y fframwaith polisi hwn bwriedir i'r System gynllunio reoli'r modd y caiff tir ei ddatblygu a'i ddefnyddio er budd y cyhoedd ac mae'n ddull pwysig o gyflawni datblygu cynaliadwy a chanlyniadau a rennir mewn cyd-destun gofodol. Yn ogystal â darparu tir ar gyfer gwaith datblygu a seilwaith, mae'r system gynllunio hefyd yn diogelu'r amgylchedd ac yn cynnig cyfleoedd i'w wella. Rydym yn croesawu nod y Bil i ddarparu system gynllunio gadarnhaol sy'n galluogi gwaith datblygu sy'n helpu i ddarparu lleoedd cynaliadwy tra'n diogelu amgylchedd Cymru ac yn cynnig cyfleoedd i'w wella fel sy'n ofynnol. Mae gan CNC rôl allweddol i'w chwarae o ran cefnogi'r cynigion yn y Bil Cynllunio (Cymru) drwy roi tystiolaeth ac arweiniad ac wrth gyflawni ein rôl fel ymgynghorai statudol. Wrth gyflawni rôl ymgynghorai statudol, mae'r Bil yn cynnig y byddwn yn rhoi cyngor statudol drwy gyflwyno ymatebion o sylwedd ar sawl cam yn ystod y broses gwneud cais cynllunio. Bydd hyn yn cynnwys cyngor ar effaith amgylcheddol gwaith datblygu, ac atebion posibl, i roi gwybodaeth i ddatblygwyr a'r rhai sy'n gwneud penderfyniadau er mwyn sicrhau y caiff y datblygiad cywir ei leoli yn y lle cywir a'i gyflawni o fewn paramedrau'r effaith a aseswyd ar gyfer datblygiadau.

Mae CNC wedi datblygu cyfres o Amcanion Strategol ar gyfer ein Cyngor Cynllunio, a gymeradwywyd gan ein Bwrdd ar 18 Rhagfyr 2013. Mae'r rhain yn cyd-fynd â'r dull gweithredu cyffredinol a nodir yn y Bil Cynllunio (Cymru). Maent yn pwysleisio bod angen symud tuag at fabwysiadu dull galluogi sy'n seiliedig ar atebion, gan weithio'n strategol a thrwy ymgysylltu'n gynnar â datblygwyr a'r rhai sy'n gwneud penderfyniadau er mwyn galluogi'r datblygiad cywir i gael ei gyflawni yn y lleoliad cywir tra'n parchu terfynau amgylcheddol yn unol â'r dull ecosystem. Atodir copi o'n Hamcanion Strategol yn Atodiad 2 er gwybodaeth.

Mae ein hymateb i'r Bil Cynllunio (Cymru) yn pwysleisio pwysigrwydd y canlynol:

- Integreiddio deddfwriaeth, polisiâu a chynlluniau;
- Orlhain caniatadau a thrwyddedau cynllunio a chaniatadau a thrwyddedau amgylcheddol cysylltiedig yn gyfochrog;
- Integreiddio canlyniadau er mwyn sicrhau bod gwaith datblygu yn esgor ar y manteision mwyaf posibl;
- Y cyfle i ddatblygu sail dystiolaeth gyffredin er mwyn llywio'r Polisi Adnoddau Naturiol Cenedlaethol, y Fframwaith Datblygu Cenedlaethol a Chynllun Morol Cenedlaethol Cymru.
- Ymgysylltu'n strategol â'r Fframwaith Datblygu Cenedlaethol a chynlluniau strategol eraill er mwyn rhoi tystiolaeth a chynngor i gyfeirio gwaith datblygu a seilwaith o bwys cenedlaethol i'r lleoliadau mwyaf addas;
- Ymgysylltu'n gynnar â'r broses rheoli datblygu - yn ystod cam dewis y safle;
- Eglurder ynglŷn â rôl arfaethedig ymgynghoreion statudol ac eraill yn y broses gynllunio yn y dyfodol.

Nodwn fod y Bil yn nodi nifer o ddarpariaethau sy'n dibynnu ar is-ddeddfwriaeth i'w rhoi ar waith. Er nad yw llawer o'r manylion hyn ar gael ar hyn o bryd, rydym o'r farn y bydd yr is-ddeddfwriaeth hon yn bwysig iawn. Mae Cyfoeth Naturiol Cymru yn edrych ymlaen at drafodaeth barhaus ynghylch cwrpas a manylion darpariaethau is-ddeddfwriaeth.

Nodwn fod yr Aseiad Effaith Rheoleiddiol wedi ystyried opsiynau, costau a manteision cynigion ar gyfer Ymgylchedd Statudol, gan gynnwys pa mor ddymunol yw cynnal ymgynghoriad statudol a'r gofyniad i gyflwyno ymatebion o sylwedd ar gamau ychwanegol o'r Broses gynllunio. Edrychwn ymlaen at weithio gyda Llywodraeth Cymru i nodi cwmpas llawn y cyfrifoldebau newydd hyn, ein priod rolau, yn arbennig mewn perthynas â'r broses caniatadau gysylltiedig, a'r ffordd orau o ddarparu adnoddau ar eu cyfer er mwyn sicrhau ein bod mor effeithiol â phosibl wrth gyflawni amcanion polisi Llywodraeth Cymru o ran y Bil Cynllunio, Bil yr Amgylchedd a Bil Llesiant Cenedlaethau'r Dyfodol, a Chynllun Morol Cenedlaethol Cymru sy'n datblygu.

Byddwn yn parhau i weithio gyda Llywodraeth Cymru a rhanddeiliaid eraill i ddatblygu manylion y darn pwysig hwn o ddeddfwriaeth ac is-ddeddfwriaeth, polisi a chanllawiau technegol cysylltiedig ymhellach.

Nodir ein hymateb manwl i delerau ymchwiliad y Pwyllgor yn Atodiad 1.

Yn olaf, yr wythnos hon gwahoddwyd CNC i ddod i roi tystiolaeth lafar i'r Pwyllgor a bydd yn bleser gennym wneud hynny.

Yn gywir



**Pennaeth Cymunedau Cynaliadwy**  
**Head of Sustainable Communities**

## Ymchwiliad i Egwyddorion Cyffredinol y Bil Cynllunio (Cymru)

### Tystiolaeth Corff Adnoddau Naturiol Cymru

#### 1. Egwyddorion Cyffredinol y Bil Cynllunio (Cymru) a'r angen am ddeddfwriaeth mewn meysydd penodol.

Rydym yn croesawu'r cyfle i gyfrannu at yr Ymchwiliad, am ein bod o'r farn bod y Bil Cynllunio (Cymru), ynghyd â Bil yr Amgylchedd a Bil Llesiant Cenedlaethau'r Dyfodol, yn cynnig cyfle na ddaw ond unwaith mewn cenhedlaeth i integreiddio'r fframwaith statudol ar gyfer rheoli a chynllunio adnoddau amgylcheddol a naturiol yng Nghymru. Rydym o'r farn bod Bil yr Amgylchedd, Bil Llesiant Cenedlaethau'r Dyfodol, Cynllun Morol Cenedlaethol Cymru, yr Adolygiad o Dirweddau Dynodedig a'r Bil Cynllunio (Cymru) yn cyd-fynd â'i gilydd ac yn ategu ei gilydd. Er mwyn sicrhau yr eir i'r afael â'r heriau amgylcheddol, cymdeithasol ac economaidd sy'n ein hwynebu mewn modd cydgysylltiedig, mae'n bwysig bod y cysylltiadau a'r cydgysylltiadau hyn yn cael eu cydnabod a'u cyfleu'n glir drwy'r gwahanol Filiau yng nghyd-destun y broses ehangach o ddiwygio a darparu gwasanaethau cyhoeddus yng Nghymru.

Ymhlith yr heriau sy'n ein hwynebu mae mynd i'r afael ag achosion ac effeithiau newid yn yr hinsawdd, yr angen i ddiogelu ffynonellau ynni a defnyddio ynni'n effeithlon, adnoddau naturiol yn lleihau ac yn dirywio gan gynnwys y dirywiad parhaus mewn bioamrywiaeth, yr angen i greu a chynnal swyddi ac anghyfartalwch o ran y cyfleoedd sydd i bobl Cymru fanteisio ar y buddiannau a rydd yr amgylchedd. Mae angen ateb yr heriau hyn yng nghyd-destun y prosesau ehangach sy'n effeithio ar y modd y darperir gwasanaethau cyhoeddus ledled Cymru.

Bwriedir i'r System gynllunio reoli'r modd y caiff tir ei ddatblygu a'i ddefnyddio er budd y cyhoedd ac mae'n ddull pwysig o gyflawni datblygu cynaliadwy a chanlyniadau a rennir mewn cyd-destun gofodol. Yn ogystal â darparu tir ar gyfer gwaith datblygu a seilwaith, mae'r system gynllunio hefyd yn diogelu'r amgylchedd ac yn cynnig cyfleoedd i'w wella. Rydym yn croesawu nod y Bil i ddarparu system gynllunio gadarnhaol sy'n galluogi gwaith datblygu sy'n helpu i ddarparu lleoedd cynaliadwy tra'n diogelu amgylchedd Cymru ac yn cynnig cyfleoedd i'w wella fel sy'n ofynnol.

Mae CNC wedi datblygu cyfres o Amcanion Strategol ar gyfer ein Cyngor Cynllunio, a gymeradwywyd gan ein Bwrdd ar 18 Rhagfyr 2013. Mae'r rhain yn adlewyrchu'r dull gweithredu cyffredinol a nodir yn y Bil Cynllunio (Cymru). Maent yn pwysleisio bod angen symud tuag at fabwysiadu dull galluogi sy'n seiliedig ar atebion, gan weithio'n strategol a thrwy ymgysylltu'n gynnar â datblygwyr a'r rhai sy'n gwneud penderfyniadau er mwyn galluogi'r datblygiad cywir i gael ei gyflawni yn y lleoliad cywir tra'n parchu terfynau amgylcheddol h.y. mabwysiadu'r dull ecosystem. Atodir copi o'n Hamcanion Strategol yn Atodiad 2 er gwybodaeth.

## Y gofyniad i lunio cynllun defnydd tir cenedlaethol, y Fframwaith Datblygu Cenedlaethol

Mae CNC yn croesawu'r cynnig i gyflwyno Fframwaith Datblygu Cenedlaethol (FfDC) yn lle Cynllun Gofodol Cymru. Bydd y FfDC yn seiliedig ar dystiolaeth ac, felly, mae'n cynnig cyfle i gyfeirio gwaith datblygu a seilwaith cenedlaethol-strategol i'r lleoliadau mwyaf priodol yn seiliedig ar dystiolaeth glir, y darperir rhywfaint ohoni yn yr Adroddiad ar Gyflwr Adnoddau Naturiol a, maes o law, y datganiad ar y Polisi Adnoddau Naturiol Cenedlaethol a'r datganiad ar Adnoddau Naturiol Ardaloedd. Yn y cyd-destun hwn bydd yn bwysig bod seilwaith gwyrdd yn cael ei nodi yn y FfDC a'r rôl y mae'n ei chwarae o ran sicrhau manteision lluosog megis rheoli perygl llifogydd a sicrhau manteision iechyd, gan leihau'r costau cymdeithasol ac economaidd sy'n gysylltiedig â llifogydd ac iechyd gwael i'r llywodraeth, busnesau a chymunedau.

Bydd integreiddio rhwng y FfDC, y Polisi Adnoddau Naturiol Cenedlaethol a Chynllun Morol Cenedlaethol Cymru yn hanfodol i sicrhau atebion integredig i'r heriau economaidd, cymdeithasol ac amgylcheddol sy'n wynebu Cymru yng nghyd-destun y Nodau a nodir ym Mil Llesiant Cenedlaethau'r Dyfodol.

Mae cyfle mawr i ddatblygu sail dystiolaeth gyffredin er mwyn llywio'r Polisi Adnoddau Naturiol Cenedlaethol, y Fframwaith Datblygu Cenedlaethol a Chynllun Morol Cenedlaethol Cymru.

Bydd angen i'r CNC wneud y canlynol:

- diffinio'n glir rôl y system cynllunio defnydd tir o ran cyflawni canlyniadau cenedlaethol y llywodraeth ac unrhyw nodau hirdymor sy'n deillio o Fil Llesiant Cenedlaethau'r Dyfodol sydd ar fin cael ei gyhoeddi, Cynllun Morol Cenedlaethol Cymru a darpariaethau a geir ym Mil yr Amgylchedd yn y dyfodol sy'n ymwneud â Rheoli Adnoddau Naturiol.
- nodi gweledigaeth hirdymor sy'n canolbwyntio ar gyflawni nodau a chanlyniadau datblygu cynaliadwy er mwyn sicrhau economi ac amgylchedd cadarn.
- cyfleu'r gydberthynas rhwng haenau gwahanol cynlluniau a phrosesau yn glir
- cyfleu'r gydberthynas rhwng y FfDC, Cynllun Morol Cenedlaethol Cymru, Cynllun Buddsoddi yn Seilwaith Cymru, Strategaeth Cymru ar y Newid yn yr Hinsawdd a'i Chynlluniau Ymaddasu Sectoraidd cysylltiedig a Strategaeth Drafnidiaeth Cymru a'r mynegiant gofodol o ddatblygiadau a seilwaith mawr sy'n deillio o Gynlluniau a rhaglenni annatganoledig yn glir e.e. Datganiadau Polisi Cenedlaethol
- cyfleu'r gydberthynas rhwng y FfDC a chynnig Polisi Adnoddau Naturiol ar gyfer Bil yr Amgylchedd a rhwng y FfDC a Chynllun Morol Cenedlaethol Cymru. Dylai Adran 60B o'r Bil Cynllunio (Cymru) wneud darpariaethau i'r Gweinidogion roi sylw i bolisi adnoddau naturiol a Chynllun Morol Cenedlaethol Cymru, neu eu hystyried, wrth lunio'r FfDC.
- egluro y bydd y FfDC yn nodi mynegiant gofodol Polisi Adnoddau Naturiol gan gynnwys seilwaith gwyrdd a hamdden strategol a darparu mynediad, amddiffyn rhag llifogydd a mesurau rheoli perygl llifogydd eraill, megis mesurau rheoli dalgyldio ucheldirol ynghyd ac amgylcheddau sydd o dan bwysau a dynodiadau sydd o bwys Cenedlaethol a Rhyngwladol.

- cadarnhau a gaiff Datblygiadau o Arwyddocâd Cenedlaethol eu harwain gan feini prawf neu eu hadlewyrchu'n ofodol yn y FfDC, wedi'u llywio gan Gynllun Buddsoddi yn Seilwaith Cymru, Strategaeth Drafnidiaeth Cymru a Pholisi Adnoddau Naturiol.
- nodi'r gofynion allweddol o ran adnoddau naturiol y bydd angen i brosesau pennu targedau a dyrannu tir ymhellach i lawr yr hierarchaeth gynllunio eu hystyried e.e. argaeledd adnoddau dŵr wrth bennu targedau dyraniadau tai ar gyfer Cynlluniau Datblygu Strategol (CDS) a Chynlluniau Datblygu Lleol (CDLI).
- cysoni'r cyfnod adolygu â'r un a gynigir ar gyfer y Polisi Adnoddau Naturiol ac Adroddiadau ar Gyflwr Adnoddau Naturiol.

Rydym yn nodi ac yn croesawu statws cynllun datblygu'r FfDC a bod y Bil yn ei gwneud yn ofynnol i Arfarniad o Gynaliadwyedd ac Asesiad Amgylcheddol Strategol gael eu cynnal ar ei gyfer. Bydd hyn yn helpu i ddarparu eglurder, sicrwydd a chysondeb drwy'r hierarchaeth gynllunio yng Nghymru ac osgoi gwrthdaro diangen ac oedi sy'n deillio o waith datblygu amhriodol mewn lleoliadau amhriodol. Yn benodol, mae rhai materion amgylcheddol megis perygl llifogydd yn amlygu eu hunain ar raddfeydd gofodol rhanbarthol neu genedlaethol, megis dalgylchoedd afonydd mawr a chelloedd prosesau arfordirol. Dylid ymdrin â'r materion hyn a materion amgylcheddol eraill yn gyntaf ar y lefel cynllunio gofodol genedlaethol er mwyn dylanwadu yn y ffordd fwyaf effeithiol ar benderfyniadau ynghylch datblygiadau strategol a lleol.

Bydd angen i fuddsoddiad mewn datblygiadau a seilwaith o'r fath fod yn seiliedig ar dystiolaeth amgylcheddol gadarn er mwyn sicrhau y caiff cynigion eu cyfeirio at leoliadau a all gyflawni canlyniadau bwriadedig ar gyfer yr hirdymor, a'u bod hefyd yn gallu gwrthsefyll heriau presennol a heriau yn y dyfodol megis effaith newid yn yr hinsawdd.

Gall y FfDC chwarae rôl bwysig o ran cyflawni targedau Cymru ar gyfer lleihau allyriadau mewn ffordd y bydd penderfyniadau cynllunio lleol anghydgyssylltiedig yn methu â'u cyflawni. Bydd yn bwysig sicrhau bod Asesiadau Amgylcheddol Strategol/Arfarniadau o Gynaliadwyedd yn addas at y diben ac yn dangos cynaliadwyedd hirdymor. Yn y cyddestun hwn, ac o gofio pa mor bwysig yw cyflawni targedau'r EU, y DU a Llywodraeth Cymru ar gyfer lleihau carbon, dylai fod yn ofynnol i'r Fframwaith a'i gynigion ddangos bod allyriadau carbon wedi lleihau o leiaf 3 y cant bob blwyddyn, dros gyfnod y Fframwaith. Mae lleihau allyriadau carbon yn unol â thargedau Llywodraeth Cymru yn gam allweddol tuag at sicrhau cynaliadwyedd hirdymor. Yn yr un modd, dylai proses yr Asesiad Amgylcheddol Strategol ddangos sut mae'r datblygiadau a gynigir yn y FfDC a'u heffaith gyfunol yn lleihau'r effaith ar adnoddau naturiol yn unol, er enghraifft, â thargedau ar gyfer Bioamrywiaeth.

Er mwyn darparu Arfarniadau o Gynaliadwyedd/Asesiadau Amgylcheddol Strategol sy'n addas at y diben bydd yn bwysig sicrhau bod yr arbenigedd a'r cymwyseddau angenrheidiol ar gael, yn arbennig os bwriedir iddo ddarparu'r fframwaith sydd ar raddfa fwy na'r ardal leol a chyfrif am holl effeithiau'r Cynllun. Bydd angen cynnal asesiad realistig o'r holl effeithiau ar lefel y FfDC. Ni ddylid diraddio'r asesiadau hyn i Arfarniadau o Gynaliadwyedd/Asesiadau Amgylcheddol Strategol y Cynlluniau Datblygu Strategol (CDS) a'r Cynlluniau Datblygu Lleol (CDLI) haen is, fel bod y darlun ehangach a gynigir yn y FfDC

yn gweld sut mae'n cyfrannu at effeithiau amgylcheddol, yn ogystal â sicrhau manteision economaidd, cymdeithasol ac amgylcheddol.

