
Sustainable Management of Natural Resources and the Environment (Wales) Act 2016

Research Briefing

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National Assembly for Wales
Senedd Research

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Paper Overview:

The Research Service acknowledges the parliamentary fellowship provided to Chris Wiseall by the Engineering and Physical Sciences Research Council which enabled this Research Briefing.

The Environment (Wales) Act 2016 introduces a number of measures to improve and protect the environment in Wales. It introduces a change in approach for environmental issues; encouraging a systemic approach and integration with the *Well-being of Future Generations (Wales) Act 2015* and *Planning (Wales) Act 2015*.

This briefing focusses on Part 1 of the *Environment (Wales) Act 2016*; the sustainable management of natural resources (SMNR) approach.



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Introduction to the Environment Act

The *Environment (Wales) Act 2016*, ('the Environment Act'), received Royal Assent on 21 March 2016. The aim of the Act is to enable the environment in Wales to be managed in a more “**proactive, sustainable and joined-up way**”. It allows Wales’ natural resources to be managed at both a national and local level through different frameworks.

This briefing focuses on Part 1 of the Environment Act. It explores the sustainable management of natural resources (SMNR) approach and the associated enhanced biodiversity and ecosystem resilience duty. It outlines the policy framework provided for in the Environment Act including:

- The State of Natural Resources Report (SoNaRR);
- The Natural Resource Policy (NRP); and
- Area statements.

Various new duties are introduced for the Welsh Government, Natural Resources Wales (NRW) and other public authorities and are detailed in this briefing and summarised in Box 3.

The Act amends existing legislation; Sections 6 and 7 of the Environment Act replace Sections 40 and 42, respectively, of the *Natural Environment and Rural Communities Act 2006* ('NERC Act').

The Environment Act is wide ranging and includes six other Parts; climate change, charges for carrier bags, collection and disposal of waste, fisheries for shellfish, marine licensing and a miscellaneous section that includes flooding, coastal erosion and drainage. These are beyond the scope of this briefing.

Box 1. Definitions of terms within Part 1 of the Environment Act

Sustainable management of natural resources (SMNR) – ‘using natural resources in a way, and at a rate, that maintains and enhances the resilience of ecosystems and the benefits they provide’;

Biodiversity – ‘the diversity of living organisms, whether at the genetic, species or ecosystem level’;

Natural resources – ‘includes (but not limited to) – animals, plants and other organisms; air, water and soil; minerals; geological features and processes; physiological features; climatic features and processes.’

Sustainable management of natural resources (SMNR)

The Welsh Government says that the **Environment Act recognises that natural resources are some of Wales' most important assets** (PDF, 99KB). It contains policy frameworks, to ensure that SMNR is a core consideration in decision making.

Principles of SMNR

Section 4 of the Environment Act introduces nine principles to help guide and underpin the way SMNR should be interpreted to ensure a consistent approach for SMNR across Wales:

- **Adaptable** – a need to plan, monitor, review and change future work in light of new evidence and understanding;
- **Scale** – decisions and actions will need to be taken at national, regional or local levels to deliver the best outcomes;
- **Working together** – everyone in Wales is a stakeholder in the natural environment and hence, to ensure best management of natural resources, all views need to be considered;
- **Engaging with the public** – ensure that the public has opportunity to give its opinion on how natural resources are managed, at all stages of the decision making process;
- **Evidence** – an improved evidence base is needed to understand Wales' natural resources to allow for better management;
- **Understanding all of the benefits received from natural resources** – the whole of Wales needs to understand the economic, social, cultural and environmental value of natural resources, including how they can benefit future generations;
- **Long term** – impacts of decisions need to be considered not only in the short term but also in the long term;
- **Prevention** – take steps to prevent damage to Welsh ecosystems; and
- **Resilience** – to be able to deal with increased demands and pressures, such as climate change, Welsh ecosystems need to be healthy. Decisions need to be considered in terms of providing long term benefits.

Section 5 of the Environment Act re-aligns NRW's general purpose to pursue SMNR in relation to Wales and apply the principles of SMNR.

Experimental schemes

In order to determine which actions best contribute to SMNR, Section 22 of the Environment Act allows **NRW to experiment and trial different approaches and methods that help to** (PDF, 111KB):

- Develop new management techniques to improve ecosystem resilience;
- Assess nature based solutions for addressing specific issues such as the management of peat bogs; and
- Develop best practice for general application for carrying out a specific activity.

As part of this provision, Section 22 of the Environment Act permits Welsh Ministers to suspend certain provisions in environmental legislation for a limited period to allow the experimental schemes to contribute to SMNR.

