

HRLN 44 - Evidence from: Dr Victoria Jenkins, , Associate Professor, School of Law, Swansea University.

Senedd Cymru | Welsh Parliament

Pwyllgor Newid Hinsawdd, yr Amgylchedd a Seilwaith | Climate Change, Environment, and Infrastructure Committee

Atal a gwrthdroi colli natur erbyn 2030 | Halting and reversing the loss of nature by 2030

1. Your views on the effectiveness of current policies / funds / statutory duties in halting and reversing the loss of nature by 2030.

(We would be grateful if you could keep your answer to around 500 words).

Nature in Wales is in crisis. There is ample evidence in this respect, including the State of Nature reports for the UK and Wales and the Global Biodiversity Intactness Index. The nature crisis is a global problem, but the UK is one of the most nature depleted countries in the world. The situation in Wales has evolved despite a raft of policies, legislation and funding regimes to support nature recovery. Clearly, therefore, there is a need to reconsider the way that all three operate in support of nature.

The nature crisis presents a significant challenge to law and governance given the complexities of nature and the task of managing nature recovery. In Wales, we have legal frameworks of governance for the wellbeing of future generations and the sustainable management of natural resources that recognise the complexities of governing in the interest of both people and the environment. Nature recovery will depend on the effective operation of these systems that address all aspects of the natural environment. However, whilst these systems of governance are, arguably, necessarily complicated this can also cause confusion in the way that they operate together and impact on policy development and action. It is also sometimes not always clear how these systems relate specifically to halting biodiversity loss and improving ecosystems resilience.

In addition to the system of governance for the wellbeing of future generations and the sustainable management of natural resources, there is a specific mechanism to address the climate crisis in Wales and the case has now been made to introduce a new system of governance for nature recovery. This should bring similar benefits in providing evidence of the problem and focusing attention

on the actions needed to address this crisis. This will build on the existing legal systems with respect to the maintenance and enhancement of plants, wildlife, habitats and ecosystems in both the terrestrial and marine environment.

There has been some success in conserving species and habitats under the Wildlife and Countryside Act 1981 and the Habitats Regulations. However, there are also problems with the implementation of these laws and the way they operate together with other legal frameworks for land use planning, environmental impact assessment and agricultural payments systems. In addition, in comparison to the more rapid development of knowledge and understanding of nature recovery, these legal frameworks can appear outdated. However, they are also now well understood among all actors in this space and, arguably, provide a stable foundation for further developments in support of nature recovery.

2. Your views on the progress towards implementing the Biodiversity Deep Dive recommendations.

(We would be grateful if you could keep your answer to around 500 words).

The nature crisis demands an urgency in response. There is a need to see action on the ground as soon as possible in response to the BDD recommendations that have been made. However, in developing responses to the nature crisis it is important to provide a process with wide stakeholder involvement. This kind of collaboration is essential in bringing a range of expertise and different viewpoints to the table in considering how to address this complex task. This will help ensure that any future mechanisms are fit for purpose but is necessarily both challenging and quite time-consuming.

3. Your views on current arrangements for monitoring biodiversity.

(We would be grateful if you could keep your answer to around 500 words).

Monitoring is essential in creating the evidence base for the operation of any system of the management of nature recovery. We need to consider carefully what we are monitoring and the methods for doing so. These are considerations for the scientific community.

However, there is also a need to investigate the way law and governance is used to promote effective monitoring.

4. Your views on new approaches needed to halt and reverse the loss of nature by 2030.

(We would be grateful if you could keep your answer to around 500 words).

In meeting the 30 by 30 target, the focus has been on developing (Other Effective Area Based Measures) OECMs. The framework of governance and monitoring in OECMs will not always be supported by law. Law is not necessarily the best mechanism for developing approaches at pace to provide a broader spatial approach to nature recovery. However, in the absence of a legal mechanism it is essential to consider how to provide incentives to act and to ensure integrity, accountability and longevity of the approach.

Much attention is also currently being paid to private finance initiatives in creating funding to support nature recovery. Again, this is, generally, based on voluntary standards and governance regimes rather than formal legal approaches. It will be particularly important in a financial context to consider issues of integrity and accountability in the absence of a regulatory framework.

Finally, in terms of implementation, there is a focus on a Team Wales approach to nature recovery. It is important to consider how this will operate in practice to reflect the wellbeing principles in Wales of involvement and collaboration. In any given circumstance, there needs to be a clear understanding of what each organisation has to offer; the aims and benefits of involvement and collaboration; and how action can be supported by funding rules. It may be useful to consider the use of guidance or a framework of rules to support this approach, generally, and/or in relation to specific circumstances.

Overall, whilst there is an urgency in responding the nature crisis there is a need to exercise caution in considering new developments and to ensure that these are based on a full investigation of the current problems and a shared understanding of the way forward in providing for nature recovery.