Er ein bod yn croesawu'r gofyniad i gynnal Arfarniad o Gynaliadwyedd/Asesiad Amgylcheddol Strategol, rydym yn pryderu nad oes unrhyw gyfeiriad at yr angen i gynnal Asesiad Rheoliadau Cynefinoedd o'r Cynllun er mwyn sicrhau y cydymffurfir â gofynion Rheoliadau Gwarchod Cynefinoedd a Rhywogaethau (fel y'u diwygiwyd) (Rheoliadau Cynefinoedd) sy'n trosi gofynion Cyfarwyddeb Cynefinoedd y Comisiwn Ewropeaidd (Cyfarwyddeb y Cyngor 92/43/EEC ar Warchod cynefinoedd naturiol a ffawna a fflora gwyllt) yn gyfraith y DU, ac y rhoddir ystyriaeth lawn i'r gofynion hynny. Felly, dylid ystyried diwygio Adran 60B(1) o'r Bil er mwyn cynnwys y gofyniad i gynnal Asesiad Rheoliadau Cynefinoedd, naill ai drwy fewnosod y cyfeiriad fel rhan o (c) neu drwy fewnosod maen prawf ychwanegol.

Bydd angen ystyried y cynigion ar gyfer craffu ar y FfDC a'i adolygu yn ofalus, ar arbennig os bwriedir cynnwys elfennau gofodol Nodiadau Cyngor Technegol (TANs) sy'n bodoli eisoes, megis TAN 8 a Tan 15, yn y FfDC. Gan y bydd yn ofynnol i Gynlluniau Datblygu Strategol (CDS) a Chynlluniau Datblygu Lleol (CDLI) gydymffurfio â'r FfDC, mae hefyd yn rhoi'r cyd-destun ar gyfer y ddau gynllun hyn ac, felly, mae'n hanfodol bwysig y creffir arno'n briodol cyn iddo gael ei gyhoeddi'n derfynol.

### **Creu Cynlluniau Datblygu Strategol er mwyn ymdrin â materion trawsffiniol sy'n bwysig y tu hwnt i lefel leol.**

Mae sawl ardal yng Nghymru lle y bydd materion trawsffiniol sy'n bwysig y tu hwnt i lefel leol yn elwa ar fwy o gydweithredu rhwng awdurdodau ac o gael eu hystyried ar y lefel strategol neu ranbarthol. Yn fwyaf nodedig mae'r rhain yn cynnwys dyraniadau tai, yn arbennig ar gyfer De-ddwyrain Cymru a Chaerdydd, a Gogledd-ddwyrain Cymru; dyraniadau mwynau a dyraniadau gwastraff; a seilwaith gwyrdd a glas, wedi'i lywio gan dystiolaeth a datganiadau o ran Adnoddau Naturiol Ardaloedd, i ategu'r gwaith o ddarparu seilwaith llwyd. Felly, ymddengys fod Cynlluniau Datblygu Strategol (CDSau) yn ddull priodol o ystyried materion o'r fath.

Fodd bynnag, gan fod awdurdodau lleol mwy o faint yn cael eu hystyried yn sgil yr argymhellion a nodir yn *Adroddiad y Comisiwn ar Lywodraethu a Darparu Gwasanaethau Cyhoeddus* (Adroddiad Williams), rhagwelir, os caiff newidiadau o'r fath eu cyflwyno, y bydd nifer o Gynlluniau Datblygu Lleol yn cwmpasu ardal lawer helaethach ac, felly, y byddant yn dod yn fwy strategol eu natur.

Nid yw'n glir o'r Bil beth fydd y gydberthynas rhwng CDSau, Cynlluniau Datblygu Lleol (CDLlau) awdurdodau lleol mwy o faint a thystiolaeth a datganiadau o ran Adnoddau Naturiol Ardaloedd. Bydd angen diffinio'r gydberthynas hon neu gyfeirio at y darpariaethau ar ei chyfer er mwyn iddi gael ei hegluro mewn is-ddeddfwriaeth.

Yn yr un modd, mewn ardaloedd lle na chynigir unrhyw CDSau, bydd angen i'r FfDC ddarparu fframwaith digonol ar gyfer CDLI yr ardal, er mwyn sicrhau y gall y CDLI ddangos y gydymffurfiaeth angenrheidiol â'r FfDC.

Fel y nodwyd ar gyfer y FfDC, rydym hefyd yn croesawu'r gofyniad i'r Panel Cynllunio Strategol gynnal Asesiad o Gynaliadwyedd ac Asesiad Amgylcheddol Strategol o'r CDS. Fodd bynnag, fel yn achos y FfDC, rydym yn pryderu nad oes unrhyw gyfeiriad at y gofyniad i gynnal Asesiad Rheoliadau Cynefinoedd o'r CDS. Rydym o'r farn bod hyn yn hepgoriad yn y Bil ac yn awgrymu y dylid ei gynnwys.

Yn yr un modd, nid oes unrhyw ofyniad deddfwriaethol i'r CDS gael ei lywio gan y Polisi Adnoddau Naturiol Cenedlaethol na Datganiadau ar Adnoddau Naturiol Ardaloedd, er i Baragraff 5.26 o'r Ymgynghoriad ynghylch Cynllunio Cadarnhaol nodi y câi CDSau eu llywio ganddo a'r dull o reoli adnoddau naturiol ar sail ardal. Er mwyn sicrhau bod y Bil a Bil yr Amgylchedd sydd ar ddod yn cael eu hintegreiddio a'u bod yn ategu ei gilydd, rydym yn argymhell y dylid diwygio Adran 601 (6) arfaethedig o Ddeddf 1990 y cyfeirir ati yn y Bil drwy ychwanegu cyfeiriad sy'n ei gwneud yn ofynnol i CDSau roi sylw i'r Polisi Adnoddau Naturiol Cenedlaethol a'r dull o Reoli Adnoddau Naturiol ar sail ardal neu eu hystyried.

Rydym hefyd o'r farn y dylai'r Pwyllgor bwysleisio pa mor bwysig ydyw bod yn rhaid i'r CDS roi sylw i'r prosesau cydgysylltu a'r amserlenni rhwng y cynlluniau y cyfeiriwyd atynt uchod a'r CDS, yn ogystal â phrosesau cydgysylltu ac amserlenni cynlluniau rhanbarthol Cenedlaethol eraill, gan gynnwys:

- Polisi Adnoddau Naturiol Cenedlaethol
- Cynllun Morol Cenedlaethol Cymru
- Cynllun Buddsoddi yn Seilwaith Cymru
- Strategaeth Newid yn yr Hinsawdd
- Datganiadau Rheoli Adnoddau Naturiol Ardaloedd
- Y Cynllun Datblygu Lleol
- Cynlluniau Llesiant
- Cynlluniau Rheoli Parciau Cenedlaethol ac Ardaloedd o Harddwch Naturiol Eithriadol
- Cynlluniau Trafnidiaeth Rhanbarthol

Dylai'r Pwyllgor hefyd geisio darpariaethau sy'n ei gwneud yn ofynnol i wybodaeth am y prosesau cydgysylltu gael ei nodi mewn is-ddeddfwriaeth.

Rydym yn pwysleisio, yn benodol, fod rhai materion amgylcheddol megis perygl llifogydd, lliniaru newid yn yr hinsawdd ac ymaddasu yn amlygu eu hunain ar raddfeydd gofodol rhanbarthol neu genedlaethol, megis dalgylchoedd afonydd mawr a chelloedd prosesau arfordirol. Dylid ymdrin â'r materion hyn a materion amgylcheddol eraill yn gyntaf ar y lefel cynllunio gofodol genedlaethol, gan integreiddio'r Polisi Adnoddau Naturiol Cenedlaethol, Cynllun Morol Cenedlaethol Cymru a'r Fframwaith Datblygu Cenedlaethol, er mwyn dylanwadu yn y ffordd fwyaf effeithiol ar benderfyniadau ynghylch datblygiadau strategol a lleol.

### **Newidiadau i Weithdrefnau Cynlluniau Datblygu Lleol**

Ar y cyfan rydym yn croesawu'r cynigion i fireinio proses y CDLI ac y dylai CDLIau gydymffurfio â'r FfDC a, lle y bo'n berthnasol, CDSau. Fodd bynnag, bydd angen

canllawiau ar sut y dylid datrys unrhyw wrthdaro rhwng yr awdurdodau gwahanol, yn enwedig os ydynt yn dal i fod ar y cam archwilio o broses y CDLI.

Rydym o'r farn, os oes digon o dystiolaeth o blaid llunio CDLI ar y cyd, y gall fod yn ddull defnyddiol o ddarparu fframwaith lleol/isranbarthol er mwyn datrys gwrthdaro rhwng dyraniadau tir a gallu'r amgylchedd i ddarparu ar gyfer newid mewn perthynas, er enghraifft, â pherygl llifogydd, adnoddau dŵr neu safleoedd Natura 2000.

### **Rhoi mwy o bwyslais ar gamau cychwynnol y broses rheoli datblygu drwy ddarparu ar gyfer gwasanaethau cyn ymgeisio**

Rydym yn croesawu'r potensial i ddylanwadu ar gynllun a lleoliad ceisiadau yn ystod cam cyn ymgeisio cynnig er mwyn ceisio sicrhau bod effeithiau amgylcheddol yn cael eu lleihau i'r eithaf a bod unrhyw gyfleoedd i wella seilwaith gwyrdd a glas a mynediad i ddarpariaeth mannau gwyrdd yn cael eu hystyried.

Fodd bynnag, mae ein profiad o gamau cyn ymgeisio ceisiadau ar gyfer Prosiectau Seilwaith o Arwyddocâd Cenedlaethol (Deddf Cynllunio 2008) wedi dangos y gall fod angen i ymgynghoreion ddefnyddio llawer o adnoddau yn ystod y cam hwn. Yn aml, gall ymgynghoriadau cyn ymgeisio gynnwys adolygu sawl fersiwn o wybodaeth a gyflwynir gan ymgeiswyr cyn i gais gael ei gyflwyno'n derfynol i'r sawl sy'n gwneud y penderfyniad. Felly, mae'n bwysig bod disgwyliadau o ran yr hyn y gall ymgeiswyr ei ddisgwyl gan ymgynghoreion ar y cam hwn, a'r hyn y gall ymgynghoreion ei ddisgwyl gan ymgeiswyr, yn cael eu nodi'n glir o'r dechrau.

Er ein bod yn llwyr gydnabod gwerth ymgynghori cyn ymgeisio, ar hyn o bryd, yn aml, mae y tu hwnt i'n rhwymedigaethau statudol presennol a gall ddefnyddio llawer o adnoddau. O ganlyniad, ni allwn ddarparu lefel gyson o wasanaeth cyn ymgeisio ledled Cymru bob amser. Mae CNC yn gweithio i ddatblygu a safoni'r gwasanaeth hwn gan gydnabod y ffactorau hyn. Fel rhan o hyn mae ein Bwrdd wedi gofyn i ni edrych ar yr opsiynau, y manteision a'r costau sy'n gysylltiedig â chyflwyno elfen codi tâl am gyngor anstatudol, gan ddysgu o'r modelau sy'n cael eu defnyddio a'u datblygu gan sefydliadau sy'n cynnig y gwasanaeth hwn eisoes, gan gynnwys y rhai sy'n cael eu mabwysiadu yn Lloegr. Mae CNC wrthi'n ceisio barn ar opsiynau i godi tâl am wasanaethau cynllunio anstatudol fel rhan o ymgynghoriad ynghylch ein cynllun codi tâl ar gyfer 2015-16.

Bydd angen ystyried cyflwyno gofyniad statudol, ar y cam cyn ymgeisio ar gyfer Datblygiadau o Arwyddocâd Cenedlaethol a cheisiadau sylweddol, i ymgynghoreion statudol roi ymatebion o sylwedd, fel rhan o'n gwelliannau i wasanaethau a'n hopsiynau ar gyfer codi tâl. Mae angen diffinio elfen statudol ar y cam cyn ymgeisio yn fanwl neu rydym yn awgrymu y gallai fod canlyniadau anfwriadol i ymgynghoreion statudol.

Nodwn fod darpariaeth yn cael ei gwneud ar gyfer manylu ar y cynigion mewn is-ddeddfwriaeth, gyda rhagor o fanylion yn cael eu rhoi yn ymgynghoriad presennol Llywodraeth Cymru – Rhoi pwyslais ar brosesau cychwynnol y system rheoli datblygu – sy'n nodi y bydd angen cyngor pwrpasol er mwyn sicrhau y caiff y cynigion a'r safle eu hystyried yn llawn. Bydd CNC yn ymateb i'r ymgynghoriad hwn ym mis Ionawr.

Nodwn hefyd y bydd yn ofynnol i ymgylgoreion statudol lunio adroddiad monitro blynyddol sy'n nodi cydymffurfiaeth â'r gofyniad i roi ymatebion o sylwedd fel cyngor cyn ymgeisio, ac o fewn y terfynau amser a nodwyd. Rydym o'r farn bod y dangosyddion a gynigir ar hyn o bryd yn fan cychwyn da ond y gellid eu gwella drwy roi mwy o bwyslais ar ganlyniadau yn ogystal ag allbynnau, er enghraifft drwy gysylltu hyn â'r dangosyddion sy'n deillio o Fil Llesiant Cenedlaethau'r Dyfodol (Cymru).

## **Cyflwyno categori newydd o ddatblygiad a elwir yn Ddatblygiadau o Arwyddocâd Cenedlaethol i'w penderfynu gan Weinidogion Cymru**

Mae CNC yn cefnogi categori arfaethedig Datblygiadau o Arwyddocâd Cenedlaethol (DAC) mewn egwyddor ar gyfer datblygiadau sydd o arwyddocâd 'Cenedlaethol'. Bydd angen i'r Bil ac is-ddeddfwriaeth egluro'r cysylltiadau rhyngddynt hwy a'r FfDC a'r mynegiant gofodol o ddatblygiad a seilwaith sylweddol sy'n deillio o Ddatganiadau Polisi Cenedlaethol a Chynlluniau a Rhaglenni annatganoledig eraill. At hynny, bydd yn bwysig bod eu trothwyon a'u meini prawf yn cael eu nodi'n glir.

Nodwn y ddarpariaeth ar gyfer caniatadau cysylltiedig eilaidd mewn perthynas â cheisiadau penodol, gan gynnwys DAC, yr ymdrinnir â hwy gan y Gweinidogion. Er y gallai hyn gyflymu'r broses o benderfynu ar gynigion drwy ei gwneud hi'n bosibl eu hystyried ar yr un pryd, bydd angen i'r broses o weithredu'r cynnig, a'r goblygiadau o ran adnoddau, gael eu trafod yn ofalus rhwng y Llywodraeth, ymgylgoreion statudol ac awdurdodau cynllunio lleol.

Bydd hefyd yn bwysig ystyried goblygiadau cyfrannu at y Prosiect Seilwaith o Arwyddocâd Cenedlaethol a phrosesau Datblygiadau o Arwyddocâd Cenedlaethol o ran adnoddau i CNC pan gaiff ceisiadau eu cyflwyno ar yr un pryd, fel sy'n debygol o ddigwydd, a'r cydbwysedd sydd i'w sicrhau wrth geisio sicrhau bod digon o adnoddau yn cael eu darparu ar gyfer y ddwy broses. Mae'n bosibl bod hwn yn ganlyniad anfwriadol i'r Bil ac yn faes lle y gallai fod blaenoriaethau croes.

## **Symleiddio'r system Rheoli Datblygu**

Rydym yn cefnogi egwyddor symleiddio'r system Rheoli Datblygu er mwyn darparu system sy'n rhoi mwy o sicrwydd i bawb sy'n ymwneud â hi, ac sy'n effeithiol, yn effeithlon, yn gymesur ac yn dryloyw. Yn benodol, rydym yn croesawu'r cynnig i ddiweddarau hysbysiadau o benderfyniadau wrth i amodau gael eu cyflawni neu eu hamrywio.

## **Newidiadau i weithdrefnau Gorfodi ac Apelio**

Ar y cyfan rydym yn cefnogi egwyddor newidiadau i wella'r broses apeliadau cynllunio. Fodd bynnag, unwaith eto cyfeirir at lawer o'r darpariaethau mewn is-ddeddfwriaeth, lle bydd manylion y cynigion yn bwysig.

Er ein bod o blaid caniatáu i rai newidiadau gael eu darparu gan ymgeisydd er mwyn gwella cynllun ar ôl i'r apêl gael ei chofrestru, ar y cyfan, gallant beri cryn oedi i'r broses

apeliadau, gan ddibynnu ar faint a natur y newid. Felly, rydym yn cefnogi'r egwyddor na ddylid caniatáu i gynllun gael ei newid, fel rheol. Fodd bynnag, rydym o'r farn y dylai fod eithriad i ganiatáu diwygiadau gan ymgeiswyr lle y byddent yn goresgyn gwrthwynebiadau gan ymgylgoreion/3<sup>ydd</sup> partiön, ac yn osgoi'r angen i gyflwyno cais dilynol, a fyddai'n ychwanegu mwy o gost a gofynion o ran amser ar gyfer pawb sy'n ymwneud â'r broses.

## **Newidiadau mewn perthynas â cheisiadau i gofrestru meysydd trefi a phentrefi**

Nodwn y newidiadau a gynigir i geisiadau i gofrestru meysydd trefi a phentrefi. Fodd bynnag, mae'n bwysig cydnabod pwysigrwydd y manau gwyrdd hyn i gymunedau trefol a gwledig, y bydd llawer ohonynt wedi bod yn rhoi mwynhad i gymunedau ers sawl blwyddyn ac yn cael eu cysylltu â manteision iechyd a lles cydnabyddedig.

## **2. Unrhyw rwystrau posibl i weithredu'r darpariaethau hyn ac a yw'r Bil yn eu hystyried**

Bydd eglurder yr integreiddio a'r gydberthynas rhwng cynigion deddfwriaethol a chynigion polisi parhaus eraill, megis Bil Llesiant Cenedlaethau'r Dyfodol, Bil yr Amgylchedd, yr Adolygiad o Dirweddau Dynodedig a Chynllun Morol Cenedlaethol Cymru, yn hanfodol i weithredu'r Bil.

Mae angen ystyried y goblygiadau o ran adnoddau yn ofalus yng nghyd-destun yr adolygiad presennol o Gyflenwi Gwasanaethau Cyhoeddus, yn arbennig lle mae'n ofynnol i gyrrff roi cyngor i helpu Gweinidogion Cymru neu'r corff a benodir ganddynt benderfynu ar geisiadau. Mae angen trafod hyn yn genedlaethol rhwng Llywodraeth Cymru, ymgylgoreion statudol a Llywodraeth Leol, ac ystyried atebion ar Raddfa Genedlaethol neu Ranbarthol er mwyn helpu i sicrhau gwasanaeth cynllunio cadarn yn lleol.