Biodiversity and resilience of ecosystems duty

Under Section 6 of the Environment Act, Welsh public authorities (**as defined in Sections 6(9) and 6(10)**), are expected to “promote the resilience of ecosystems” (see Box 2) and “maintain and enhance biodiversity”. This is known as the “biodiversity and resilience of ecosystems duty”. These provisions go beyond the NERC Act in which public authorities were expected to “conserve biodiversity”.

The enhanced biodiversity duty is said to recognise the **link between biodiversity and the long term functioning of ecosystems**.

Box 2. Principles of ecosystem resilience

Section 4 of the Environment Act provides the attributes that are considered to contribute to ecosystem resilience:

Diversity – more diverse ecosystems are more resilient to external influences and their impacts. This includes biological, geological and physical diversity;

Connectivity – within and between ecosystems;

Scale and Extent – the bigger the ecosystem extends, without fragmentation, the more resilient it is likely to be;

Condition – ecosystems need to be in a healthy condition to function effectively, to deliver a range of important ecosystem services; and

Adaptability – the ability of ecosystems to adapt to events, understanding that ecosystems are not static and will change over time.

Under Section 6(6) of the Environment Act, public authorities are required to prepare and publish a plan setting out their proposed actions to enhance biodiversity and ecosystem resilience. The biodiversity and resilience plans were expected **within a year of the Environment Act receiving Royal Assent, to allow time before reporting on progress before the end of 2019**. However, this is not a statutory requirement and not all plans have been published. A few examples of published plans are **currently available from** Monmouthshire, Flintshire, Bridgend, Carmarthenshire and Neath Port Talbot local authorities ('Section 6 Plans' drop-down on website).

Section 6(7) of the Environment Act requires public authorities to produce a report, before the end of 2019 and every third year after 2019, on current progress to improve biodiversity and enhance ecosystem resilience. Previously, under the *NERC Act*, a voluntary arrangement was in place.

Biodiversity guidelines have been issued by the Welsh Government to help public authorities understand the terms and what is expected, as provided for under Section 6(4) of the Environment Act.

Under Section 7 of the Environment Act, the Welsh Government must also publish, in consultation with NRW, lists of priority **habitats and species** that it considers “of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales”. Public authorities are then expected to take steps to maintain and enhance these species and habitats and encourage others to do the same. These lists are currently transposed from the NERC Act, but are expected to be revised by the Welsh Government.

Policy framework

The Environment Act provides for a new policy framework to deliver SMNR in Wales. This framework aims to embed SMNR as a core consideration in public authorities' decisions across Wales. The different aspects of the framework presented here are intended to support and feed into each other, as shown in Figure 1. The different aspects are: the State of Natural Resources Report (SoNaRR) the Natural Resources Policy (NRP); and area statements which are explained in turn below.

