



Consultation on proposals for an Environment Bill in Wales

This briefing provides a summary of the consultation on the proposals for an Environment Bill in a White Paper from the Welsh Government entitled 'Towards the Sustainable Management of Wales' Natural Resources'. The changes proposed in the consultation apply in Wales only.

Key issues

- The Welsh Government has issued a consultation on '*Towards the Sustainable Management of Wales' Natural Resources'* which proposes the introduction of an Environment Bill for Wales
- Proposes an area-based approach for natural resource management
- Chapter 4 of the publication includes proposals on the regulation of waste segregation and collection
- Please email views to djohns@apse.org.uk by 8 January 2014

1. Introduction

The Welsh Government's proposals for the better management and use of our natural resources are contained in a White Paper entitled '*Towards the Sustainable Management of Wales' Natural Resources'*, published October 2013.

The White Paper proposes the introduction of an Environment Bill. This Bill follows on from the '*Programme for Government'* which contains a number of commitments in relation to natural resource management. The White Paper sets out how the Welsh Government will take steps to:

- Join-up the existing statutory frameworks for natural resource planning and management in Wales
- Ensure Natural Resources Wales (NRW) has the legislative tools to help enable them to implement integrated natural resource management
- Take actions to ensure Wales' natural resources are used to best effect and reduce waste
- Simplify, streamline and clarify the law for a number of existing environmental regulatory regimes.

The full consultation documents can be accessed by clicking on the following link: [click here](#).

This briefing paper summarises the changes proposed in the consultation and asks for responses/views of APSE member authorities to be emailed through to djohns@apse.org.uk by 8 January 2014. APSE will then consolidate the findings and respond to the consultation on behalf of its member authorities.

2. Summary of key proposals

2.1 Proposed definitions

The White Paper proposes to establish a legal definition for the natural resources of Wales. The following definitions are proposed:

Natural resources – this extends to the following matters relating to the sustainable management of natural resources:

- a) Air, water and soil
- b) Geologic and landscapes
- c) Biomass and biological resources; and
- d) Ecosystems

Integrated natural resource management means a planning and priority setting process that co-ordinates the maintenance, enhancement and uses of natural resources so that the long term benefits are optimised for the people, environment and economy of Wales in the present and in the future.

Sustainable management means the collective actions (including non-action) required for managing the maintenance, enhancement and use of natural resources in a way, or at a rate, which will enable the people and communities of Wales to provide for their social, economic and environmental well-being, while maintaining the life-support systems of nature. In doing so, ensuring that the benefit of the use to the present generation does not diminish the potential to meet the needs and aspirations of future generations.

2.2 Establish a statutory framework for the sustainable management of natural resources.

This includes proposals for:

- A national Natural Resources Policy including targets, measures and priorities for the management of natural resources.
- A requirement for NRW to develop and implement an area-based approach for natural resource management.
- NRW will be required to report, at least every 5 years, on the state of natural resources in Wales.

The consultation also proposes introducing a requirement on public bodies to co-operate, share information, jointly plan for and jointly report on the management of natural resources.

2.3 Providing NRW with new statutory functions and duties to deliver

This includes the following proposals:

- Powers to enable NRW to trial innovative approaches to integrated natural resource management.

- Furthering the role of NRW to stimulate the use of market mechanisms to pay for ecosystem services.
- New powers for NRW to enter into management agreements with land owners and businesses for the sustainable management of natural resources.
- Exploring new powers for the implementation of General Binding Rules
- Powers to clarify the alignment of NRW's duties and other primary legislation with the new high-level purpose.