Bydd cyrff a fyddai'n penderfynu ar ganiatadau eilaidd cysylltiedig fel arfer, ond y bydd yn ofynnol iddynt neilltuo adnoddau staff i helpu i'w hystyried o hyd, yn colli ffioedd.

Mae ein profiad o Brosiectau Seilwaith o Arwyddocâd Cenedlaethol yn dangos y gall fod angen cryn dipyn o adnoddau i asesu cais fel y'i cyflwynwyd a sicrhau bod y prosiect wedi datblygu mewn ffordd ailadroddol, gan roi sylw i gyngor ac unrhyw bryderon a ddarparwyd ar y cam cyn ymgeisio. Er y gall amser gael ei arbed ar y cam gwneud cais, yn ein profiad ni mae'n debygol y bydd angen neilltuo cryn dipyn o adnoddau o hyd ar y cam hwnnw heb elwa, o reidrwydd, ar yr arbedion a nodir yn yr Asesiad Effaith Rheoleiddiol. Bydd angen rheoli hyn yn ofalus.

## **3. Faint o sylw y mae'r Bil Diwygiedig yn ei roi i'r argymhellion a wnaed gan y Pwyllgor ar ôl craffu ar y Bil Cynllunio Drafft (Cymru)**

Dim sylw.

## **4. Unrhyw Ganlyniadau anfwriadol sy'n deillio o'r Bil?**

Gweler y sylwadau uchod ynghylch goblygiadau codi tâl am gyngor cyn ymgeisio anstatudol, a chyfraniad ymgynghoreion at y cynigion ar gyfer Datblygiadau o Arwyddocâd Cenedlaethol a'r cydbwysedd cymharol y dylid ei roi i hynny pan fydd angen cyfrannu at Brosiectau Seilwaith o Arwyddocâd Cenedlaethol ar yr un pryd.

## **5. Goblygiadau ariannol y Bil, fel y'u nodir yn yr Asesiad Effaith Rheoleiddiol**

Er ein bod yn croesawu cyfleoedd i gyflymu'r broses gynllunio ac yn cydnabod y gallai caniatadau cysylltiedig eilaidd gyflymu'r broses o benderfynu ar gynigion drwy ei gwneud hi'n bosibl eu hystyried ar yr un pryd, mae angen i'r broses o weithredu'r cynnig, a'r goblygiadau o ran adnoddau, gael eu trafod yn ofalus rhwng y Llywodraeth, ymgynghoreion statudol ac awdurdodau cynllunio lleol.

Bydd angen ystyried y goblygiadau o ran adnoddau yn ofalus yng nghyd-destun yr adolygiad presennol o Gyflenwi Gwasanaethau Cyhoeddus, yn arbennig lle mae'n ofynnol i gyrrff roi cyngor i helpu Gweinidogion Cymru neu'r corff a benodir ganddynt benderfynu ar geisiadau.

At hynny, bydd cyrff a fyddai'n penderfynu ar ganiatâd eilaidd cysylltiedig fel arfer yn colli ffioedd. Bydd yn ofynnol i'r cyrff hyn neilltuo adnoddau staff o hyd er mwyn helpu Gweinidogion Cymru neu'r corff a benodir ganddynt i'w hystyried, ond ni fyddant yn cael yr incwm o ffioedd i gyfrannu at gostau'r gwaith a fu ynghlwm wrth hynny.

Dylai'r materion hyn fod yn rhan o drafodaeth genedlaethol rhwng Llywodraeth Cymru, ymgynghoreion statudol a Llywodraeth Leol, a dylid ystyried atebion ar Raddfa Genedlaethol a Rhanbarthol er mwyn sicrhau gwasanaeth cynllunio cadarn.

## **6. Priodoldeb y pwerau i Weinidogion Cymru wneud is-ddeddfwriaeth**

Rydym yn cytuno â'r egwyddor y dylai fod gan Weinidogion Cymru y pŵer i wneud is-ddeddfwriaeth, ar yr amod y caiff deddfwriaeth o'r fath ei datblygu a'i llywio gan y canlynol:

- sail dystiolaeth glir
- ymgysylltu â rhanddeiliaid allweddol a grwpiau â diddordeb – gan gynnwys ymgynghoreion statudol
- proses dryloyw.

## **7. Mesuradwyedd canlyniadau o'r Bil**

Mae Bil Llesiant Cenedlaethau'r Dyfodol, yr Adroddiad ar Gyflwr Adnoddau Naturiol a symud tuag at sail dystiolaeth gyffredin ar gyfer Polisi Adnoddau Naturiol, Datganiadau ar Adnoddau Naturiol Ardaloedd, Cynllun Morol Cenedlaethol Cymru, Fframwaith Datblygu Cenedlaethol, CDS/CDLI, Cynlluniau Llesiant a Chynlluniau Rheoli Parciau Cenedlaethol ac AHNEoedd, a'r Bil Cynllunio (Cymru) oll yn cynnig cyfle i ddarparu fframwaith integredig er mwyn ateb heriau amgylcheddol, cymdeithasol ac economaidd. Dylid ystyried bod fframwaith o'r fath yn un cydategol a chydgefnogol a dylai sicrhau dull cysylltiedig o wneud

penderyniadau sy'n seiliedig ar sail dystiolaeth amgylcheddol gadarn ac sy'n sicrhau'r manteision posibl mwyaf i fuddiannau amgylcheddol, cymdeithasol ac economaidd.

## Amcanion strategol CNC ar gyfer ymgysylltu â'r system gynllunio

Ym mis Rhagfyr 2013 mabwysiadodd y Bwrdd ein cynnig ar gyfer dull gweithredu newydd, sy'n rhoi mwy o bwyslais ar weithio ar y lefel strategol a mabwysiadu diwylliant seiliedig ar atebion. Mae'r amcanion strategol a argymhellir fel a ganlyn:

### (i) Egwyddorion

Byddwn yn:

- Ymgysylltu'n rhagweithiol â'r system gynllunio - mae hwn yn ddull pwysig o sicrhau datblygu cynaliadwy, rheoli adnoddau naturiol a chyflawni canlyniadau cadarnhaol i dreftadaeth naturiol Cymru
- Ymgysylltu'n rhagweithiol â mentrau adfywio a datblygu economaidd - er mwyn sicrhau bod mentrau yn ystyried cyfyngiadau amgylcheddol a gweithgarwch rheoli adnoddau naturiol a bod datblygiadau canlyniadol yn gynaliadwy
- Canolbwyntio ein hymdrechion ar roi tystiolaeth a chynghor ar gynlluniau strategol a gofodol – er mwyn cyfeirio gwaith datblygu i leoliadau priodol a sicrhau bod cyn lleied o wrthdaro â phosibl yn y dyfodol ar lefel y cais unigol
- Defnyddio'r un sail dystiolaeth ar gyfer adnoddau naturiol ym mhob rhan o CNC - er mwyn sicrhau bod cynghor yn gyson
- Annog ymgysylltu'n gynnar â datblygwyr - er mwyn dylanwadu a nodi unrhyw broblemau ac atebion creadigol yn gynnar
- Sicrhau bod ein cynghor statudol yn farn resymegol a luniwyd ar ôl rhoi ystyriaeth briodol i fater, gan bwysu a mesur ein hystod lawn o ddibenion, dyletswyddau a chanllawiau perthnasol - er mwyn sicrhau ein bod yn cydymffurfio â'n dyletswyddau cyfreithiol. Mae'n rhaid cydymffurfio â dyletswyddau penodol, lle y maent yn gymwys
- Rhoi cynghor amgylcheddol gwrthrychol ac arbenigol, yn seiliedig ar wybodaeth dda sy'n seiliedig ar leoedd - er mwyn helpu'r rhai sy'n gwneud penderfyniadau i gyflawni eu dyletswyddau. Rydym yn cydnabod, wrth gydbwysu eu dyletswyddau, y gall y rhai sy'n gwneud penderfyniadau ddod i gasgliad gwahanol i CNC ynghylch pa mor dderbyniol yw unrhyw risg weddilliol neu effaith sy'n gysylltiedig â datblygiad penodol.

### (ii) Ffyrdd o weithio

Byddwn yn:

- Sicrhau bod ein hymatebion mor glir, diamwys a chyson â phosibl

- Sicrhau bod ein prosesau mewnol wrth roi cyngor cynllunio statudol yn cael eu llunio a'u rhoi ar waith i atal gwrthdaro buddiannau (er enghraifft os mai ni yw'r ymgeisydd neu'r tirlfeddiannwr yn ogystal â'r ymgynghorai statudol)
- Sicrhau bod penderfyniadau yn dryloyw drwy allu esbonio'r rhesymeg dros ein cyngor a thrwy gyhoeddi dogfennau penderfyniadau mewn achosion cynhennus
- Mabwysiadu dull cadarnhaol o weithredu. Mae hyn yn golygu ceisio dod o hyd i'r ateb cywir i'r amgylchedd a'r datblygwr Mae'n golygu osgoi gwrthwynebu os gallwn wneud hynny. Fodd bynnag, os na ellir dod o hyd i'r ateb cywir i'r amgylchedd, naill ai am fod yr ymgeisydd yn amharod i addasu cynigion neu am na all wneud hynny, neu am fod y datblygiad wedi'i leoli yn y lle anghywir, efallai y bydd angen i ni ei wrthwynebu. Os bydd yr effaith yn codi materion o bwys cenedlaethol, byddai angen i ni wrthwynebu'r datblygiad.
- Defnyddio dull seiliedig ar risg yn ein gwaith adweithiol, gan ymateb i geisiadau unigol. Mae hyn yn golygu cyfeirio ein hadnoddau at ddatblygiadau sy'n debygol o gael effeithiau sylweddol ac sy'n effeithio ar safleoedd/ardaloedd pwysig a sensitif
- Defnyddio cyngor sefydlog lle y bo'n briodol am fod iddo werth wrth ymateb i geisiadau llai cymhleth ac y gall leihau llwythi gwaith; fodd bynnag, nid yw hyn yn disodli'r angen am gyngor sy'n seiliedig ar leoedd a chyngor pwrpasol, yn arbennig mewn achosion mwy cymhleth
- Codi tâl am gyngor anstatudol (e.e. cyn ymgeisio) - lle y gallwn ddangos y bydd hyn yn gwella'r gwasanaeth a ddarperir i gwsmeriaid ac yn sicrhau gwell canlyniadau amgylcheddol
- Gweithio mewn partneriaeth ag ACLlau a PINS - er mwyn cyflawni canlyniadau ar y cyd, darparu mentrau hyfforddi a rheoli'r ymgynghoriadau a anfonir i CNC
- Gweithio gyda datblygwyr a'u grwpiau sector er mwyn egluro rôl CNC (sef rhoi cyngor nid gwneud penderfyniadau); nodi anghenion ac atebion cyffredin o ran tystiolaeth
- Gweithio gydag ymgynghoreion statudol eraill megis Cadw er mwyn egluro ein priodrolau o ran cynllunio a rhannu tystiolaeth

### **(iii) Canlyniadau:**

- Mae datblygwyr yn ceisio ac yn derbyn ein cyngor yn gynnar fel y dylanwedir ar leoliad a chynllun datblygiadau newydd, gan hyrwyddo gwaith datblygu sy'n osgoi effeithiau negyddol, sydd o fewn terfynau amgylcheddol ac sy'n gynaliadwy
- Mae'r rhai sy'n gwneud penderfyniadau yn ystyried adnoddau naturiol o ganlyniad i'n cyngor clir sydd wedi'i dargedu'n dda, gan warchod yr adnoddau hyn a sicrhau datblygu cynaliadwy

- Mae cyfleoedd i wella'r amgylchedd yn cael eu nodi a'u darparu drwy'r system gynllunio
- Cydberthnasau gwell a lefelau uwch o foddhad ymhlith cwsmeriaid oherwydd ansawdd ac eglurder ein hymatebion ac am ein bod yn darparu'r wybodaeth gywir ar yr adeg gywir
- Deëllir rôl CNC yn y system gynllunio gan ein cwsmeriaid a'n rhanddeiliaid
- Cydymffurfiaeth well â therfynau amser ar gyfer ymateb



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7 November 2014

e-mail response sent to: [ES.Comm@wales.gov.uk](mailto:ES.Comm@wales.gov.uk)

Dear Sir/Madam,

**Response to: The Environment and Sustainability Committee inquiry into the general principles of the Planning (Wales) Bill**

The Royal Town Planning Institute (RTPI) is the largest professional institute for planners in Europe, representing some 23,000 spatial planners. RTPI Cymru represents the RTPI in Wales, with 1,100 members. The Institute seeks to advance the science and art of spatial planning for the benefit of the public. As well as promoting spatial planning, the RTPI develops and shapes policy affecting the built environment, works to raise professional standards and supports members through continuous education, training and development.

The following response has been formed drawing on the expertise of the RTPI Cymru Policy and Research Forum which includes a cross section of planning practitioners from the private and public sectors and academia from across Wales.

We welcome the opportunity to provide evidence to the Environment and Sustainability Committee on the Planning (Wales) Bill. We support the evidence based approach taken by the Welsh Government and the general thrust and spirit of the proposals set out in the earlier Positive Planning consultation. We were pleased that many of those provisions were carried through into the Bill. We strongly believe there is a need to embed a new proactive and confident culture within planning in Wales, to boost well-being and sustainable economic prosperity and to create better places for our communities to live and work. Planners, politicians, consultees, developers, and the general public, all have a role to play in achieving this.

Our evidence follows the Committee's terms of reference and is set out below. In addition we would draw the Committee's attention to [our response to the draft Planning \(Wales\) Bill and Positive Planning consultation](#).

We are also conscious of the series of parallel consultations that the Welsh Government have published relating to supporting secondary legislation and approaches and we will be responding to these.

If you require further assistance, have any queries or require clarification of any points made, please contact RTPI Cymru on 029 2047 3923 or e-mail Roisin Willmott at [walespolicy@rtpi.org.uk](mailto:walespolicy@rtpi.org.uk)

Yours sincerely,



Dr Roisin Willmott MRTPI  
**Director**  
**RTPI Cymru**

**A. RTPI Cymru's views on the general principles of the Planning (Wales) Bill including the need for legislation in the following areas:**

**1. *The requirement to produce a national land use plan, to be known as the National Development Framework;***

- 1.1 We support the principle of a National Development Framework (NDF). We believe it is currently a missing part of the system in Wales and is required as a matter of expediency.
- 1.2 RTPI Cymru believes that the NDF should set out an express vision reflecting general national goals with stated outcomes. The NDF would need to be evidence based, deliverable, and validated. It should be a coherent national development strategy whose policies and proposals are integrated with the Wales Infrastructure Investment Plan (WIIP) and Natural Resources Policy (NRP) and with the National Transport Plan (NTP). We believe that the WIIP, NRP and NTP should be incorporated within the NDF to ensure a cohesive and integrated approach, and with a consistent set of consultation arrangements. Together these can provide an effective strategic framework which can gain widespread acceptance and be linked to investment and funding priorities.
- 1.3 We note para 3.18 (pg 14) of the Explanatory Memorandum (EM), sets out the principle roles of the NDF, and we support these roles.
- 1.4 It is unclear how the NDF will fit with other plans and policies, including those mentioned above or and how it will take account of sustainable development goals and outcomes and link to the Well-being of Future Generations Bill and other Bills. This is a fundamental weakness of the Bill, and could expose the NDF to risks of ineffectiveness in the future.
- 1.5 The NDF should be based on evidence and therefore should be the starting block to spatially influencing national policy, as well as seeking to interpret and apply national policy spatially.
- 1.6 Para 3.21 of the EM sets out the process for agreeing the NDF, including the consultation process, however it is not clear on how matters will progress if the National Assembly for Wales scrutiny disagrees with the proposals made by the Welsh Government. Who will arbitrate at this stage?
- 1.7 In developing the role of the Assembly in the approval of the NDF, there will be a need to ensure that Assembly Members are given access to the training that will ensure that they have the full set of skills required to fulfil a decision-making role on planning matters. They will need to be supported in these processes by individuals with the competences that will ensure the soundness of the proposals in the NDF, much in the

same way that officers of the Planning Inspectorate work with Local Planning Authorities (LPAs) in the preparation and adoption of their Local Development Plans (LDPs).

1.8 It is important that the NDF new system enables sufficient flexibility for regional and local circumstances to be considered at the Strategic Development Plan (SDP) and LDP level.

## **2. *The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues;***

2.1 RTPI Cymru believes that there is a need for strategic planning on a scale between national and local. We support more joined-up thinking both across, and between, tiers of Government.

2.2 Paras 3.29 and 3.35 of the EM explain that SDPs would “allow larger than local issues such as housing demand, search areas for strategic employment sites and supporting transport infrastructure, which cut across a number of local planning authorities, to be considered and planned for in an integrated and comprehensive way”. (para 3.29) Para 3.35 states, “where an SDP covers an LDP area, the LDP should be rationalised so that it only focuses on local matters, particularly site specific allocations, in accordance with the scale and location of growth set out in the SDP. Issues such as the overall level of housing, employment and retail provision will have already been addressed and do not need to be repeated.”

2.3 While this para sets out the proposals to rationalise the LDP where an SDP covers an LDP area, it does not explain how local considerations will then be taken into account such as local retail (not strategic) and small housing sites etc. It also does not explain how the LDP will be handled if only part of an area is included with an SDP area.

2.4 Transitional arrangements for the adoption of the new set of plans, needs consideration. For example, should it be possible to produce an SDP before the NDF has been adopted? Also, what happens to the current LDPs once an SDP is adopted? Do they have to be rationalised at the same time, to avoid contradictory policies?

2.5 Para 3.3.1 (pg15) of the EM explains that “for each area a Panel will be established to prepare and keep under review the SDP. It will have sole responsibility for approval and adoption of the plan and some minor incidental duties. The Panel will comprise locally elected members from the LPAs within the area and one third representation from social, economic and environment organisations.” We believe that how Panel members are appointed is important and for those other than LPA nominees, a process mirroring that followed for public appointments in Wales would seem appropriate, open and transparent and consistent with the Nolan principles - with vacancies advertised, an interview process, and appointments ultimately made by the Minister. We believe transparency in selecting Panel Members will be important to maintain trust and buy-in from local communities, local authorities and businesses. This type of model would encourage a focus on competencies rather than a focus solely on the inclusion of specific bodies. We believe that Members recruited in this way would invariably be high and would help to maintain a focus on delivery and on statutory purposes.

2.6 A requirement is also required to ensure that a balance of interests from the economic, environmental and social sectors are recruited to the Panels, to avoid dominance by one particular interest.

2.7 You may also be interested our briefing paper, [Strategic Planning in Wales \(November 2013\)](#).

## **3. *Changes to Local Development Plan procedures...***

### **3.1 *Notification of LDP withdrawal***

In relation to the notification of LDP withdrawal, paras 3.42/3 sets out that LPAs can withdraw at any time before submission, however it is unclear what would happen if the LDP was in the early stages or still required work to be done, and Ministers disagreed with the withdrawal, who would then carry out the work to get the LDP to a standard for approval/examination?