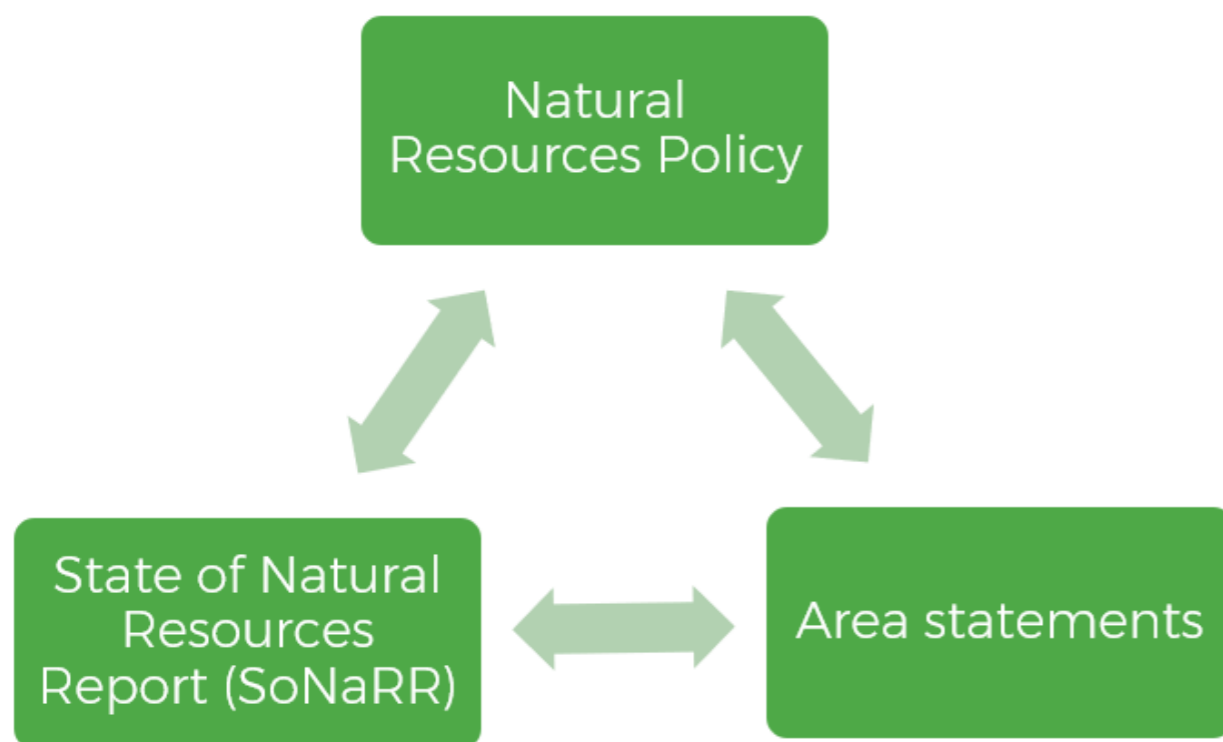


Figure 1 – Policy framework to implement SMNR across Wales

State of Natural Resources Report (SoNaRR)

Under Section 8 of the Environment Act, NRW is required to produce a **State of Natural Resources Report (SoNaRR)**. The report assesses the current condition and extent of natural resources in Wales while evaluating their ability to respond to pressures, such as climate change. SoNaRR is seen as a critical evidence base in the process of restoring Welsh natural resources. SoNaRR is used to inform the Welsh Government's Natural Resource Policy (NRP) (detailed below). It also informs public authorities of the state of Welsh natural resources so they can be considered in decision making.

The SoNaRR assessment is split into three main stages in which it:

- Recognises the environmental status of both natural resources and ecosystems and highlights where ecosystem resilience is compromised;
- Identifies relationships between ecosystems and the benefits they can provide; and
- Understands the use and management of natural resources, assesses whether they are currently being managed 'sustainably' or 'unsustainability' and identifies any 'system failures'.

The SoNaRR is iterative and must be updated to keep policy makers and stakeholders informed of the current condition of the environment in Wales. It will be updated every five years, before each National Assembly for Wales election, to ensure the most up-to-date data is being used. From the second SoNaRR report a draft will also be provided 12 months in advance of the final report.

SoNaRR also interacts with planning policy as it is intended to be used as an evidence base for "**natural resource use aligned to national and local goals**". The **Planning (Wales) Act 2015** ("Planning Act") ensures sustainable development, with the **National Development Framework** required to undergo a **sustainability appraisal** and a robust evidence base will be required for this.

SoNaRR 2016

The **first SoNaRR was published in September 2016** and raised concerns about the state of the natural environment in Wales, with the main findings summarised below:

- Many plant and animal species are in decline;
- Wales **failed to meet its 2010 international and national biodiversity targets** with the decline continuing in many cases;
- Diversity is declining as shown by the loss of habitats and species;
 - ♦ The extent of some habitats have declined significantly
 - ♦ The condition of habitats show mixed results
 - ♦ Connectivity of habitats has greatly reduced
 - ♦ All habitats have problems with resilience

- Large regional variations in ecosystems are reflected in historical land use and habitat loss;
 - ◆ Extent and connectivity of ecosystems tend to be high in coastal and upland regions
 - ◆ Extent and connectivity of ecosystems tend to be lower in lowland regions with a special concern along major river valleys
- Conditions of mountains, moorland and heath are a source of significant concern regarding their long term resilience;
- A wide range of issues contribute to the reduction in Welsh ecosystems' resilience, which in turn is affecting peoples' wellbeing;
- The full value of natural resources and ecosystems are not being taken into consideration with many decision-making processes; and
- Although multiple sources were used to gather the data there are still significant gaps in the data, which will need to be covered.

A more comprehensive blog post on the findings of the first SoNaRR has [been published on the Senedd Research In Brief Blog](#).

Natural Resources Policy (NRP)

Section 9 of the Environment Act requires the Welsh Government to publish a **Natural Resources Policy** (NRP) within 10 months of the section coming into force. It must outline the opportunities, priorities and risks for SMNR in Wales, aligning policies with the principles of SMNR.

NRW states that the NRP **offers a change in approach from resolving issues in isolation and recognises the need for a systemic approach to the environment**. It has also been designed to guide how NRW creates 'area statements' (detailed below), ensuring national priorities help inform local decisions.

