

# Briefing

## Three questions for the Welsh Cabinet Secretary on the new environmental governance body



Legislation and  
Governance Unit

25 June 2024

Earlier this year the Welsh Government published [proposals](#) for a new environmental governance body and to enshrine a set of environmental principles and biodiversity targets in law. Although a welcome move, important details are yet to be clarified and the slow action on it to date is seriously worrying.

On 26 June, the Welsh Government Cabinet Secretary for Climate Change and Rural Affairs, Huw Irranca-Davies, will appear before the Senedd's Climate Change, Environment and Infrastructure Committee. While the session will scrutinise the Cabinet Secretary's entire and varied brief, this is a timely opportunity to check progress on the new governance body.

The Welsh Government's [evidence paper](#) for the scrutiny session provides a brief update on the work of the interim environmental protection assessor for Wales, and on the white paper on environmental principles, governance and biodiversity targets. This states that analysis of consultation responses and a consultation report are underway, and that a policy response will be published before the summer recess. Officials will also work on the supporting bill documentation, including the regulatory impact assessment.

There are many policy questions where greater clarification from the Welsh Government would be helpful, but there are three issues of significant public interest on which the committee could usefully interrogate the Cabinet Secretary.

### **1. How will the Welsh Government ensure independence of the governance body from the outset and long term?**

There are different ways to embed independence into governance bodies, as experience of setting up similar bodies has shown in England, Northern Ireland and Scotland (the Office for Environmental Protection and Environmental Standards Scotland).

Including safeguards in the founding legislation would protect its long term independence, so it can oversee public authorities' compliance with environmental law, without fear of repercussions.

The body should report to the Senedd not the Welsh Government, with opportunities for Senedd committees to discuss and hold evidence sessions on its work, resourcing and performance, including hearing directly from its chair and chief executive.

There should be no power of direction for Welsh ministers, and they should be under a duty to respect the body's independence.

The Welsh Government should provide a ringfenced budget for the body in each Senedd term, requiring it to publish an annual sufficiency statement in relation to its resourcing.

Given its unique nature, the Senedd role in the public appointment process for the chair and other board members should be strengthened.

## **2. Which legal forum will the body use to enforce non-compliance with environmental law or to seek urgent judicial review?**

We welcome the proposal for the Welsh tribunal system to provide the forum for referrals regarding non-compliance with or appeals on compliance notices.

This offers several advantages over the High Court but, given the unknown timescale for establishing a Welsh tribunal system, there is a question over whether this will be ready in time to receive the first case from the governance body. If there is a delay, what will the interim arrangement be? Rapid work is needed to explore the potential role of the tribunal, especially given the likely timing challenges.

## **3. When will the Welsh Government publish its timetable for the transition between interim and permanent environmental governance arrangements?**

The Welsh Government has recently appointed two deputy assessors to support the work of the interim environmental protection assessor for Wales, whose appointment has been extended by another year until 28 February 2025. While they lack statutory powers, they perform valuable work assessing and reporting on the effectiveness of Welsh environmental law, such as their helpful [report](#) highlighting the potential impact of the Retained EU Law Bill on Welsh environmental laws. But they cannot investigate complaints about public authorities' adherence to environmental laws which means that Welsh citizens have less access to environmental justice than citizens elsewhere in the UK.

The transition to a statutory system to investigate complaints about public authorities' failures to abide by the law should be as smooth and swift as possible.

A detailed timetable is needed on the transition between the interim arrangements and the vesting of the full governance body.

An interim governance body that can receive complaints about environmental law should be considered, so they can be gathered for the fully vested body to assess.

A stakeholder advisory group should support the Welsh Government on the transition to and setting up of both the interim and final governance bodies, overseen by the Senedd to ensure the process is as independent as possible.

---

**For more information, contact:**

Ruth Chambers, senior fellow, Green Alliance

[rchambers@green-alliance.org.uk](mailto:rchambers@green-alliance.org.uk)