### **3.2 Welsh Ministers' power to direct preparation of Joint Local Development Plans**

We believe that joint plans should be prepared only where there is organisational and political will. Otherwise there is a risk that plans will be viewed as 'imposed'. The Williams report and the subsequent Devolution, Democracy and Delivery White Paper – Reforming Local Government is moving this debate forward. [Our response to the reforming local government consultation](#) is available on-line.

### **3.3 Joint Planning Boards**

3.3.1 Ultimately, the new planning system should reflect the principle of subsidiarity with decisions always being taken at the lowest appropriate level in organisational hierarchies. Powers of direction should focus on key priorities and used only exceptionally.

## **4. Front-loading the development management process by making provision for pre-application services;**

### **4.1 Requirement to carry out pre-application consultation**

4.1.1 We support a national approach to a pre-application consultation service, there is a need for greater consistency between LPAs across Wales in terms of the pre-application service they offer.

4.1.2 We support the principle of a statutory requirement for pre-application engagement with specified persons, likely to include the public and statutory consultees in the planning application process, where a development is of a description specified in a development order under subordinate legislation, including Developments of National Significance (DNS) and major developments.

4.1.3 However, we raise concerns regarding the resourcing of this service and would welcome confirmation of how this would be managed, particularly in relation to statutory consultees.

4.1.4 Paras 3.56 – 3.61 discuss the role of communities and statutory consultees in this process however, the role of the LPA in this process is unclear and further clarification is required.

### **4.2 Requirement to provide pre-application services**

4.2.1 Charging for pre-application services has already been introduced by a number of LPAs, leading to significant improvements in service resources and quality. It is essential that proposed legislative changes build on this experience to achieve similar improvements across the whole of Wales.

4.2.2 In our response to [Realising the potential of pre-application discussions \(2011\)](#) we commented that clarity is needed over the status of pre-application advice, in particular the disclaimer which is often attached by Local Authorities, i.e. that the advice is offered without prejudice to the formal consideration of an application. We recognise that the ability of the LPA to make firm commitments will always be limited by the statutory process to follow once an application is submitted. However, all parties need to be open and realistic about the process and their expectations and required outcomes of the process.

## **5 Introducing a new category of development to be known as Developments of National Significance that are to be determined by Welsh Ministers;**

- 5.1 RTPI Cymru supports the introduction of a new category of Developments of National Significance (DNS). The NDF will be the principal Development Plan guiding decisions on these applications which places a significant onus on the NDF being evidence based and robust.
- 5.2 Performance standards and a process of monitoring needs to be set out for Ministers determining applications.
- 5.3 The RTPI Cymru briefing paper on [Infrastructure Decisions \(November 2013\)](#) can be viewed online.

## **6. Option to make applications direct to Welsh Ministers**

- 6.1 Where an authority is deemed to be poorly performing, the areas of poor performance and the root causes of the poor performance need to be established and then an appropriate response should be developed and implemented. There needs to be a range of options available. The option to make applications direct to Welsh Ministers should be an option of last resort and discouraged. Any decision made by a Welsh Minister should be done in accordance with the LDP and local consultations carried out. As with decisions for DNS, performance standards and a process of monitoring needs to be set out for Ministers determining applications.
- 6.2 The Planning Advisory and Improvement Service (PAIS) could act as peer support.
- 6.3 Our briefing paper on [Culture Change \(November 2013\)](#) can be viewed online.

## **7. Streamlining the development management system;**

### **7.1 Planning Committees and Delegation**

- 7.1.2 RTPI Cymru supports the recommendations set out in the report on Planning Committees, commissioned by ourselves, which would lead to a more consistent and efficient approach.

### **7.2 Decision Notices**

- 7.2.1 We support the reason for this proposal. However detailed regulations and guidance will be required on how to handle this efficiently and effectively so that it does not become a burden and a process targeted for stopping or slowing development.
- 7.2.2 In April 2014 we responded to the Welsh Government consultation on the "[Review of Planning Conditions Circular and Model Conditions](#)" In response to Q6 we supported a more structured decision notice but highlighted some of the conflicts and problems that arise round decision notices. Q7 may also be of interest as it deals with some of the issues raised at 3.92 of the EM - identifying approved plans in a condition.

### **7.3 Statutory Consultees**

- 7.3.1 We support these proposals in principle, however, we believe that statutory consultees must be properly resourced to respond to requests for pre-application advice and in relation to planning applications. It is essential that they are able to deliver on the pre-application services and respond to LPAs and Welsh Government consultations.

### **7.4 Design and Access Statements**

- 7.4.1 RTPI Cymru supports the use of Design and Access Statements (DAS), however we do support their removal in relation to more basic applications in order to focus their use on more significant planning applications where they can add value. We did not support their complete removal from the system in our response to the draft Bill, and would continue to recommend they remain for at least Major Development applications and ideally for all applications except for minor ones, such as householder applications.

**8. Changes to enforcement and appeal procedures**

8.1 We support in principle the proposed changes.

**B. Any potential barriers to the implementation of these provisions and whether the Bill takes account of them.**

9.1 There are two principal and interlinked areas which are potential barriers to the implementation of these provisions:

9.1.1 The first relates to resource allocation. Public services are facing hard choices in how to deploy their resources. Unfortunately resources for planning services are often given a low priority compared to other competing areas. We believe this is a false economy. Planning services need to be appropriately resourced in order to deliver for communities. Planning plays an important role in ensuring the right development goes to the right locations. Those wishing to invest in an area, which can range from a householder improving their home through to employment investment or a large housing scheme, need to have a service which can direct them appropriately to fulfill the Wales' ambition of well-being.

9.1.2 The second relates to the culture of those operating with the planning system; this is not just the LPA officers and councillors, but all involved. Whilst legislation can set the tone, it cannot guarantee players will engage in a positive manner. Creating an improved understanding of what the planning system at a national and local level is trying to achieve and trust of all involved, would help with this.

**C. Whether there are any unintended consequences arising from the Bill.**

We have not identified any unintended consequences at this stage.

**D. The financial implications of the Bill (as set out in Part 2 of the Explanatory Memorandum, the Regulatory Impact Assessment, which estimates the costs and benefits of implementation of the Bill).**

Please see our comments in paragraph 9.1.1 above.

**E. The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation).**

We consider these powers to be appropriate.

**F. The measurability of outcomes from the Bill, i.e. what arrangements are in place to measure and demonstrate the fulfilment of the Welsh Government's intended outcomes from making this law.**

We consider these to be proportionate.

We welcome the inclusion of a statement relating to Ministerial targets for the administration of the DNS process and would like to see more detail of this intention contained in secondary legislation.

## **EVIDENCE OF WELSH PLANNING CONSULTANTS FORUM AS PRESENTED TO WELSH GOVERNMENT ENVIRONMENT and SUSTAINABILITY COMMITTEE**

**3<sup>rd</sup> DECEMBER 2014**

### **General**

The reforms set out within the Bill are generally supported by WPCF although it remains to be seen what effect these measures have on the delivery of new development on the ground and also the time lag which will inevitably occur in implementing these proposals.

The Welsh Government's objective to create a positive planning system which facilitates rather than regulates development is supported by WPCF, which we recognise will be achieved via legislative and policy / procedural reforms.

The WPCF accept that it is very difficult to enforce cultural change within the existing system, which will require strong and continued leadership from and within the Welsh Government if this objective is to be met.

One of the main recommendations of the Independent Advisory Group related to the balance of penalties and incentives for promoting good performance. WPCF notes, however, the absence of any meaningful incentives within the Bill with a preference for penalties for non-delivery which it considers to be a missed opportunity.

### **Detail**

The WPCF welcomes the opportunity to contribute to the reform process and commits to continuing this role throughout the subsequent stages of the Bill preparation. In terms of the detail of the Bill WPCF comments as follows:

1. WPCF is generally supportive of the provisions of the Bill. However, it will need convincing that the Welsh Government is sufficiently resourced (both in terms of having sufficient capacity and appropriate skills / expertise), or aware of the resource requirements necessary to undertake, the roles that it has potentially created for itself via the Bill.
2. Also, WPCF is concerned that too many of the provisions of the Bill are to rely on voluntary agreements and collaboration; if it is to be effective there is a need for more statutory requirement.
3. (Q1) WPCF supports the proposed role of the PAIS provided the requirement of LPAs to respond is set within a statutory framework, not an advisory or optional framework. Also, the membership of the PAIS should be dominated by members who use the planning system on a daily basis.
4. (Q3) WPCF supports Competency Frameworks provided they are applicable to all practitioners and members who will have a role in determining applications. Such a framework should apply equally to the Welsh Government.
5. (Q4) The concept of a National Development Framework is supported provided it is land-use focussed, unambiguous, and contains policies that are required by statute to be then reflected within LDPs (as proposed to be revised) and Strategic Plans. The NDF

should also have a level of detail which provides a clearer context to that contained within the existing Wales Spatial Plan with quantum of development set at the national level for SDPs and LDPs to follow.

6. (Q5) WPCF fully supports the proposed amalgamation of PPW and MPPW as any proposal to simplify the planning process must be good for the service.
7. (Q6) WPCF absolutely supports the concept that a core set of development management policies should be prepared which are then adopted by every LPA in Wales. Clearly, however, no two areas are alike and there will obviously, therefore, be an additional need for bespoke policies of particular relevance to the areas that they are to be applied to. With the proposed reduction in the number of LPAs in Wales, however, the number of those bespoke policies should be far less than would be the case under the current local government structure.
8. (Q7) WPCF agrees with the Government on its proposal in respect of the appeals process provided that the Welsh Government is adequately resourced; the Welsh Government is required to meet the same statutory determination periods as LPAs; and a system of appeal is introduced that allows applicants to effectively challenge Welsh Government failure to meet statutory determination deadlines (with no special discretion for the relevant Minister).
9. (Q8/9) WPCF agrees in essence with the proposed categories and thresholds for DNSs although is surprised that the categories do not include NSIPs as defined by the Planning Act 2008. It is therefore wrong of the Bill to suggest that all nationally significant applications in Wales will be determined by the new framework.
10. (Q10) It is agreed that DNSs should be subject to mandatory pre-application notification and consultation. However, it is essential that the level of the consultation is proportionate to the scale of the project and the determining body involved.
11. (Q11) WPCF has no problem in principle with the charging of a fee for pre-application advice for prospective DNSs. However, if WG is to implement such a proposal it must be set within some form of relevant Performance Agreement and WG must also accept that it will then have to work to the protocols, provisions and programme laid down in that Agreement.
12. (Q12) WPCF has no argument with the proposal that the Planning Inspectorate is the most appropriate body to process DNS applications. However, if it is to do so it must be adequately resourced for that function.
13. (Q13) The principle that only one round of amendments to DNS applications should be allowed is supported. However, that will require a commitment from consultees, particularly statutory consultees, that they must participate fully with applicants at the pre-application stage in an attempt to minimise the need for subsequent amendment.
14. (Q14) The proposal to deal with connected consents is fully supported.
15. (Q15) Call-ins and appeals have historically taken far too long to process and determine and the lack of an obvious statutory deadline for determination has been a significant

deterrent to investment. Future call-ins and appeals should therefore follow the same rigid process, timescales, and commitments as NSIP examinations. There should be no discretion to Welsh Ministers to grant themselves additional determination time beyond the pre-set statutory periods.

16. (Q17) WPCF does not support the submission of Draft Statements of Common Ground at the appeal submission stage largely because it is nigh impossible to secure commitments from LPAs to their participation in producing SoCGs until effectively the eleventh hour. In reality, therefore, any SoCG submitted with the appeal documentation will be no more than a first draft produced by the appellant. A requirement to submit a bi-lateral SoCG at the submission date will lead to unacceptable delays and to the LPA and/or statutory consultee having control over the appeal submission date. That will be unacceptable to WPCF.
17. (Q18) WPCF considers that the method of handling an appeal should be set by statute, not by PINS.
18. (Q19) WPCF does not support the suggestion that no changes should be made to a proposal once an appeal is submitted. The appeal process can bring out matters that are germane to the proposal, yet are not of such significance to change the nature of the proposal. In such circumstances, and provided that no third parties are prejudiced by the changes, such changes should be allowed so as to avoid having to repeat the exercise at significant cost to both parties.
19. (Q20) WPCF fully supports the proposal for Welsh Ministers to initiate an award of costs if it determines that there has been unreasonable behaviour on behalf of one of the parties such that an appeal should have been avoided.
20. (Q21) WPCF does not support the introduction of costs for appeals lodged on the basis of the failure of the relevant authority to determine the application within the statutory determination period. However, WPCF would have no objection to Welsh Ministers recovering their costs if they conclude that an appeal could have been avoided had the LPA or appellant acted reasonably in the first place such that an appeal could have been avoided.
21. (Q22) WPCF supports the introduction of a Commercial Appeals Service provided it is affordable and not laden with additional bureaucracy.
22. (Q23) WPCF considers that the merger of LPAs to create a smaller number of larger units is long overdue. WPCF also considers, however, that collaboration is not the way to introduce such efficiencies. Merger should be statutorily required within a prescribed time-frame even though, in the meantime, collaboration should be promoted in order to make early progress.
23. (Q24) There is no particular justification in planning terms for National Park Authorities to retain their planning functions. The priority should be to reduce the number of LPAs overall irrespective of whether there is a NP involved or not.

24. (Q25) WPCF accepts that Strategic Development Plans should only be prepared in identified areas.
25. (Q26) WPCF agrees with the proposed scope of the proposed SDPs other than they should also cover retailing provision.
26. (Q27) WPCF supports the proposed partnership approach to the production of SDPs provided the relevant Panels are truly representative of all of the interests of the area covered and it is capable of meeting strict deadlines.
27. (Q28) WPCF does not consider the proposed approach for the production of LDPs will be "light touch". LDPs should be clear, succinct, documents that add detail to and reflect the policies and aspirations of the SDP if there is one.
28. (Q28) WPCF is concerned to learn more about what is proposed for LDPs in locations where no SDP is proposed.
29. (Q30) WPCF considers that all authorities involved in development management, and especially the Welsh Government which will arguably be involved in the more significant proposals, should produce annual performance reports. However, WPCF is concerned that those reports should then be scrutinised by an independent body that is not itself involved on a day to day basis in development management.
30. (Q31) WPCF supports the option of submitting applications for major development in areas with poorly performing planning authorities to Welsh Ministers provided the Welsh Ministers are adequately resourced and accept that they will be required to meet the performance expectations of the LPAs. WPCF also makes the point, however, that this mechanism should not be necessary if local government is reorganised such that the number of LPAs is reduced but their individual performances is improved as a result.
31. (Q32/33) WPCF fully supports the production of Joint Local Development Plans and that LDPs should have statutorily set end-dates beyond which they cease to have effect.
32. (Q34) WPCF is ambivalent in respect of Place Plans. Provided they have a clear purpose and are reflective of higher-tier plans they are supported. If they are merely another layer of bureaucracy, however, they are not supported.
33. (Q35) WPCF is fully supportive of any reasonable measure that simplifies and speeds up the planning process. It fully supports the proposal, therefore, that matters of principle should not be considered if an application fully accords with an allocation in the Development Plan. For that to work, however, the status of an LDP or SDP allocation will need to be statutorily firmed up such that it is tantamount to an outline permission.
34. (Q36) An applicant should definitely be able to appeal in the event that an LPA fails to register an application within a reasonable and statutory period of time, which is similar to the system operative in England.
35. (Q37) WPCF supports the removal of the mandatory requirement for DASs.
36. (Q39) WPCF does not support local variation within a national scheme of delegation for decision making on applications.

37. (Q41) WPCF is firmly of the view that the ability of objectors to rely on village green applications should be restricted such that they cannot be made when a site has been allocated in an adopted Plan.
38. WPCF considers that, depending on size, local authorities who are designated as local Planning authorities should be allocated a minimum budget to provide them with the chance of delivering the service in the manner expected.
39. WPCF also considers that any fee increases (15% is proposed at present it is understood) should not be levied by those authorities deemed to be “non-performing”. A base date should also be set for the identification of non-performing authorities which should be sooner (e.g. 2014) rather than later.

14<sup>th</sup> November 2014



Cymdeithas y Cyfreithwyr  
The Law Society

**General principles of the Planning (Wales) Bill**  
**The Law Society submission**  
November 2014



## Introduction

1. The Law Society is the representative body of over 141,000 registered legal practitioners in England and Wales. The Law Society negotiates on behalf of the profession and lobbies regulators, governments and others.
2. This submission has been prepared by the Law Society's Planning & Environmental Law Committee ('the PEL Committee'). The PEL Committee comprises 19 practitioners specialising in planning and environmental law, drawn from a cross-section of the profession, public and private sectors and covering both England and Wales.
3. The PEL Committee was pleased to have the opportunity to contribute to the development of the evidence base for the Planning (Wales) Bill ('the Bill') and to be represented on the Independent Advisory Group ('IAG'), whose recommendations have in large measure been adopted by the Welsh Government.
4. In February 2014, the Law Society responded to the consultation on the Welsh Government's White Paper, *Positive Planning: Proposals to Reform the Planning System in Wales and the draft Planning (Wales) Bill* and the Environment and Sustainability Committee ('the Committee') is referred to that response in the report on consultation.<sup>1</sup> The Law Society also gave evidence to the Committee's pre-legislative scrutiny inquiry.
5. The Law Society welcomes this further opportunity to contribute to the debate by responding to the Committee's inquiry on the general principles of the Bill.
6. The Law Society notes that the Welsh Government has issued, in parallel with the introduction of the Bill, a series of consultations on proposals to exercise the powers proposed in the Bill and the Law Society will be responding to those consultations in due course. As a result, this submission has sought to confine itself to the provisions of the Bill and the underlying principles, but on occasion some discussion of future secondary legislation has proved unavoidable.

## Part 2 - Development planning

### National Development Framework ('NDF')

7. Consideration of the NDF by the National Assembly for Wales ('the National Assembly') is a vital element of giving legitimacy and standing to the NDF. The National Assembly will presumably wish to conduct its own scrutiny of the NDF which may involve the taking of evidence from the Welsh Government and interested parties prior to recommendations being formulated, as well as taking its own expert advice on the soundness of the plan laid before them. The Law Society considers that 60 days is likely to be the minimum period for such an exercise to be conducted in a way that would usefully contribute to the making of the NDF. The Law Society would wish to be assured that the Committee is satisfied that proper scrutiny and formulation of recommendations can be conducted within this period.

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<sup>1</sup> A copy of that submission accompanies this submission for ease of reference.