Priorities, opportunities and challenges for SMNR

The NRP was **published in August 2017**. It includes priorities, opportunities and challenges for Welsh natural resources and ecosystems as identified by the Welsh Government. It recognises the need for ecosystems to be healthy and resilient if Wales is to rely on them to provide the range of benefits currently received. It also recognises that the challenge to support ecosystems is expected to grow with increasing societal and environmental pressures.

The three national policy **priorities** identified in the NRP are:

- Delivering nature-based solutions;
- Increasing renewable energy and resource efficiency; and
- Taking a place-based approach.

The four main **opportunities** identified in the NRP are:

- Supporting successful and sustainable communities;
- Promoting green growth and innovation to create sustainable jobs;
- Supporting a more resource efficient economy; and
- Maintaining healthy, active and connected communities.

The three main **challenges** identified in the NRP are:

- Improving ecosystem resilience;
- Climate change and the decline in biological diversity; and
- The UK's withdrawal from the EU.

The Welsh Government Minister for Environment, Energy and Rural Affairs, **Lesley Griffiths, also hopes the NRP will improve a number of areas of the Welsh economy by** (PDF, 968KB):

- Improving processing capacity and the value derived from Welsh supply chains;
- Building on Wales' reputation for high quality produce and standards;
- Working with nature to increase the resilience of ecosystems and improve productivity;
- Moving towards a more circular economy and accelerating green growth; and
- Supporting the emergence of markets that support increased investment including water, carbon and renewable energy.

Land management agreements

The **NRP allows for voluntary agreements between NRW and landowners** (PDF, 111KB) or other persons to encourage sustainable management of land. Under these agreements NRW may agree to:

- Protect and conserve the flora and fauna of an area e.g. by maintaining hedgerows;

- Manage land in a way that may contribute to flood alleviation by planting, maintaining or not felling the trees in a certain area; and
- Manage activities (i.e. harvesting woodland) on the land.

NRW is also able to bind land owners to sustainable management of land through long term agreements between the land owner and the land registry. These agreements are designed to hold even if the land is sold and hence provide longterm certainty around aspects such as upkeep of land for flood management.

NRP and other policy areas

The Welsh Government identifies a need to align other policy areas with the NRP in order to meet criteria for the Environment Act and the goals of the ***Well-being of Future Generations (Wales) Act 2015***. The ***policy areas it expects to be affected by the NRP are*** (PDF, 968KB):

- | | |
|--|--|
| <ul style="list-style-type: none"> Agriculture and Food Economic Policy Education Fisheries and marine Infrastructure Regulatory Reform Renewable Energy Resource efficiency Tourism Transport | <ul style="list-style-type: none"> Trees and Woodlands Water and Flooding Animal Health and Welfare Common Agricultural Policy Landscapes and our Historic Environment Local Environmental Quality and Community Wellbeing The land-use planning System |
|--|--|

To improve the interaction between these policy areas, the Well-being of Future Generations Act formed ***Public Services Boards*** (PSB). A PSB aims to:

Improve the economic, social, environmental and cultural well-being in its area by strengthening joint working across all public services in Wales.

The statutory members of a PSB are the local authority, the Local Health Board, the Fire and Rescue Authority and NRW. A number of other non-statutory bodies are invited to join as well, such as Welsh Ministers or Chief Constables.

Area statements

Section 11 of the Environment Act requires NRW, in collaboration with other public authorities, to prepare place-based natural resource reports, known as ***area statements***. Each area statement must contain references to:

- The natural resources in the area;
- The benefits which the natural resources provide; and
- The priorities, risks and opportunities for SMNR, which need to be addressed.

These statements will also consider SoNaRR and explain how the principles of SMNR have been applied in preparing the statement. NRW is also required to propose how it plans to address any challenges as well as identify specific public bodies which could assist them.

NRW's existing '***operational areas***', with an additional area for the marine environment, have been identified for the geographical extent of the area statements covering the whole of Wales (Figure 2). Preliminary statements have been published for: ***North East Wales, North West Wales, Mid Wales, South East Wales, South Central Wales, South West Wales*** and the single ***Marine area***.

As with SoNaRR, the area statements are expected to be used to inform local decisions in regards to the Environment Act, Well-being of Future Generations Act and Planning Act.

Both NRW and the Welsh Government made a ***sustainability appraisal agreement***, which stated that the area statements are expected to be published in December 2019.

However, area statements are ***now expected*** (PDF 265KB) in March 2020.

Area trials

In 2015, the Welsh Government commissioned NRW to run three trials in the ***Rhondda, Tawe*** and ***Dyfi River catchment areas***. These trials looked at how SMNR can best work at a local level. An ***NRW information booklet*** (PDF, 8.4MB) outlines the practical benefits for each of these local trial areas and communities.