2.4 New legislative provision on resource efficiency

2.4.1 Regulation of waste segregation and collection

This includes the following proposals:

- Giving Welsh Ministers the power to extend the requirement for separate collection to include specified materials – card, wood and food wastes are currently under consideration. Guidance for local authorities on what is technically, economically and environmentally practicable to collect separately is currently being developed jointly by Defra and the Welsh Government. In order to allow businesses to prepare for the changes, the duty would not come into place before 1 January 2017.
- Place a duty on all waste producers other than householders to present their recyclable waste separately for collection – all shops, offices, factories, restaurants, construction/building sites, schools and hospitals. The materials under consideration are paper, card, glass, plastic, metal, food and wood. Further work has been commissioned to estimate the likely cost of segregation of waste materials to businesses, which is scheduled to report in early 2014.
- Give Welsh Ministers the power to ban specified waste materials from energy from waste facilities. This includes uncontaminated paper and card, untreated wood, glass, metal, plastic and food waste. This would apply to materials from all sources: households, commercial and industrial premises and construction and demolition premises. This would not take effect before January 2017.
- Ban specified waste materials from landfill. The materials being considered to be banned are paper, card, glass, metal, food and wood waste and the ban would apply to all waste streams. Guidance would need to be provided on the acceptable levels of contamination in residual waste. The ban would not take effect before January 2017.
- Prohibit the disposal of food waste to sewer – this prohibition would not take effect before January 2017 and if enacted would apply to food waste from business premises.

2.4.2 Carrier bags

This includes the following proposals:

- Enable Welsh Ministers, by regulations, to provide for minimum charges to be set for other types of carrier bags in addition to the minimum charge currently set on single use carrier bags.
- Enable Welsh Ministers, by regulations, to require sellers to apply the net proceeds of the charge to any good causes, rather than to environmental good causes only.

2.5 Potential amendments to existing gaps in legislation

The Welsh Government is seeking views on identified potential amendments to existing gaps in legislation which fit within the scope of the Environment Bill in relation to:

- Marine Licensing Management – measures to give NRW greater flexibility in the way they charge fees for marine licensing functions
- Shellfishery Management – measures to revise the application process and ongoing operation of Several and Regulating Orders at Part 1 of the Sea Fisheries (Shellfish) Act 1967.
- Land Drainage Management – improvements to management of Agricultural Land Tribunal (ALT) Land Drainage Orders, including creating a right of entry to land to enable Welsh Government agents to investigate compliance with an ALT Order in cases where access is refused by a party to that Order.
- Flood and Water Management – improvements to ongoing operation of flood and water management. Proposal for Welsh Ministers to have the power by order to amend the Water Acts to eliminate differences between two or more provisions, simplify procedures and/or to correct errors or resolve obscurity.

3. Conclusion

The laudable aims of the White Paper for better management and use of our natural resources is supported by APSE and will no doubt be supported by member authorities. However, the White Paper does raise a few contentious issues and areas where further clarification is needed including:

- Despite the recent Judicial Review on co-mingled recycling collections, where on 6 March 2013 the judge dismissed the claim lodged by the Campaign for Real Recycling who had sought to restrict co-mingled recycling collections, the Welsh Government still appear to be pursuing source segregation as the preferred option in Chapter 4 of the consultation.
- Clarification needs to be sought on which of the proposals in Chapter 4 are targeted at the commercial and industrial sector and which are targeted at local authorities.
- Cost considerations, given the current financial climate, of monitoring/enforcing the landfill and energy from waste bans and the duty to present waste separately for collection.
- The capacity of all businesses to keep 7 waste streams and factors such as size, location and physical environment will need to be taken into account.
- Further clarification is needed on what comprises an 'area' in the proposed 'area-based approach' and how this fits with local authority boundaries and democratic decision making processes.
- Questions over whether there is a need to place a requirement on other public bodies to co-operate in the area-based approach.

APSE agrees that sustainability should be central to all local government activities and that local authorities have a key role in developing and providing sustainable initiatives through well managed public services. However, APSE also believes that the types of waste collection systems (co-mingled and source segregation) should be a local decision and local authorities should be given the flexibility in how they achieve the targets in terms of waste minimisation, recycling and carbon reduction. Methods used by different councils will vary greatly according to local circumstances and demographics. APSE would appreciate responses/views of member authorities to be emailed through to djohns@apse.org.uk by 8 January 2014. APSE will then consolidate the findings and respond to the consultation on behalf of its member authorities.

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