## Strategic Planning

8. The Law Society notes that the Committee's pre-legislative scrutiny recommendations expressed concern about the "democratic deficit" in the proposals for Strategic Development Plans ('SDP') in designated areas, referring to uncertainty as to how the planning competence framework would apply and the need to ensure that the local voice was heard.
9. The Law Society considers that there are governance concerns about the strategic development plan panels ('SDP panels'). The argument for the introduction of a significant nominated element at this level of the development plan hierarchy does not appear to be fully developed. The Explanatory Memorandum at paragraph 3.31 refers to one third of an SDP panel comprising "representation from social, economic and environmental organisations". The Bill<sup>2</sup> provides for nominated members of an SDP Panel to be appointed by the SDP Panel after they have been nominated by a "nominating body". It is not clear whether the nominating bodies are to be other public bodies (for example, Health Boards) or non-governmental bodies. In the latter case, what assurance will the ministers be seeking with regard to their internal governance before adding them to the list of nominating bodies?
10. Paragraph 3.29 of the Explanatory Memorandum envisages that SDPs will enable "larger than local" issues which cut across several local planning authorities (such as housing demand) to be considered in an integrated and comprehensive way. SDP Panels will therefore be of great importance in addressing those "larger than local" issues that have, to date, proved to be intractable under the current arrangements (as shown by the evidence base). The Law Society questions whether the nomination arrangements as currently proposed are sufficiently robust and transparent to contribute to the standing of SDP Panels in the eyes of the public.
11. The only comparable situation within the current planning system is the appointment of independent members to National Park Authorities by the Welsh Ministers. These appointments are made under well-established arrangements for public appointments. Those arrangements ensure that the independent members bring a range of backgrounds, skills and local knowledge, which complement the knowledge and skills of the elected members. Given that three SDP Panels are envisaged, the number of nominated members will not be large. The Law Society would invite the Committee to consider whether adopting the model of ministerial appointment using the public appointments process would be more transparent and thereby command greater confidence.
12. The Law Society considers that the Committee's concern about the application of the competence framework to the nominated members is well made. However, this is another aspect of a problem identified by the IAG<sup>3</sup>, which pointed out that the member training has hitherto been focussed on the training of members to sit on development control committees and that, under the local authority cabinet system of government, the LDP is the responsibility of the cabinet. The development of a training and competence framework for members of the SDP Panels - whether elected or nominated - should be an early priority for the Planning Advisory and Improvement Service.

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<sup>2</sup> See Schedule 1, paragraph 4 and the new schedule 2A, paragraph 4 to the Planning and Compulsory Purchase Act 2004.

<sup>3</sup> See IAG recommendation 64 and the preceding discussion.

## Community and Local Councils

13. The Law Society notes the Welsh Government's support for the idea of town and community place plans. Such plans can be important to the credibility of the planning system when local councils prove they have the capacity to produce a credible, good quality plan. However, while the Law Society supports the Committee's pre-legislative view that a panoply of neighbourhood plans should not be introduced in Wales, it is unclear as to how the Welsh Government envisages place plans acquiring status in the plan hierarchy. The Committee may wish to explore this question further with the Government.

### **Part 3 - pre-application procedures**

14. While welcoming the proposed statutory framework for pre-application consultations, the Law Society would make two points:
  - i. The Law Society recognises the designation of the types of development that will be subject to pre-application consultation, but questions whether basing the requirement on the existing definition of "major development"<sup>4</sup> alone is sufficient. There are categories of development which, while not constituting "major development", can nevertheless bring about significant change to their surroundings. Proposals for wind turbines are a case in point; the present publicity requirements for notifying neighbours of applications bear no relationship to the wide areas over which such vertical structures can be viewed. A more appropriate trigger might be the need for a screening under the Environmental Impact Assessment Regulations.
  - ii. Bearing in mind the emphasis that has been placed by the Welsh Government on creating a planning system that operates consistently across the local planning authorities, the Committee may wish to enquire further into the reasons why the Bill does not address the question of charging for pre-application advice. Paragraph 3.64 of the Explanatory Memorandum mentions that some local authorities make a charge under powers to charge for discretionary services, although this power will no longer be available if pre-application advice becomes as mandatory service.

### **Part 4 - applications to Welsh Ministers and developments of national significance**

15. The Law Society is generally supportive of the principles of the proposed system for determining applications for developments of national significance ('DNS') similar to that created by the Planning Act 2008 for Nationally Significant Infrastructure Projects (NSIPs), (albeit with some significant difference referred to further below). The projects covered by Part 4 of the Bill are of a size that would be considered 'nationally

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<sup>4</sup> Town and Country Planning (Development Management Procedure) (Wales) Order 2012, Part 1, paragraph 2 defines "major development" as: a) the winning and working of minerals or the use of land for mineral-working deposits(4); (b) waste development; (c) the provision of dwelling houses where— (i) the number of dwelling houses to be provided is 10 or more; or (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i); (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or (e) development carried out on a site having an area of 1 hectare or more;

significant' (in the UK sense) and ought to benefit from a similar streamlined regime; although as the Law Society noted in its submission on the White Paper, the provisional list of schemes does not include significant highway schemes.

16. However, care must be taken that, when introducing a lower threshold for projects that already come under the Planning Act 2008 regime in Wales (principally electricity generation), this does not result in small projects having to go through an unduly onerous process for their size. Paragraph 3.71 of the Explanatory Memorandum states that energy generation projects in the range of 25-50 MW are proposed to be categorised as DNS in Wales. The Law Society is unclear as to the basis for this range; it is not explained in the Explanatory Memorandum or the White Paper for the Bill. The Law Society would suggest that this is a matter the Committee could usefully explore further.
17. Where DNS applications are made directly to the Welsh Government, there will need to be appropriate resources in place to handle them. The Bill makes provision for the Welsh Ministers to appoint persons to exercise functions in relation to DNS, including processing and deciding planning applications for DNS. The Explanatory Notes state that it is anticipated that such persons would be appointed from the Planning Inspectorate Wales. The Law Society welcomes the Welsh Government's intention to maintain the Planning Inspectorate as a joint Wales and England agency. The Inspectorate now has experience of running over 50 applications in both Wales and England under the Planning Act 2008, supported by the extensive use of IT systems capable of handling large documents. This experience is of direct relevance to the proposed Welsh DNS system.
18. The Law Society welcomes the inclusion of machinery for dealing with "secondary consents", but it is noteworthy that the Bill does not seek to replicate the Planning Act 2008 system through the creation of a separate category of "development consent orders" granting planning permission and other consents. The Law Society suggests that there should be powers for the Welsh Ministers to adopt a single permission or consent covering both planning permission and the secondary consents, and for this to be a "live" document like the proposed new form of planning permission.
19. The Law Society would remind the Committee that the IAG recommended that non-devolved ancillary consents for nationally significant infrastructure schemes in Wales under the Planning Act 2008 (mainly large electricity generation schemes) should be determined by the Welsh Ministers rather than by local planning authorities (IAG Recommendation 25). As the Law Society understands the position, the clauses in the Bill relating to secondary consents do not extend to ancillary consents for schemes under the Planning Act 2008. The Law Society believes that three questions merit further examination by the Committee:
  - a. Would determining ancillary consent issues at national level within Wales facilitate greater co-ordination of decision-making?
  - b. If separate statutory provision is not made, would the Welsh Ministers consider calling-in ancillary consent applications under existing powers and, if so, is policy guidance on calling-in in such circumstances required or envisaged?
  - c. If call-in powers are to be used what might be the parameters? A potential example of a "greater than local" ancillary scheme meriting call-in could be the very large sub-station schemes connected with the export of wind energy from the TAN 8 strategic search areas. On the other hand, should applications for

workers' housing required for a scheme remain with the local planning authority as a matter best determined locally?

20. The Law Society notes that the consideration of DNS can be by a combination of methods and the Explanatory Memorandum states that written representations and hearings are envisaged for these applications. This should enable the examination system used under the Planning Act 2008 to be largely replicated. However, there is no indication that there is an intention to replicate the use of a panel of "examiners" covering various disciplines, as under the Planning Act 2008, as opposed to a single inspector. The Law Society would suggest that the Committee could usefully seek further explanation of the Government's thinking on this. It may be that the use of assistant planning inspectors is envisaged, but the Law Society thinks there is merit in providing for the appointment of a panel in appropriate cases.
21. Clause 24 of the Bill would allow both DNS and applications made directly to the Welsh Ministers to be determined by an appointed person. However, the Law Society considers that decisions on nationally significant developments should always be reserved to the Welsh Ministers and not delegated to planning inspectors. This would be in line with the changes to the Planning Act 2008 system made by the Localism Act 2011, which requires decisions on development consent orders to be taken by the Secretary of State.
22. The Planning Act 2008 process is currently being amended to deal with issues around the amendment of development consent orders to take account of the changes that are inevitable in any complex project. The Law Society would suggest that further consideration should be given to this in relation to the Bill's proposals - for example, is it envisaged that the Welsh Ministers will handle variation applications?

## **Part 5 - Development Management**

23. The Law Society generally welcomes the provisions on development management in Part 5 of the Bill.
24. However, the Law Society is disappointed that the package of reforms to section 106 of the Town and County Planning Act recommended by the IAG, and supported by the Committee in its pre-legislative comments, have not been adopted. We will not repeat what is said in our response to the White Paper save to mention recent evidence of the need for reform. Members of our Committee have seen a number of cases in recent months where Welsh local authorities, as landowners, have been hampered in trying to dispose of surplus land by the inability to sell the land with planning permission and subject to obligations secured under section 106. These issues seem to have arisen as local authorities have been accelerating their programmes of asset realisation.
25. There is also some concern that there may be unintended consequences from the prohibition on amendments to planning applications once an appeal against refusal has been made. This prohibition may mean that some applications which have been refused but subsequently rendered acceptable to the local planning authority by the negotiation of amendments with the applicant, would have to start again afresh if they had already entered the appeal system after being refused. This could be avoided by allowing the Inspectorate, with the agreement of the parties, to return an application that has been refused for amendment, re-consultation and re-determination by the local planning authority.

## **Part 6 - Enforcement and appeals**

26. The Law Society welcomes the proposed changes to enforcement legislation set out in Part 6 of the Bill. These changes bring greater clarity and certainty to areas where there were some anomalies and omissions, and overcome some of the emerging differences between Welsh and English legislation where circumstances and objectives are similar.
27. Section 38 (inserting a new section 173ZA into the Town and Country Planning Act 1990) is welcomed. This provision should help to avoid unnecessary enforcement action where development is acceptable provided it has necessary controls imposed on it by way of conditions or limitations applied to a planning permission for development already carried out. It benefits those who have carried out development without permission, local planning authorities ('LPAs') and interested persons who could be affected by it in bringing forward an open and fair consideration of the acceptability of the development.
28. Sections 39 to 41 are supported as they prevent the anomaly whereby a deemed planning application was held to be made even where no appeal under ground (a) was made or argued. Moreover, they (together with section 30) provide a single avenue for seeking a planning permission and avoid the present duplication of process which leads to delay and uncertainty.
29. Section 42 has benefits for the decision-maker, LPA and interested persons in that it avoids legal pitfalls and simplifies the evidence gathering and presentation at appeal. However, it could delay what may, in the end, be an acceptable proposal by having it go through the process afresh.
30. Section 43 is welcomed and supported as it places appeals under section 215 of the Town and Country Planning Act 1990 in the most appropriate place for determination by those familiar with the issues that they involve.
31. Section 44 is welcomed in respect of the inclusion of the written representation format of appeal in the costs regime. This will undoubtedly assist in ensuring that the most appropriate format for determination of appeals is chosen. The Law Society also supports the ability of the Planning Inspectorate/Welsh Ministers to initiate and recover costs in appropriate circumstances, subject to the acceptability of the particular circumstances to be set out in secondary legislation. However, the Law Society would suggest that the Welsh Ministers should only be able to initiate an award of costs if there is unreasonable behaviour by one of the parties: they should not be able charge their costs to the parties on every appeal, whether or not there is unreasonable behaviour. As currently drafted, section 44 does not limit the Welsh Ministers' ability to initiate costs to cases of unreasonable behaviour.

## **Part 7 - Town and Village Greens**

32. As stated in the Law Society's response to the *Positive Planning* consultation in February, applications for registration of a town or village green are frequently pursued in order to frustrate development that has been found acceptable in planning terms. Applications can be made at virtually no cost to the applicants and the non-statutory procedures for determining applications do not carry any costs sanctions against unreasonable behaviour. However, the costs to a landowner of challenging such an

application can be very considerable and frequently have to be borne in order to protect an already significant investment in obtaining planning permission.

33. The Law Society welcomes the provisions made in the Bill to restrict the right to make an application where land has already entered the planning system and the inclusion of a provision that will enable landowners to submit declarations that their land is not being used "as of right". The Law Society supported similar proposals in England and maintaining consistency between England and Wales is helpful to practitioners and their clients.

### **The Welsh Language**

34. The Law Society notes that there has been comment on the role that the Bill should play in promoting the use of Welsh and it has been suggested that the impact of a development on the Welsh language should be made a material consideration that would be sufficient, alone, to justify refusing planning permission. The Law Society is broadly content that the current policy guidance on the Welsh Language and LDP preparation, and the revised TAN 20, sit comfortably within the overarching purpose of the planning system suggested by the IAG and supported by the Committee in its pre-legislative scrutiny report. The Law Society does not have a settled view on the desirability of further provision in the Bill but should the National Assembly be minded to go beyond the present position, the Law Society would pose a number of questions that it considers ought to be answered as part of the debate:

- i. Should a fundamental tenet of the existing system - that decisions are reached by correctly identifying the material considerations and then conducting a balancing exercise in which decisions are to be taken in accordance with the development plan unless the material considerations indicate otherwise - be overridden?
- ii. If the Welsh language is to become an overriding material consideration, has the discipline of land use planning developed sufficiently robust and objective methods to assess the effect of development on use of Welsh, so that developers can be confident that planning decisions based on Welsh language considerations are robust and evidence-based?
- iii. Is the degree of primacy to be afforded to Welsh in planning decisions compatible with other rights entrenching respect for family life and freedom of movement of individuals under human rights and European law?

### **Compulsory Purchase**

35. The Law Society welcomes the Committee's support for the IAG's proposals in relation to bringing together compulsory purchase order ('CPO') powers applying in Wales.
36. There is also an aspect of the relationship between CPO powers and the proposed Welsh DNS system as it now appears in the Bill that merits further comment from the Law Society. Under the Planning Act 2008, a development consent order ('DCO') can contain CPO powers. The Welsh Government's approach of keeping the Welsh DNS process squarely within the planning system precludes a similar approach to associated CPOs. In several of the categories of development proposed to be designated as nationally significant, there are existing CPO powers under other legislation. The normal approach to CPO is to satisfy Ministers that there are no

obvious planning impediments to implementing CPO powers if granted. The result of this is a sequential approach where planning permission is in place before the examination of a CPO begins. The DCO approach of bringing CPO powers within the DCO examination process resolves this issue for schemes subject to the Planning Act 2008 system. The requirement to resolve potential planning impediments for other CPOs derives from circular guidance rather than being a statutory rule. The Law Society would suggest that the Welsh Government should examine how to enable NSP applications for planning permission and secondary consents to be considered in parallel with the granting of CPO powers where the applicant has such powers available and believes they are required for the scheme in question.



National Assembly for Wales  
Environment and Sustainability Committee  
PB 46  
Planning (Wales) Bill  
Response from UK Environmental Law Association



## INTRODUCTION

1. The UK Environmental Law Association (UKELA) aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of Environmental Law in the UK and the European Union. The organisation attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.
2. UKELA prepares advice to UK Governments with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared by the Wales Working Party..
3. UKELA welcomes the, primarily evidence based, proposals to introduce a revised planning system that that is transparent, flexible, focused on continual improvement, appropriate for facilitating development that meets the needs of the people of Wales, and encourages collaboration. However, UKELA is keen to ensure that any legislative proposals do not diminish environmental protection measures. In this respect, UKELA is concerned about the absence of detailed information on how the planning system will help deliver national outcomes under the Well-being of Future Generations (Wales) Bill and support implementation of the Environment Bill proposals.
4. UKELA's views on the Bill's current provisions are set out below:

### **The requirement to produce a national land use plan, to be known as the National Development Framework**

5. There appears to be a sound case for establishing a National Development Framework to support the preparation and development of LDPs; set the context for national policy objectives; and provide a tool for the delivery of natural resources and planning objectives. However, there are concerns about the abandonment of the notion of spatial planning as the concept is considered vital to developing an approach which clearly integrates economic, social and environmental concerns. It is, therefore, important

that the National Development Framework addresses planning for future generations and sustainable development in order to demonstrate clear linkages with the Well-being of Future Generations (Wales) Bill.

6. It is noted in the Bill's Explanatory Memorandum that there is an emphasis on providing businesses with opportunities to identify areas for development, whilst there is no reference to identifying areas for environmental protection and enhancement. In order to ensure that the three pillars of sustainable development are given equal status in any such framework there should be mention of the importance of identifying areas for environmental protection and enhancement in the legislation. .

### **The creation of Strategic Development Plans to tackle larger-than-local cross-boundary issues**

7. If a strong and comprehensive National Development Framework is to be introduced for a relatively small country such as Wales, there does not appear to be a case for developing Strategic Development Plans (SDP) and establishing associated Strategic Planning Boards for particular areas. The need for Strategic Development Plans is not particularly evident and they have the potential to introduce an unnecessary layer of bureaucracy to the planning system. Furthermore, matters to be considered by the SDP will not necessarily include all relevant local planning issues and there is concern that some of issues to be considered may be more relevant for local determination.
8. Clarity is needed on how SDPs will link with LDPs and the local well-being plans to be developed by the new Public Services Boards proposed under the Well-being of Future Generations (Wales) Bill. It is suggested that any Strategic Planning Panels set up should have a responsibility to liaise with Public Services Boards.
9. It is pleasing to note that the areas for SDPs have not been identified in the Bill. UKELA has some concerns about strategic planning in areas that may not be covered by SDPs and whether SDP areas will be defined according to transport/economic features or environmental/natural resource management requirements, neither of which necessarily respects administrative boundaries.
10. There is a likelihood that planning for those areas not covered by Strategic Development Plans may be overshadowed and decisions on the areas to be covered by the plans may pre-empt those in the report of the Williams Commission on Public Service Governance and Delivery in Wales.
11. Overall, UKELA is concerned that there could be a danger of local issues not being given full weight if decisions are made on a wider geographical basis. In addition, care needs to be taken to ensure that Strategic Development Plans do not cover issues that are more appropriately dealt with at a local level.

## Schedule 2A - Strategic Planning Panels (SSP)

12. This schedule, which details how the SPPs will operate, appears to place a great deal of power in the hands of Welsh Ministers in the following respects:

*In providing regulations on the membership of SPPs:* the Bill provides that the regulations are to stipulate (a) the total number of members of the panel, (b) the number of local planning authority members, and (c) the number of nominated members. In the interests of local democracy, UKELA's view is that only maximum numbers should be stated.

*In appointing nominated members of the SPPs:* the Bill provides that the Welsh Ministers will publish a list of persons who are to be nominating bodies and that if the nominating body nominates a person for appointment in response to a request from a strategic planning panel, the panel must appoint that person as a nominated member of the panel. In our view the Bill should be more specific about the nature of nominating bodies and the qualifications of nominated members in order to ensure that panels comprise individuals with appropriate skills and expertise.