Systemic approach

As discussed, a **systemic 'joined-up' approach to SMNR has been identified as crucial by the Welsh Government** which states that tackling large issues such as the environment cannot be approached in isolation.

The Welsh Government, NRW, PSBs and public authorities are required to consider both SoNaRR and area statements to inform decisions with regards to SMNR and the biodiversity and resilience of ecosystems duty. **NRW hopes that these reports are also used to inform decisions by non-public sector stakeholders** too, such as businesses, social groups, charities and communities in Wales.

The Environment Act is expected to work together with the Well-being of Future Generations Act and the Planning Act to encourage a systemic approach to the environment by public authorities. The **Welsh Government has published two documents** explaining the links between the three Acts.

The objectives of SMNR, within the Environment Act, show strong links to the Well-being Act's well-being goals. One of these goals, **'A Resilient Wales'** specifically references the importance of biodiversity and healthy ecosystems to "support social, economic and ecological resilience and the capacity to adapt to change".

Section 5 of the Well-being of Future Generations Act defines the principles of sustainable development that public authorities are expected to adhere to under Part 2 of the Planning Act. **A National Development Framework** is being developed as part of the Planning Act, which is required to under-go an appraisal regarding the sustainability of the plan. SoNaRR will form part of the evidence base as will the priorities, opportunities and risks identified through natural resource management under the Environment Act.

The Well-being of Future Generations Act also allows public authorities to use the biodiversity and resilience plan set out under the Environment Act as part of their forward plans for well-being.

The Environment Act's objectives can be seen within the 'Prosperous and Secure' theme of the Welsh Government's **'Prosperity for All' strategy**. This theme aims to:

Create an environment which will nurture the businesses of the future, building on Wales' human, creative and natural resources, and improving our economic and environmental resilience.

Brexit and the Environment Act

At the time of writing (December 2018), there is still uncertainty regarding the future relationship between the UK and the EU.

As identified by the Welsh Government, leaving the European Union (EU) could have significant impacts on natural resources as Welsh **policy, legal and financial frameworks are heavily linked to EU law**.

The **Welsh Government has stated that the Environment Act and NRP will help guide any future Welsh legislation post-Brexit** and contribute to Wales' international obligations and responsibilities.

The Welsh Government has **committed to working with partners across all aspects of Welsh legislation and policy**. It has published **'Securing Wales' Future - transition from the European Union to a new relationship with Europe'** which looked at all aspects of Welsh Law in a post-Brexit scenario, Section 8 (page 29) relates to the environment. The Welsh Government has also published a consultation **'Brexit and Our Land'** looking at the future of farming and land use in Wales. This includes the proposal for a Public Goods scheme which **Wildlife Trusts Wales has described** as "a once in a lifetime opportunity to shape the future of our land and reverse the decline in biodiversity".

There is uncertainty around the future of the core EU environmental principles included in **Article 191 Treaty on the Functioning of the European Union (TFEU)** post-Brexit. These are intended to shape the development of EU law and policy to ensure high environmental standards and are used in the interpretation of EU law. The four core principles are the:

- Prevention principle;
- Principle that environmental damage should as a priority be rectified at source;
- Polluter pays principle; and
- Precautionary principle.

The Cabinet Secretary for Energy, Planning and Rural Affairs has commented that the Welsh principles of SMNR and sustainable development put Wales ahead in the UK in terms of any gap in environmental principles following Brexit. She **stated that** (PDF, 624KB) “these principles are wider than the four EU environmental principles”. However the Climate Change, Environment and Rural Affairs Committee heard during its inquiry into **Environmental governance body and environmental principles post-Brexit** that the existing Welsh principles support the prevention and precautionary principle approach but there is less focus on the polluter pays principle.

The Assembly’s Research Service **commissioned an academic fellowship project** in which Dr Victoria Jenkins, Associate Professor, Swansea University, Hillary Rodham Clinton School of Law considers the opportunities for the SMNR in Wales post-Brexit in the context of at a UK legislative framework approach.

Key Sources

Further guidance and information can be found below:

[A Welsh Government introduction to Environment \(Wales\) Act 2016](#)

[A Welsh Government introduction to the Well-being of Future Generations Act 2015](#)

[A Welsh Government introduction to the Planning \(Wales\) Act 2015.](#)

[Overview of area statements - NRW](#)

[State of Natural Resources Report \(SoNaRR\) 2016 - NRW](#)

[Vital nature: Making the connections between biodiversity and the people and places of Wales - NRW](#)

[Wales’ National Natural Resources Policy](#)

[Wales, Brexit and Environmental - UK Environmental Law Association](#)