13. The Bill should also give the SPP the discretion to decide whether or not to appoint a person suggested by the nominated body. Indeed, the initial appointments to a strategic planning panel under this paragraph are to be made by the local planning authority members of the panel; there does not appear to be a valid reason for deviating from this practice.
14. UKELA strongly agrees that the chair and deputy chair of a SPP should be appointed from its local planning authority members and that the meetings should be open to the public. However, the Bill should be specific as to where the notice of the meeting of the SPP and the record of business should be published to ensure complete openness and transparency. This is particularly important given Wales's obligation to ensure adequate public participation in environmental decision-making under the 1998 Aarhus Convention.
15. UKELA notes that local authorities are required to fund SPPs but must accept the calculation of costs provided by the Panel, which will, of course, include unelected members. The issue of accountability is very relevant here. UKELA is concerned about the limited provision for accountability of SPPs in the Bill; apart from basic reporting requirements to send copies of the financial reports and annual report to the constituent local planning authorities and Welsh Ministers, the only other provision is for financial accountability to the Auditor General for Wales.

## **Changes to Local Development Plan procedures**

16. It could be argued that all local authorities are dependent to some extent on developments outside their immediate geographical boundaries and it is acknowledged that in view of the limited size of some authorities, and the current difficult financial climate, the case for the merger of LPAs could be justified provided that account is taken of availability of expertise and resources.
17. If it is decided to go ahead with Strategic Development Plans in addition to LDPs and powers are introduced for establishing joint LDPs, Wales could end up with a four tier development planning system, which appears excessive for a relatively small country and possibly lead to confusion over the status of SDPs and joint LDPs.

**Front-loading the development management process by making provision for pre-application services**

18. The aim of encouraging the use of pre-application services is to be welcomed, along with the proposal to make this compulsory for developments of national significance and other major developments. This should improve the efficiency of the planning system by reducing the number of “call in” applications and planning appeals. However, care will need to be taken to ensure that both statutory consultees and members of the public are given the opportunity to comment on development proposals at an early stage and that the latter group is equipped to respond fully within required timescales. There should also be care taken to ensure that the system encourages and not deters developers from coming forward with projects.

**Introducing a new category of development to be known as Developments of National Significance that are to be determined by Welsh Ministers;**

19. Providing a ‘one stop shop’ for developers in gaining planning permission and related permits for nationally significant development is clearly important to ensure a more effective system of approval. However, it is equally important to ensure that the decision maker on such consents has the necessary expertise to fully consider the impacts of proposals on the environment. Consultative processes that currently exist in the provision of such consents should not be by-passed by the transfer of power from specialist agencies to the Welsh Government.
20. The Bill grants Welsh Ministers very wide powers to declare that a consent, necessary for a development of national significance, should be decided by them (s62F); and there is no appeal against such a declaration. There is also a very wide power to require a ‘relevant person to do things in relation to a secondary consent’ (s62G); and to make regulations regulating the manner in which such consents are to be dealt with by Welsh Ministers that may include provision:
- (a) about consultation to be carried out by the Welsh Ministers before a secondary consent is granted or refused;

(b) requiring a person to provide a substantive response to any consultation carried out by virtue of the regulations.

21. UKELA believes that the basic requirements for consultation on such consents should be outlined in the Bill or that it should at least be a duty of Welsh Ministers to include this in regulations. There is also a very wide power for Welsh Ministers to direct LPAs to 'do things' in relation to applications for developments of national significance that would otherwise have been decided by them.

### **Streamlining the development management system**

22. The introduction of the Planning Advice and Information Service (PAIS) and a competence framework for planners and elected representatives together with a core set of development management policies for consistent application should help in improving the efficiency and the effectiveness of the planning system in Wales. However, this view is predicated on there being a clear understanding of what is needed and that support services are developed to address these evidenced needs.

23. Whilst there may be circumstances in which it is appropriate for Ministers to intervene and take over the responsibilities of a poorly performing authority, there is an evident danger that the focus may be on time scales taken to reach decisions rather than the quality of the decision and the development outcomes for the local area.

### **Local Planning Authority Committees**

24. The details of the provisions for this very important power to regulate LPA Planning Committees in the current Bill are written very broadly. Welsh Ministers can direct that any planning function be discharged by a committee, subcommittee or officer of the authority; and can 'prescribe the terms of the arrangements' for the discharge of functions by a planning committee. Welsh Ministers also have the power to make regulations prescribing "requirements relating to the size and composition of a committee or sub-committee by which a relevant function is to be discharged." This provides Welsh Ministers with significant power, which, together with the failure to set out the most effective size and composition of committees is of concern to UKELA.

### **Planning Hearings**

25. Once again Welsh Ministers are provided with a wide power to prescribe the procedures to be followed in any inquiry, hearing or proceedings by way of written representation (s323A). This includes any (a) inquiry or hearing or (b) proceedings on an application, appeal or reference that is to be considered on the basis of representations in writing, which will cover, therefore, the procedures on applications for DNS and planning appeals.

There is no provision to protect the basic rights of individuals to make representations in these processes. The focus is only on the efficiency of such proceedings with reference to the power to include in regulations time limits for submitting representations in writing and any supporting documents; and generally for different classes of proceedings or an individual proceeding. Rules may also be introduced to enable Welsh Ministers to proceed to a decision, taking into account only such written representations and supporting documents as were submitted within the time limit; and to proceed to a decision even though no written representations were made within the time limit. This is of crucial importance and UKELA is very concerned that there is no reference in the Bill to the setting of minimum time limits in order to protect the rights of interested individuals.

### **Changes to enforcement and appeal procedures**

26. UKELA has some concern about the absence of a third party right of appeals in such circumstances as approval for a development that contravenes the adopted development plan. We are of the view that a provision for third party appeals in clearly defined circumstances should be specified in the Bill.

### **The appropriateness of the powers in the Bill for Welsh Ministers to make subordinate legislation (as set out in Chapter 5 of Part 1 of the Explanatory Memorandum, which contains a table summarising the powers for Welsh Ministers to make subordinate legislation)**

27. There seems to be some inconsistency in making the passage of regulations under s.62D(3) of the TCPA 1990 (enabling Welsh Ministers to set criteria for Development of National Significance (DNS)) subject to the affirmative resolution procedure whereas s.62D(6) (enabling Welsh Ministers to describe the type of applications to be dealt with as Developments of National Significance) is subject to the negative resolution procedure (NRP). It is not clear that the latter is simply a technical matter – as stated, and presumably the justification for the use of the NRP. Surely the ‘type’ of application to be dealt with as a DNS must be one that satisfies the criteria for DNS. If one is a non-technical matter then surely so must be the other.

Dr Victoria Jenkins

Dr Haydn Davies

UK Environmental Law Association Wales Working Party

7 November 2014

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Mr Alun Ffred Jones AM  
Chair, Environment & Sustainability Committee  
National Assembly for Wales  
Cardiff Bay  
CF99 1NA

Date: 25 November 2014  
Our ref: HVT/2238/fgb  
Page: 1 of 3

Dear Alun

**THE WELL-BEING OF FUTURE GENERATIONS (WALES) BILL: DISCUSSIONS BETWEEN THE MINISTER FOR NATURAL RESOURCES AND THE AUDITOR GENERAL**

I am writing to provide the Committee with an update on the discussions between my lawyers and policy officials and those of the Welsh Government, following the Minister's meeting with me on 4 November 2014.

The main issues that have been the subject of discussion have been our disagreement as to the requirements of existing audit duties in relation to the Bill, and our disagreement as to the National Assembly's legislative competence to introduce new duties on the Auditor General in relation to the Bill:

- In terms of the disagreement as to existing audit duties, the Welsh Government had been of the view that the Auditor General's existing duties in the audit of the accounts of local government and NHS bodies meant that the Auditor General was under a duty to consider the effectiveness and efficiency in the "setting of well-being objectives and taking all reasonable steps to achieve the objectives" (paragraph 390 of the Explanatory Memorandum).
- On the National Assembly's legislative competence, the Welsh Government had been of the view that providing a new duty relating to economy, efficiency and effectiveness on the Auditor General was outside competence.

As the Committee is aware, the advice provided to me by Peter Oldham QC indicated that neither of these Welsh Government views of the law were correct.

The Minister and I met to discuss these matters on 4 November. That helpful meeting was followed by a meeting of our respective lawyers on 17 November, and a series of meetings between our officials held between 19 and 25 November. As a result of those discussions, the Minister has agreed a Policy Note with me, a copy of which is appended to this letter.

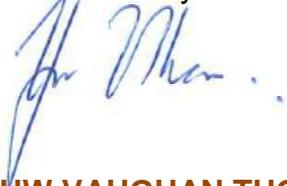
I welcome the Welsh Government's proposal of a duty as it is implicit recognition that, in the absence of an existing duty to review the effectiveness of compliance with the Bill, there is indeed a need for a new duty on the Auditor General. It also serves to acknowledge that there is no existing duty on the Auditor General to audit the effectiveness of the setting of well-being objectives (and the Welsh Government has agreed to amend paragraph 390 of its Explanatory Memorandum accordingly). I also welcome the Welsh Government's acceptance of my suggestion that, in the interests of timely and proportionate reporting, the provisions for reporting on the exercise of such a duty should not be tied to an annual cycle but should instead provide some alignment with the Future Generations Commissioner's Future Generations report.

In my view, the enclosed Policy Note sets out a role for the Auditor General that will provide a reasonable degree of consistent audit examination of the setting and achieving of well-being objectives across the Welsh public sector. The Minister has indicated to me that the Policy Note will be translated into an appropriate Government amendment to the Bill, and I await sight of the precise wording of the proposed duty.

I should be happy to provide further explanation if the Committee would find that helpful.

Given the interests of the Public Accounts Committee and the Finance Committee, I am copying this response to Darren Millar AM and Jocelyn Davies AM. A copy also goes to Gareth Jones at the Welsh Government.

Yours sincerely



**HUW VAUGHAN THOMAS**  
**AUDITOR GENERAL FOR WALES**

*Enc: Annex: Policy note agreed between the Minister for Natural Resources and the Auditor General for Wales*

cc Mr Darren Millar AM  
Ms Jocelyn Davies AM  
Mr Gareth Jones OBE

## **ANNEX: POLICY NOTE AGREED BETWEEN THE MINISTER FOR NATURAL RESOURCES AND THE AUDITOR GENERAL FOR WALES**

### **WELL-BEING OF FUTURE GENERATIONS BILL**

As suggested by the Auditor General to the Committee, we agree that there should be a new duty on the Auditor General that requires him to examine and report on the application of the governance approaches in both the setting and also the achieving of objectives by public bodies. We are also in agreement that the Auditor General should lay before the Assembly a report on the finding of those examinations in a way that allows the reports to complement the Future Generations Commissioner's FG report and to lay (and therefore publish) the reports.

#### **Proposed Role of the Auditor General**

The Welsh Government has proposed that the Auditor General would regularly examine how the bodies have applied the five identified governance approaches of sustainable development. This means looking at the arrangements they have in place to ensure that they take account of the long term, the need for an integrated approach, working with others, involving people, and taking preventative action in both setting and taking steps to meet their well-being objectives.

The Auditor General would therefore be able to consider issues such as whether the body can show that it has organised itself to have robust mechanisms and procedures in place and whether these are actually being used, that is, are the governance approaches being applied when the body is making key decisions about setting well-being objectives and also when taking steps to achieve them.

Such an examination would not be a simple tick box exercise to review whether or not the body actually has well-being objectives but would be an examination of how seriously the public sector is taking sustainable development. How the Auditor General carries out this examination should be at his discretion so that he has flexibility to do so in a proportionate way.

It is not envisaged that under this duty the Auditor General would look at whether the objectives are the 'right' objectives, but whether the public body has gone the right way, i.e. embedded the governance approaches in setting the objectives, and then achieving them.



Alun Ffred Jones AM  
Chair of the Environment and Sustainability  
Committee,  
National Assembly for Wales,  
Cardiff Bay,  
Cardiff  
CF99 1NA

24 November 2014

Dear Mr Jones

## **INQUIRY INTO THE PUBLIC FORESTRY ESTATE IN WALES**

I am writing to thank you for a copy of your letter sent to the Minister for Natural Resources on 28<sup>th</sup> October 2014.

The Inquiry highlighted a number of areas for concern and we have made good progress on many of the issues you raise. To take forward matters in an open and transparent way we have used the Inquiry to help build an Action Plan together with Welsh Government Forest Policy Branch and forest sector representatives to tackle the areas for improvement in partnership.

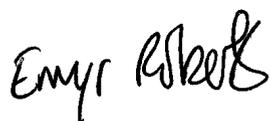
We will be able to report progress through this mechanism on the Ten Areas for Action:

1. Improved quality of communication with forest sector
2. Improved transparency on forestry regulation and compliance
3. Improved transparency of forests facts and figures for timber production, forecasting and supply
4. Improved management of timber production and supply from Welsh Government Woodland Estate and the Welsh Forest Resource
5. Recognition of *Woodland for Wales* outcomes and the forest sector when taking forward Integrated Natural Resource Management and an 'ecosystems approach' to decision making
6. Set out the role and purpose of the Welsh Government Woodland Estate and its strategic priorities to best deliver WG policy priorities

7. Improve support for the forest sector to deliver against Welsh Government policy priorities through well targeted funding, advice and guidance
8. Promote the interests of forestry
9. Provide assurance of sufficient forestry skills in Natural Resources Wales
10. Reporting on progress

I am copying this letter to the Minister for Natural Resources.

Yours sincerely,



**Emyr Roberts**

**Prif Weithredwr  
Chief Executive**

Carl Sargeant AM /AC  
Y Gweinidog Cyfoeth Naturiol  
Minister for Natural Resources



Llywodraeth Cymru  
Welsh Government

Eich cyf/Your ref  
Ein cyf/Our ref SF/CS/3185/14

Alun Ffred Jones AC  
Cadeirydd  
Pwyllgor yr Amgylchedd a Chynaliadwyedd

21 Tachwedd 2014

Annwyl Alun Ffred

Yn dilyn ein hymddangosiad gerbron y Pwyllgor ar 23 Hydref ar gyfer y sesiwn archwilio ariannol, ar 7 Tachwedd, fe ysgrifennoch at y Pwyllgor Cyllid yn amlinellu amrywiaeth o faterion yr oeddech chi'n awyddus i gael rhagor o wybodaeth amdany'n nhw. Mae'r materion hyn wedi'u hamlinellu'n llawn yn **Atodiad 1** isod. Hefyd, yn ystod y sesiwn archwilio, fe wnaethom ni gytuno i roi rhagor o wybodaeth ichi ar rai materion hefyd; materion hyn wedi'u rhestru yn **Atodiad 2**.

Gobeithio bod hyn wedi ateb cwestiynau'r Pwyllgor yn llawn ac rydym yn edrych ymlaen at gydweithio'n agos â chi yn y dyfodol.

Yn gywir

**Carl Sargeant AC / AM**  
Y Gweinidog Cyfoeth Naturiol  
Minister for Natural Resources

**Rebecca Evans AC / AM**  
Y Dirprwy Weinidog Ffermio a Bwyd  
Deputy Minister for Farming & Food

## Issues raised in your letter of 7 November 2014

### 1.1 Clarification on whether the £5 million revenue reduction to the 2014-2020 RDP BEL will be returned to delivery of the Programme

The £5 million reduction is a baseline reduction to the MEG as a whole, and it is clear to me that due to the nature of the RDP and the spend profile of a multi year demand led programme, I will need to review the domestic budgetary requirements on an annual basis. My priority is clear. I will ensure that the RDP domestic budget in each financial year will be sufficient to support the commitments within the programme. The RDP programme demands flexibility and, with a flat line domestic RDP budget, I have to use as many tools and flexibilities as I can within my remit which will inevitably mean that I will need to redirect resources where the need is greatest in line with my priorities.

### 1.2 When is approval *{of the RDP}* likely?

I intend to update the Committee as soon as formal approval has been received from the European Commission.

### 1.3 How the Environment Bill supports new funding mechanisms

The Environment (Wales) Bill will put in place modern statutory processes to help plan and manage our natural resources in a more joined up way and will provide NRW with new powers to enable them to lead this work. It is proposed that the Bill will extend NRW's existing powers to undertake experimental schemes. This could include the ability to trial Payments for Ecosystem Services (PES) mechanisms. PES will enable us to understand and recognise the value of the services provided by the natural resources on which our economic growth relies, so that we can protect them and improve the social and economic well-being of Wales.

### 2.1 Tables of domestic spend alongside European allocations for 2015-16

As soon as formal approval has been received from the European Commission I will be in a position to review the programme for 2015/16 and the corresponding domestic and European allocations. Once I have a profile of expected spend, I will update the Committee as soon as possible.

### 4.2 Local Authority costs of implementing new and forthcoming animal welfare duties

Local authorities in Wales already have the duty to enforce the Animal Welfare Act 2006, including licencing duties. The Animal Welfare (Breeding of Dogs) (Wales) Regulations 2014 contain the power for local authorities to set their licencing regime to recoup reasonable costs associated with issuing a licence. They will also be able to appoint appropriate inspectors to enforce on their behalf.

Whilst we have developed Regulations on dog breeding and intend to bring forward legislation on microchipping, we recognise the connection between that and the Anti-social Behaviour Crime and Policing Act 2014 (ASBCP). We expect local authorities to fully utilise the opportunity to enforce the legislation with flexibility in mind. The Welsh Government officials will work with local authorities and other key stakeholders to develop enforcement guidance.

The Anti-social Behaviour Crime and Policing Act 2014 is a piece of UK legislation that was taken forward on the basis of reducing complexity and the burden caused to local authorities and the police by the number of Anti-social Behaviour Orders. In carrying out their assessment the UK Government Home Office made it clear that, whilst there may be costs for local authorities under the new proposals, these would be offset by the removal in the Act of other responsibilities for which funding is already in place. Moreover, the Home Office anticipated there should be cost savings under the new proposals although they were not able to fully quantify these.

Local authorities are being given the power to seek a reasonable recovery of costs associated with issuing a licence under the proposed new secondary legislation Dog Breeding Regulations in Wales which is similar in approach to that contained in existing Breeding legislation under the Breeding of Dogs Act 1973 (as amended). I have met with local authority and Welsh Local Government Association representatives and our discussions centred around affordability and willingness to keep this in sight. Our officials are working with local authorities to help facilitate the development of the processes, such as templates, and the monitoring required during the first year of implementation.

As regards microchipping, the Welsh Government has to undertake a Resource Impact Assessment and that will be developed alongside the final drafting of the Regulations.

## **5.2 The cost of replanting the forestry estates and where these are covered in the NRW draft budget**

Natural Resources Wales estimates that the costs of replanting on the forest estate in 2015/16 as a consequence of Phytophthora Ramorum will be £1.7 million. In the first instance I would expect the NRW board to identify how they might look to cover these costs within their total operating budget of £180 million.

## **7.1 The processes, timetable and plan for monitoring implementation of WAO recommendations on Glastir**

I am not able to release the information you have requested on the Auditor General's report on Glastir until after the Public Accounts Committee have received the Welsh Government response to the report. This information will be presented to PAC during an evidence session arranged for 2 December. Following this session I will provide the Committee with a copy.

## **8.2 Approved Nature Fund projects**

The Nature Fund will be funding the activity outlined against 2014-15 in the successful project proposals.

The 'How to apply' was clear that we are allocating resources from the Nature Fund in this financial year 2014/15. As operational activity began in November, following a protracted funding allocation process, we have extended the timetable to allow a limited number of activities, where applicable, to be profiled for delivery in quarter 1 of 2015/16. This will optimise the public benefit derived from the project outcomes. The Nature Fund budget as defined below will be accurately profiled following the receipt of all the individual project financial profiles. The resultant 2014/15 and 15/16 profile will be managed within the [divisional/departmental] budget.

We know that some proposals will include activities, defraying expenditure following the Nature Fund operational period that may run over into future years. We asked projects to clearly indicate where additional financial support will be necessary to deliver the proposal, and how the project benefits would be sustained in the future.

The 'How to Apply' document also stated that, where a proposal is based over a number of years, we will work with successful proposals to help identify relevant funding and advice for the duration of the proposal. It also stated that, although long term funding routes would vary, the intention is that most of the funding for successful proposals in future years will be met from the Rural Development Programme, where eligible.

The information provided on the deliverability of projects in 2014-15 and sustainability of the benefits was appraised as part of the Nature Fund appraisal process.

Project	Lead	Amount	Description
<b>Coed Cymru and Rivers Trust</b>	Coed Cymru	£658,500	This project is led by Coed Cymru collaborating with River Trusts and local landowners and delivers action directly in several of the Nature Action Zones. The project will focus primarily on the farmed landscape within the river catchments. The project proposes to work with 300 farmers in 10 river catchments. Activity includes woodland creation for riparian areas, woodland management, hedgerow restoration.
<b>Natural Buzz</b>	Keep Wales Tidy	£130,000	The project led by Keep Wales Tidy aims to maximise multiple ecosystem services of currently undervalued green sterile spaces – mowed areas on industrial estates, school and hospital grounds, business parks and roadside verges and transform them into a blaze of wildflowers.
<b>Elwy Valley Habitat Improvement</b>	Conwy County Borough Council	£180,000	The project aims to work with landowners to deliver improvements such as carrying out soft engineering works on identified sections of river bank, comprising reprofiling, seeding and planting of native trees to a 7.5km stretch of the River Elwy between two villages (Llangernyw and Llanfairtalhaiarn) in the Conwy Valley Nature Action Zone. Currently this section

			of river currently has unstable banks for 80% of its length due to a lack of trees and free access by livestock which increase bank collapse and erosion.
<b>Llyn Landscape Partnership</b>	Gwynedd County Council	£200,000	This collaborative project led by Gwynedd County Council aims to build resilience through the integrated management of terrestrial coastal habitats in the Llyn Peninsula Nature Action Zone by striking a balance through agricultural use, conservation of key habitats and provision of access through the Coastal Path.
<b>Unwanted Vegetation and the Restoration of Peatlands</b>	Snowdonia National Park	£132,000	This collaborative project led by Snowdonia aims to restore areas of peatland, a priority habitat in three Nature Action Zones (Conwy Valley, Berwyn and Migneint & Llyn Peninsula) and the establishment of a strategy for the future restoration of peatland in North-West Wales.
<b>Long Forest Phase 2</b>	Keep Wales Tidy	£190,000	The Long Forest is a community engagement project aimed at encouraging local groups, landowners, schools and businesses to become more actively involved in the management of hedgerows, associated linear woodland features and ancient trees. Volunteers will gain training and knowledge in hedgerow management activity with wider benefits relating to water quality and flood alleviation
<b>Peatland Push Cymru</b>	Montgomerys hire Wildlife Trust	£59,000	The project led by Montgomery Wildlife Trusts aims to deliver sustainable land management on the ground through the creation and restoration of habitats on a 24ha smallholding, delivering water quality and quantity benefits while enabling habitat connectivity in the Cambrian Mountains Nature Action Zone.  The project will pilot the establishment of a mechanism which will support landowners within the area to directly market the green growth opportunities generated from their holdings
<b>North Wales Moors Futurescape</b>	RSPB	£241,800	The project led by RSPB Cymru places the Berwyn and Migneint Nature Action Zone as the focus for conservation action

<b>Programme</b>			and sustainable land management at a landscape scale. Delivery will be through a broad partnership willing to take action to achieve a shared vision for a sustainable countryside.
<b>Connectivity Work in the Duhonw Catchment</b>	Robert Powell Blaenbwch	£128,000	This collaborative farmer led project takes practical action at landscape scale and seeks to build ecosystem resilience with the establishment of wildlife corridors which will deliver wider environmental benefits including improved water quality and storage within the catchment. Some 19,500m of corridors will be established to the Welsh Government agri-environment specification.
<b>Managing Woodland Resources in Conwy</b>	Golygfa Gwydyr	£125,000	This project will build the capacity of the community in Conwy manage public and private woodland resources and thus realise economic, social and environmental benefits for participating communities, making them more sustainable and less dependent on public funding. Community engagement will enable greater value for money contracting for large- and small-scale public commissioning whilst ensuring that community benefits are realised through direct action by the community, or contractual community benefit clauses where appropriate.
<b>Pond Connections</b>	Amphibian and Reptile Conservation (ARC) Trust	£63,000	This project led by ARC Trust bring partners together for pond creation and restoration and habitat restoration for over 30 sites in the south Wales Valleys Brecon Beacons and Pembrokeshire Coast Nature Action Zones. It includes an extensive volunteer programme and looks to use local resources and contractors.
<b>Castlemartin Peninsula</b>	The National Trust	£144,000	The partnership project is a combination of web mapping which will provide the evidence for the development of a toolkit for organisations and communities to address habitat and biodiversity loss. The project also sees activity to improve habitats in the catchment, land management works and volunteer and community engagement.
<b>Future Fisheries</b>	The Wildlife Trust of	£62,000	This partnership proposal is to provide information to help promote low impact

<b>Living Seas</b>	South and West Wales		fishing practices which will enable species and habitats to recover. This information is not readily available at present and using this will help to engage fishermen in taking forward a sustainable approach to fishing.
<b>Ecosystem Enterprise Partnership (EEP) - Ecobank</b>	Pembrokeshire Coastal Forum	£150,000	This project led by Pembrokeshire Coastal Forum aims to create a partnership framework between land managers, business, industry and commerce, government and third sector to reduce emissions to the Milford and Cleddau catchments with improved local environment use for public and biodiversity benefits.
<b>Pollinators for life project</b>	Torfaen County Borough Council	£282,100	This project led by Torfaen County Borough Council aims to undertake a range of initiatives to promote long term sustainable land management and to improve habitats and conditions for all pollinating species across the South Wales Valleys.
<b>Elenydd Purple Moor Grass</b>	Cambrian Mountains Initiative	£152,000	This project led by the Cambrian Mountains Initiative undertakes and evaluates different approaches to the management of Molinia and researches potential uses of Molinia. This has the potential to deliver multiple ecosystem benefits such as securing an economic return for farm businesses through harvested Molinia.
<b>Black Mountain Heathland Restoration</b>	Brecon Beacons National Parks	£201,500	This project led by Brecon Beacons National park focuses on the development of a land management partnership, development of a 10 year bracken control programme, and direct action to restore vegetative cover and heather management and Molinia.
<b>Berwyn and Migneint, Black mountains and Radnor upland recovery</b>	FWAG	£241,800	This project managed by FWAG aims to support landscape-scale species recovery and wider ecosystem service delivery. The project will focus on restoring and safe guarding peat bogs to deliver a suite of benefits such as carbon sequestration, water retention, flood risk alleviation and restoration of heather habitat.
<b>Eastern</b>	Torfaen CBC	£280,000	A large South Wales partnership project

<b>Valleys Uplands Project</b>			<p>taking place in South East Wales Valleys composed of 3 interrelated elements developing a regional natural resource management for the uplands; a number of capital projects around fencing, land management, reducing crime and creating fire breaks and contribution for outreach and crime prevention engaging with commoners and land use stakeholders to share best practice.</p>
<b>Llynfi Valley Woodland Creation</b>	NRW	£627,000	<p>The Welsh Government is also directly investing into a woodland creation project in the Llynfi valley. This project is led by NRW, directly involving the local authority Health Trust, schools and communities to implement 30ha of native woodland planting and integrated community focused infrastructure.</p>

## **Issues discussed at scrutiny session where further information was requested**

### **Information on the sale of forestry by Natural Resources Wales and clarification around the definition of non-essential public estate**

Natural Resources Wales is intending to sell 277ha of Welsh Government owned farm land. This represents only 0.2% of the land it manages on behalf of the Welsh Government, which is a total 126,000ha. Much of the farm land which is being sold (235ha or 85%) is occupied by farmers with secure tenancies. This means that Natural Resources Wales is unable to use the land and therefore selling it gives the tenants the opportunity to purchase the freehold outright.

It is estimated that the total land intended for sale will generate approximately £1.2 million. This will be reinvested to manage the Welsh Government woodland estate in order to maximise the benefit for the people, economy and environment in Wales.

Natural Resources Wales has also sold three old depots inherited from predecessor bodies which were not in active use.

### **Details of identified Natural Resources Wales ICT spend for next year**

The total ICT set up expenditure for 2013-14 was £8.1m and is projected to be £13.3m in 2014-15. In the future the projected costs for the move into ICT transformation are £8.1m in 2015-16 and £3.9m in 2016-17. Therefore, the total projected expenditure on ICT by Natural Resources Wales between 2013/2014 and 2016/2017 is £33.4m.

### **Information on the possible impact in Wales of the UK Government's changes to the Energy Company Obligation**

Recent changes to the Energy Company Obligation (ECO) by the UK Government have resulted in significant reductions in the amount of ECO that can be leveraged for schemes in Wales. Developments in the achievements of ECO targets by energy companies are impacting on the price that energy companies are prepared to pay for every tonne of carbon saving delivered. The price per carbon tonne has reduced from around £150 per tonne to as little as £25 per tonne.

Despite the changes we will continue to develop a range of actions and will leverage investment in partnership with internal colleagues and external partners.

As a result we will continue to deliver energy efficiency improvement through area based schemes across Wales.

### **Clarification regarding £35m capital budget for Fuel Poverty Programme (BEL 1270)**

A query was raised on the notes accompanying the BEL table which was submitted to the Committee as part of the evidence. The comments were that the 2015/16 budget includes £35m awarded in the final budget of 2014/15. This comment was potentially interpreted that £35m from 2014/15 was underspent and carried forward. Indeed, the comment was to

inform the committee that in 2014/15 the Finance Minister awarded £35m to Fuel Poverty in both financial years 2014/15 and 2015/16, and that the draft budget for 2015/16 includes this £35m announced in 2014/15. I can also confirm that the £35m in 2014/15 remains fully committed.

**The figures for the number of Ynni'r Fro schemes and their spread across Wales as well as an assessment of the value for money they provide**

Outlined below are the Ynni'r Fro Schemes in place across Wales.

<b>Convergence</b>	
Anglesey	5
Bridgend	4
Caerphilly	1
Carmarthenshire	11
Ceredigion	15
Denbighshire	1
Gwynedd	14
Merthyr Tydfil	2
Neath Port Talbot	3
Pembrokeshire	8
Rhondda Cynon Taff	9
Swansea	3
Torfaen	1
Blaenau Gwent	4
Conwy	4
Vale of Glam	1
	86
<b>Competitiveness</b>	
Monmouthshire	2
Powys	10
Wrexham	1
Flintshire	2
Cardiff	1
Total	16

An internal economist was commissioned to undertake a cost benefit analysis of the programme in 2013. This work established that the 20 projects identified in the research, (which were those sufficiently well advanced to provide robust data), will generate £11.8 million in net benefits over the lifetime of the installations, with benefits of £1.36 generated for every £1 invested from the programme.

There are 6 projects currently in the planning process awaiting determination. There are also a further 6 projects that have received pre-planning advice from the relevant Local Planning Authority, but have not yet submitted a formal planning application. 4 of these projects are located in south Wales, 1 in mid Wales, 3 in north Wales and 4 in west Wales.

## **The predicted cost of the badger vaccination programme in the intensive action area for the next financial year 2015/16 and clarification of why it is predicted to cost more than in the first two years of the scheme**

The original predicted cost for year one of the project was £1.1m. An annual mark-up of £0.1m has been added to cover the increase in incremental staff salary costs as well as to cover general increases in equipment, accommodation and facilities costs.

The variation between the predicted cost for 2015/16 and the actual cost reported for the first two years is mainly due to:

- Costs published in the Annual IAA Badger Vaccination Report only reflect the actual costs incurred during the field operational phase of the project between April and November. The costs were presented on this basis for year one as the report was published on completion of the first year's operational phase and before the end of the financial year.
- Further costs were incurred after producing the report, during the non operational phase of that financial year. There is also an overlap of expenditure incurred at the end of a financial year that are to support the operational phase within the IAA of the following year.

The costs for year 2 were published on the same basis to provide a year on year comparison. This was stated in paragraph 45 of the report:-

*"The costs cover the delivery of the field operational phase between April and November 2013, and also include expenditure that was incurred prior to this, during the preparation stage such as the purchase of various items of equipment and consumables".*

## **Information on the financial implications of the Control of Horses (Wales) Act 2014**

The first six months of the Control of Horses (Wales) Act saw the new powers being used to good effect by at least 9 local authorities who reportedly used it on at least 30 separate occasions.

Many of the local authorities have not as yet used the powers, this is believed to be due to the impact that the legislation has had i.e. it has raised the profile of the problem, made it less acceptable to fly graze and as a result brought about a change of behaviour by those owners who have previously been inclined to fly graze their animals.

Local authorities are currently unable to provide detailed figures in respect of the actual costs accrued under the Control of Horses (Wales) Act 2014. A number of authorities who have used the powers believe that on average it is costing approximately £150 per horse for seizure. Costs for keeping horses for the 7 day period vary from £10 - £12 per day with a further £200 for identification and transport in cases where the horse is rehomed or £200 for euthanasia and disposal costs where the only option is to humanely destroy the horse. These figures do vary depending on the numbers involved and in most cases do not include local authority officer time.

Prior to the Act coming into force local authorities reported that the average cost to seize, impounding and disposal of a horse could amount to as much as £500 per horse per day. During the period November 2011 to December 2012 it was estimated that around £1.2 million was spent in dealing with the issue in South Wales alone.

A commitment has been given to fully evaluate the Act within 3 years of it coming into effect.

### **Provision for the cost of implementing the Agricultural Sector (Wales) Act**

I have allocated £183k to support the implementation of the Agriculture Sector (Wales) Act as can be seen in the BEL table supplied to the committee as part of the evidence. The Budget has not yet been assigned a BEL number, but it is provisionally entitled "AWB" and is under the Action "Develop and deliver overarching policy and programmes on Agriculture, Food and Marine".

The Agricultural Sector (Wales) Act 2014 provides provisions for the Welsh Ministers to make an interim wages order before the proposed Agricultural Advisory Panel is established.

Due to the abolition of the Agriculture Wages Board in 2013 and the UK Government's decision to refer the Agricultural Sector (Wales) Bill to the Supreme Court for consideration, no new rates of Agricultural Minimum Wage have been set since 2012. An interim wages order made under the 2014 Act will allow us to bring wages in line with current economic and employment conditions in the agricultural sector in Wales.

An interim wages order is expected to come into force in 2015 and any proposed increase to the pay levels of agricultural workers will be subject to statutory public consultation.

### **Information on the co-ordination of Government spending on food promotion events**

My Department is currently working on developing a Food Tourism Action Plan in collaboration with Visit Wales and in consultation with a range of public, private and voluntary stakeholders with the aim of encouraging greater co-operation and collaboration across the Food and Tourism sectors in Wales.



Y Pwyllgor Cymunedau, Cydraddoldeb a  
Llywodraeth Leol

Communities, Equality and Local Government  
Committee

Alun Ffred Jones AC  
Cadeirydd  
Y Pwyllgor Amgylchedd a  
Chynaliadwyedd

Bae Caerdydd  
Caerdydd  
CF99 1NA

21 Tachwedd 2014

Annwyl Alun Ffred,

### Ymchwiliad i Dlodi yng Nghymru

Mae'r Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol yn cynnal ymchwiliad i dlodi yng Nghymru ar hyn o bryd. Mae'r ymchwiliad hwn wedi'i rannu'n bedair elfen, a bydd pob un ohonynt yn canolbwyntio ar un mater penodol mewn perthynas â thlodi. Mae pob elfen yn annibynnol, gyda chylch gorchwyl penodol. Gyda'i gilydd, fodd bynnag, bydd yr elfennau hyn yn creu un darn o waith yn ymwneud â'r maes hwn.

Mae'r pedair elfen fel a ganlyn:

- Efen 1: tlodi ac anghydraddoldeb
- Efen 2: effaith diwygio lles ar dlodi yng Nghymru
- Efen 3: tlodi mewn gwaith
- Efen 4: dulliau o drechu tlodi yn y gymuned

Rydym wedi cael tystiolaeth ysgrifenedig ar Efen 1 yr ymchwiliad, y gellir ei gweld drwy'r linc a ganlyn:

<http://www.senedd.cynulliad.cymru/mgConsultationDisplay.aspx?ID=138>

Rydym yn clywed tystiolaeth lafar ar Efen 1 ar hyn o bryd, ac mae'r gwaith hwn yn debygol o ddod i ben yn gynnar y flwyddyn nesaf, gyda'n hadroddiad yn dilyn maes o law.

Wrth baratoi ar gyfer cam nesaf ein hymchwiliad, rydym wedi galw am dystiolaeth ysgrifenedig ar Efen 4. Y dyddiad cau ar gyfer cyflwyno'r dystiolaeth hon yw 30 Ionawr 2015.

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg / We welcome correspondence in both English and Welsh  
Y Pwyllgor Cymunedau, Cydraddoldeb a Llywodraeth Leol / Communities, Equality and Local Government Committee  
Gwasanaeth y Pwyllgorau / Committee Service  
Ffôn / Tel: 029 2089 8032  
E-bost / Email: Pwyllgor.CCLIG@cymru.gov.uk

Roeddwn am ddwyn i'ch sylw waith y Pwyllgor ar y pwnc hwn, oherwydd ei bod yn bosibl y bydd materion sy'n berthnasol i waith y Pwyllgor Amgylchedd a Chynaliadwyedd, gan gynnwys eich ymchwiliad i effeithlonrwydd ynni a thlodi tanwydd, yn cael eu codi wrth inni gasglu tystiolaeth. Os oes unrhyw bwyntiau yr hoffech eu codi gyda'r Pwyllgor mewn perthynas â'n hymchwiliad, byddwn yn ddiolchgar i glywed amdanynt; byddwn yn rhoi gwybod ichi am unrhyw ganlyniadau a allai godi o'r pwyntiau hyn.

Yn gywir

A handwritten signature in black ink that reads "Christine Chapman". The signature is written in a cursive, flowing style.

**Christine Chapman AC**  
**Cadeirydd**

I am very pleased to be able to submit evidence to the members of the Environment & Sustainability Committee. Having watched the Senedd TV recording of the Committee's meeting last Wednesday 5<sup>th</sup> November 2014 on the subject of Electronic Collars used with invisible boundary fencing.

#### Brief History

Before the 2010 ban, the animal-activated electronic boundary fencing system was in use for decades in Wales without any adverse reports from the Police, Animal Welfare organisations or the veterinary community. In the Draft Legislation of 2009, this animal-activated boundary fencing system was actually permitted to be used under certain criteria, but it was included in the final legislation at the last minute without recourse back to the Assembly to be debated as a separate item as the then Minister Elin Jones was persuaded by her officials that it would be easier to implement the law with both types of collars included. The whole Assembly voted in favour of a ban on the human-activated dog training collars, many unaware that it also encompassed the animal-activated invisible boundary fencing collars..

I met with Nick Ramsay AM with one of his constituents last year and he expressed surprise that the boundary fencing system had been included in the law and he stated " This is not what we voted for".

There are 'clear blue water' distinctions between the two types of electronic collar which will be addressed later in this paper.

It is worth noting, that the RSPCA will not rehome rescue cats & dogs in homes that are situated near a main road. Below is an article in a national newspaper and can be read here:

<http://www.dailymail.co.uk/news/article-2254729/RSPCA-destroys-HALF-animals-rescues--thousands-completely-healthy.html>

#### Scientific Research

There has never been any scientific studies undertaken for invisible boundary fencing electronic collars nor for electric livestock fencing. The 3 year DEFRA AW1042 study that the RSPCA and the Dog's Trust referred to during the meeting last week, was exclusively to do with human-activated training collars for dogs. These 'clear blue water' distinctions between these two types of collars have been highlighted many times in my submissions through the Petitions Committee under the Chair of William Powell AM. To add weight to my evidence, I am enclosing a letter from Companion Animal Welfare Council which was contacted by the Petitions Committee last year for their opinion of this campaign to lift the ban on animal-activated boundary fencing electronic collars. An excerpt reads "*It is therefore our conclusion that presently, on the balance of probabilities, the element of the Welsh ban which extends to these boundary fencing systems is not conducive to the promotion of good welfare, and may increase animal suffering*".

There is a currently a scientific study sponsored by the cat charity Feline Friends currently underway assessing this boundary fencing with cats, but this is not due to be completed until late 2015 at the very earliest.

#### Fencing Collar Films

I would respectfully urge those members of the Environment and Sustainability Committee who have not been involved with the Petitions Committee to view two very short films. They clearly demonstrate how the boundary fencing collars works in practice with cats and dogs using the gentle training protocol devised by the American Kennel Club. One film is in Welsh with English subtitles and the second is from the Feline Friends Charity in English.

The bilingual film can be viewed here:

<http://www.youtube.com/watch?v=X7vkMnHnE0g>

and the English film here:

<http://www.jacobwhittaker.co.uk/pics/FelineFriends.mp4>

## Save our Welsh Cats & Dogs From Death on the Roads

### Misuse

As there is no human input into the operation of the animal-activated fencing collars, there is zero potential of misuse.

Most pet owners adore and cherish their pets as one of the family and the cost of professionally installed invisible fencing system is from around £600. If any pet owner is intent on deliberate cruelty there are far simpler ways.

### Electronic Training Devices

Human-activated training collars for dogs are completely different from animal-activated fencing collars as:

- a) they do not carry any warning alerts
- b) the human can repeatedly activate the correction using variable commands during the day.
- c) they are used to train dogs in more complex tasks than simply remaining within the animal's home territory.
- d) only the human activated collar is capable of giving a variable duration of the electronic correction.

Clearly demonstrated on the 2 films mentioned, once the pet is trained for the accredited UK boundary fencing collars, it doesn't receive a correction again as it avoids the warning zone by some margin. The pet has been trained to understand that the warning sound says " don't go any further". This is in stark contrast to the claim made by the RSPCA CVO James Yeates that in case of malfunction, the collar will repeatedly shock the pet. This is absolute nonsense.

### Livestock fences

No one seems to voice concern about long-term psychological damage to horses or cattle if they bump into a livestock fence (which incidentally carry no warning alerts). People accept that the animal simply learns never to do it again. The same is true of cats & dogs using the invisible boundary system.

### [Copy of an email earlier this year from a petitioner in North Wales to his Assembly Member](#)

**"I am writing to ask for you support in lifting the ban on invisible fencing which is the only way we can protect are dogs.**

**I understand that the Minister, Alun Davies, has agreed to a review of this legislation in the summer.**

**My wife and I have lived in Llandegla, North Wales for 20 years. Our property is in gardens of 6 acres.**

**We own two little dogs, who are very precious to us. We are surrounded by sheep farming land on all side. Our dogs are too little to make all our fences secure.**

**For example, if a rabbit digs under the fence our dogs can follow. Our dogs do not chase the sheep, however the sheep run from our dogs. This is enough to make them abort when they are in lamb.**

**The farmers have every right to shoot our dogs, as this is there livelihood. Our invisible fence is the only possible way to protect our dogs, and be responsible citizens living in this area" (sic)**

I have other letters of support from Welsh owners of invisible boundary fencing systems which I can provide to the Committee if they so wish (minus names & addresses).

After the DEFRA AW1402 report was published, the charity Feline Friends contacted DEFRA to enquire if they had any plans for restrictions on invisible boundary fencing. Below is a cut & pasted copy of DEFRA's reply:

## Save our Welsh Cats & Dogs From Death on the Roads

----- Original Message -----

**From:** [ccu.correspondence@defra.gsi.gov.uk](mailto:ccu.correspondence@defra.gsi.gov.uk)

**To:** [Cats@feline-friends.org.uk](mailto:Cats@feline-friends.org.uk)

**Sent:** Tuesday, June 18, 2013 2:16 PM

**Subject:** Response to your Query : - Ref:DWOE000313575 - AW1402 and AW1402A

Dear Mrs Fawcett,  
PET TRAINING AIDS

Thank you for your email of 11 June about pet training aids. I have been asked to reply. A copy of the final report is available on the Defra website

at: <http://randd.defra.gov.uk/Default.aspx?Menu=Menu&Module=More&Location=None&ProjectID=17568&FromSearch=Y&Publisher=1&SearchText=1402a&SortString=ProjectCode&SortOrder=Asc&Paging=10#Description>

While research showed no evidence that e-collars cause long-term harm to dog welfare when used appropriately, Defra wants to ensure electric dog collars are used properly and manufactured to a high standard.

We will work with the Electronic Collar Manufacturers Association to draw up guidance for dog owners and trainers advising how to use e-collars properly and to develop a manufacturers' charter to make sure any e-collars on sale are made to high standards. A ban on e-collars could not be justified because the research provided no evidence that e-collars pose a significant risk to dog welfare. For a ban to be introduced there would have to be evidence showing they were harmful to the long-term welfare of dogs. **There are no proposals to place restrictions on the use of electronic containment fences.**

Yours sincerely,

Adam Broderick Defra - Customer Contact Unit  
Department for Environment, Food and Rural Affairs (Defra)

I have also met with Elin Jones AM and have requested a further meeting with her now that this subject has arisen. I have to date, received a sympathetic ear. Whilst she was a member of the Petitions Committee, she called for a review of the legislation for "unintended consequences".

Watching the Senedd TV reply, I was taken aback at the wildly inaccurate comments given by the RSPCA Cymru's PR officer Chris O'Brien and CVO James Yeates. I had an open, pleasant conversation at length with O'Brien this time last November having beforehand sent information and the two short films to Claire Lawson, Head of Policy. I also asked them for a meeting which was declined.

Despite my best efforts, the RSPCA Cymru is still confusing the human-activated electronic training collars for dogs with the animal-activated electronic collars linked with the animal activated invisible boundary fencing systems, which are freely used all over Scotland, Ireland's North & South and also in England as these countries did not follow Wales's example.

In addition, in April this year, another national newspaper reported that the Society was "full to capacity" with abandoned cats and CVO James Yeates was quoted as saying that "there is a shortage of available good homes for them". This can be read here :

[www.mirror.co.uk/news/uk-news/rspca-full-cat-crisis-charity-3341187](http://www.mirror.co.uk/news/uk-news/rspca-full-cat-crisis-charity-3341187)

As if that is not enough, 18 months after the Welsh ban came into force in 2010, the RSPCA's former CVO Chris Laurence (who was also a former Director of the Dog's Trust) was discovered by the media to be using a boundary fencing system linked to electronic collars at his own home near Chippenham, Wiltshire, to prevent his own cat and dog getting run over by traffic. This can be read here :

<http://www.dailymail.co.uk/debate/article-2020343/Dogs-Trust-veterinary-director-Chris-Laurence-Hypocrisy-bunny-hugger.html>

## **Save our Welsh Cats & Dogs From Death on the Roads**

I sincerely hope that the points I have raised will raise awareness within the Committee of the harmless invisible boundary fencing system as it is undoubtedly a force for good.

Lastly, I would be very pleased to introduce a professional trainer to the Committee at a day and time of its choosing to demonstrate this system.

I look forward to hearing from you in due course.

Monima O'Connor  
13<sup>th</sup> November 2014.

PS I am sending this note by hard copy with a DVD of the films and including an photocopy of a 2010 RSPCA Wiltshire Annual Report cover showing an advertisement for an invisible boundary fencing system on the inside front cover.

Mr Alun Jones AM  
The National Assembly for Wales  
Cardiff Bay  
Cardiff  
CF99 1NA  
26<sup>th</sup> November 2014

Dear Mr Jones,

Shechita UK speaks for the Jewish Community on matters relating to the protection of the provision of kosher meat in the UK, and seeks to raise awareness of the Jewish religious humane method of animal slaughter for food, shechita.

We therefore noted with interest the recent meeting of the Environment and Sustainability Committee of the Welsh Assembly at which discussions focused in part on religious slaughter.

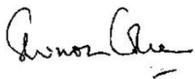
Following the committee meeting, members of the Jewish community were disappointed and concerned that a discussion of this nature had taken place without representatives of religious communities present. Members had the opportunity to hear from both the BVA and the RSPCA but did not have the opportunity to hear a response from either the Jewish or the Muslim community.

We would be very keen to make a presentation to the committee and the next available opportunity and wonder whether that might be possible at some point next year?

In the meantime, I have enclosed a short briefing from Shechita UK on the subject and I wonder if you would be good enough to circulate it to members of the committee for their reference. If we can provide any further information to you or any other interested member of the committee we would be delighted to meet to offer a full briefing at your convenience.

I look forward to hearing from you.

Yours sincerely,



**Shimon Cohen**  
**Campaign Director**

## PARLIAMENTARY BRIEFING

### What is Shechita?

Shechita is the Jewish religious humane method of animal slaughter for food. It is the only method of preparing meat and poultry in accordance with Jewish tradition.

Shechita is performed by a highly trained 'Shochet' and is a very swift and efficient procedure. The 'chalaf' (the surgically sharp instrument used) incises the structures at the neck of an animal. Blood supply to the brain ceases immediately, all consciousness is irreversibly lost and with it, the ability to feel pain. It is quick, effective, safe and it ensures that the animal is not subject to any avoidable pain.

### What is the difference between Shechita and conventional mechanical slaughter?

Conventional mechanical slaughter uses industrial methods which would simply not be permitted for Shechita. In conventional mechanical slaughter a high throughput of animals must be maintained for commercial reasons and this creates many animal welfare issues, such as where lairage workers use electric prods or push and kick the cattle in order to usher them more quickly along the production line.

However, the main difference between Shechita and conventional mechanical slaughter is in the way that the animals are stunned.

Shechita conforms with the EU Definition of stunning - '*any intentionally induced process which causes loss of consciousness and sensibility without pain, including any process resulting in instantaneous death,*' - by causing immediate cerebral perfusion - whereas mechanical methods may include captive bolt shooting, gassing and electrocution by by tongs or water. These methods frequently go wrong (see European Food Safety Authority figures below) leaving the animal in great, prolonged distress.

Many people are unaware that these methods were originally conceived by large scale factory abattoirs to speed up the process and stop the animal thrashing around at the point of slaughter so that the production line could be moved on more quickly. It was latterly adopted by animal welfare organisations and considered a tool for raising levels of animal welfare. However, the evidence in support of the animal welfare benefits is inconclusive and failure rates considered by many to be unacceptably high.

### What are the animal welfare benefits of the Shechita Method?

By contrast, the Shechita process has to be slow and methodical. Any animal or bird which is even slightly harmed prior to slaughter is not considered suitable for kosher consumption. Therefore special care is taken to ensure that the animals are extremely well treated and calm ahead of slaughter, not only because it is mandated by Jewish law but also because any other approach would make kosher meat production near impossible.

# Shechita UK

## What does the science say?

Many academics believe (See Regenstein, Grandin) that Shechita is at least as humane as other methods if not preferable, for the animal welfare benefits outlined above - while others believe that conventional mechanical slaughter is preferable. Most agree that making any assessment of the pain felt by an animal is incredibly difficult. As a result, the Government's position has always been that the scientific evidence in this area is inconclusive. No study has ever replicated Shechita in a laboratory environment and therefore no accurate scientific assessment of Shechita has ever been carried out.

The All Party Group on Beef and Lamb, based at Westminster concluded in recent report that "there is research and further analysis to be undertaken on the measurement of pain in animals at the time of slaughter."

## What is the Jewish community's view on labelling?

The Jewish community is not against food labelling. In fact we invented it (the Hechsher) in order to identify food which is appropriate for kosher consumption. We are also fully supportive of calls for the labelling of the amount of meat, slaughtered according to the Shechita method, which finds its way into the mainstream market.

However if there is going to be labelling according to provenance of food, it must be comprehensive and even handed.

It seems incongruous to us to pre-suppose that consumers do not have a right to know that an animal has been slaughtered by mechanical methods or mechanically stunned prior to slaughter by one of the legal methods that include captive bolt shooting, gassing, electrocution, drowning, trapping, clubbing or any of the other approved methods, nor would it include incidences of mis-stunning, which by law are all recorded in slaughterhouses.

Labelling a meat product "not stunned before slaughter" suggests that no stun takes place at all, when Shechita in fact incorporates an effective stun at slaughter. One dimensional labelling such as this is pejorative and discriminatory, effectively placing religious slaughter methods in a second class category. We call upon all those concerned with animal welfare and with consumer rights to join us in calling for truly comprehensive food labelling.

## Some numbers regarding mis-stunning:

Data on mis-stuns is difficult to come by but The European Food Safety Authority's (EFSA) report on the "Welfare Aspects of Animal Stunning and Killing Methods (2004)" found that the failure rate for penetrating captive bolt stunning in conventional mechanical slaughter of cattle may be as high as 6.6% and that for non-penetrating captive bolt stunning and electric stunning this can rise to as high as 31%. A 2013 "Study on the Various Methods of Stunning for Poultry" stated that the percentages for poultry would be at 4%.

These studies are both Europe wide and somewhat outdated, one might prefer to rely instead on anecdotal reports from the Department for the Environment, Food and Rural

# Shechita UK

Affairs which suggest that current UK standards and improved stunning techniques mean that mis-stuns may now be at 1% across the board.

In the UK that would equate to 26,000 cattle mis-stunned, 100,000 pigs mis-stunned and 9.5 million poultry mis-stunned. The total quantity of cattle slaughtered for the Jewish community is around 20,000 with community slaughtering around 1 million chickens. We frequently ask animal welfare organisations why they are so much more focused on the tiny number of animals slaughtered for the kosher market rather than on the millions of animals who are mis-stunned every year – we are yet to receive a response.

Recently FSA statistics on mis-stuns were released following a parliamentary question on the topic. They showed that an unrealistically low number of mis-stuns had been recorded in the UK. For example in 2011, only 6 cattle were officially reported as having been mis-stunned. Following a series of follow up parliamentary questions, George Eustice MP, Parliamentary Under Secretary of State for Farming, has now conceded that these statistics may not be complete and that they may only represent a fraction of the actual number and the FSA will endeavour to improve its reporting methods in the future.

## A note on terminology:

Please note that we are careful never to refer to '*ritual slaughter*' – there is no ritual involved in Shechita and it is a term used by opponents to portray it as some sort of medieval or barbaric practice. We instead simply use the word Shechita or 'religious slaughter'. We would very much appreciate if parliamentarians would help us by using these terms.

## For more information on this topic please contact:

### Shimon Cohen

020 7284 6947 or  
07836 728790

[scohen@theproffice.com](mailto:scohen@theproffice.com)

### Mark Frazer

020 7284 6961 or  
07876 402678

[mfrazer@theproffice.com](mailto:mfrazer@theproffice.com)



# Hounding Out Puppy Farms

## Eitem 7.7

A non-commercial set-up such as Hunt kennels, need not have been included in the legislation as they are not in the business of selling either puppies or breeding bitches. However, as they are included, a separate set of guidelines should be in place to accommodate dogs kept as packs so that their welfare needs are met and are not compromised. In a meeting with the Minister Rebecca Evans on the 6<sup>th</sup> of November, the Minister agreed to a separate set of guidelines and I await instruction from her officials.

- Puppies bred at hunt kennels are not for a sale. Hound puppies are never sold.
- Breeding hounds is a very selective process. Hounds selected to breed are chosen for confirmation, soundness, good health, working ability and physical and mental attributes.
- Hound puppies do not end up in domestic situations.
- Hounds are kept as packs; they eat, sleep, work and play together, naturally as pack animals. Special attention is paid to individuals who may be slightly shy in nature, for example, they get to eat first.
- Exercising a pack is very different to exercising many breeds with different needs. Hounds go out on walk together.
- Requiring more than one person to maintain a pack of hounds is neither practical nor justifiable. The staffing level required for keeping hounds is different to the requirements of keeping a variety of breeds, such as may be found in commercial dog breeding situations.
- Hunt kennels are already inspected by their representative organisation which is governed by the Council for Hunting Association. The Council for Hunting Association would be prepared to report to the Welsh Government. Hunt kennels that feed flesh / operate as collecting centres are already inspected by DEFRA and Trading Standards.
- Hunt kennels across Wales have contributed positively to the proposed microchipping legislation and most have microchipped. Many hunts already microchipped their hounds.
- To include hunt kennels in the same guidelines as those already set out for commercial kennels would be detrimental to their welfare as there are elements in the current guidelines that quite simply cannot apply to hounds kept as packs and their welfare would be seriously compromised. For example “each dog must have a bed of its own” would simply not work at kennels due to the nature in which they rest, together and rarely as individuals.

If you have any questions please contact Rachel Evans, Director for Wales for the Countryside Alliance on 07825337978 or [rachel-evans@countryside-alliance.co.uk](mailto:rachel-evans@countryside-alliance.co.uk)