Dear Lord Cameron,

Thank you for the Committee Offices' email of 14 December requesting information from the Welsh Government to assist the UK Government's post-legislative scrutiny of the Natural Environment and Rural Communities Act 2006.

Please see responses below to the questions you have posed:

**Question 1: What was the rationale behind adopting the wording "must seek to maintain and enhance biodiversity" within the new biodiversity duty contained in the Environment (Wales) Act 2016?**

The introduction of the sustainable management of natural resources in the Environment (Wales) Act offered an opportunity to redefine the section 40 biodiversity duty in the Natural Environment and Rural Communities Act in a way, which enables public authorities in Wales to contribute to the achievement of sustainable management of natural resources as defined in section 3 of the Act.

Biodiversity is key to the resilience of ecosystems, which is central to the sustainable management of natural resources. Maintaining and enhancing biodiversity helps to promote the resilience of ecosystems and, therefore, contribute to the services provided by ecosystems, the services, which underpin our Well-being of Future Generations Act (2015) (http://www.legislation.gov.uk/anaw/2015/2/contents/enacted) well-being goals.
The new duty, therefore, connects to our ecosystem approach, which requires biodiversity to be maintained and constantly enhanced as biological resources are a vital element in ensuring our ecosystems are functioning healthy and their integrity is enhanced and maintained at a rate which ensures they are providing the life supporting systems necessary to ensure overall resilience. The section 40 duty did not accomplish this link.

Redefining the duty also enabled integration of the new duty with obligations under the Well-being of Future Generations Act for those bodies required to contribute to the well-being goals. As such, the new duty enabled better integration of the biodiversity into the decision-making of public authorities.

The new duty encourages public authorities to mainstream biodiversity across the delivery of their functions and integrate it at an early stage in decision making. It mainstreams biodiversity as a natural and integral part of policy and decision making. This helps to ensure actions which can impact on biodiversity are not considered in isolation and also take into account the wider role biodiversity has in contributing to the improvement of ecosystems and the resilience of biodiversity, ecosystems and the connecting network of ecosystems.

The new duty, therefore, is not an isolated duty but one which interconnects with helping to deliver the new approach introduced by the Well-being of Future Generations (Wales) Act and the Environment (Wales) Act.

**Question 2: What guidance, if any, is made available to public bodies to support them in implementing the duty?**

The then Minister for Natural Resources wrote to 140 public authorities subject to the duty with initial guidance, ahead of the duty coming into force in May 2016. This was supplemented by interim guidance published on the Wales Biodiversity Partnership website, also in May 2016. The Welsh Government responds to any queries with guidance as to how to comply with the Duty and this has been compiled into a Frequently Asked Questions document, which is to be published shortly. Much of this guidance is about how the Duty should be mainstreamed and embedded into public authorities' decision making. Officials will be working with public authorities and NGOs to build on this with practical and best practice guidance and examples for both mainstreaming and on the ground action for biodiversity.

**Question 3: What has been the practical impact of the new duty? Has the new duty improved the conservation of biodiversity in comparison to when the NERC Act duty was in effect?**
As the new duty came into force in May 2016, it is too early to tell whether it has had any impact on the conservation of biodiversity. The primary impact has been to encourage public authorities to consider and plan to maintain and enhance biodiversity as an element of their corporate planning processes. This is still at an early stage but a number of Local Authorities have now included performance measures for biodiversity within their corporate performance management. Other authorities have prepared and published plans to comply with the Duty.

**Question 4: What is the intention of the requirement for public bodies to plan and report on how they are implementing the duty? Do you anticipate that this will improve adherence to the biodiversity duty, in comparison to when the NERC Act 2006 duty was in effect in Wales?**

The intention of the planning requirement of the duty is to encourage public authorities to mainstream biodiversity as a natural and integral part of policy and decision making across the delivery of their functions. A plan for the purposes of the duty should include a high level statement which demonstrates commitment to and responsibility for complying with the duty at a corporate level. It should then include the steps which will be taken to fulfil this commitment across the functions of the organisation. These steps can be aligned to the objectives of the Nature Recovery Action Plan for Wales as these aim to reverse the decline of biodiversity in Wales. Best practice would be the plan is an integral part of any business planning, asset management and/or corporate planning processes as this will demonstrate how the consideration of biodiversity is being embedded within the public authority. The preparation of a separate plan to fulfil the duty is not necessarily required.

The reporting requirement provides an element of accountability as public authorities must demonstrate what they have done to comply with the duty.

We do anticipate these requirements will improve adherence to the biodiversity duty, and build on some of the successes Wales has already achieved with the previous NERC Act Duty, in improving action for biodiversity and particularly in mainstreaming the consideration of biodiversity into decision making.

**Question 5: How are rural needs taken into account in policy making? Is there a particular advisory or consultative body that is able to represent or advocate on behalf of rural communities in Wales?**

The Welsh Government has a keen interest in ensuring its policies take into account the rural dimension because of the rural nature of much of Wales. The comparatively limited size of Wales allows policy makers to be closer to rural issues and also for the National Assembly for Wales' Climate Change, Environment and Rural Affairs Committee to scrutinise the Welsh Government.
Rural proofing, along with Equalities and Human Rights, Welsh Language and Rights of the Child, is a mandatory element to policy development in the Welsh Government. Policy officials, when developing a policy, programme or initiative, must complete impact assessments for each of these at the outset and policy makers are encouraged to engage at the earliest opportunity. All of the impact assessments have been designed to drive fairness and inclusion in policy development in Wales.

With rural proofing, policy leads are encouraged to become involved with rural issues as early as possible to ensure the needs and considerations of the communities who live, work, socialise and do business in rural Wales are incorporated from the start of the policy process and become an essential part of the policy development and implementation. Rural proofing is aimed at producing information to highlight the key issues which need to be addressed from a rural perspective when developing new policies. As a starting point, policy officials are expected to read the rural proofing guidance which is available to help raise awareness of rural issues and to assist them in the design of their polices.

The appraisal process is made up of two stages: the screening tool stage and the completion of a checklist. Policy leads are advised to initially work through the screening tool to establish whether a proposed policy is likely to encounter challenges presented by rural areas and there are some questions to complete to identify the purpose of the policy and if rural issues have been considered. This is then sent to the rural proofing team within the Welsh Government for review. If the rural proofing team feel the policy will have a significant impact on rural areas or if there are concerns, a full checklist must be completed for assessment. It is at this point policy leads may begin to think of alternative ways to deliver their policy/programme in a rural area if issues are identified.

Policy officials have the opportunity to work with the Welsh Government’s Knowledge and Analytical Services Division to help capture the data and evidence which is required to help understand the situation in rural areas and the particular challenges they face. The rural proofing process is intended to encourage policy makers to think about rural issues as early as possible and to provide them with support in developing policies.

**Question 6: What assessment, if any, have you made of the work of the Joint Nature Conservation Committee? Does it have access to sufficient research and data to perform its functions effectively? Could any improvements be made to the work of the Committee?**

Defra and the Devolved Administrations (DA) conducted a review of the Joint
Nature Conservation Committee (JNCC) to establish the most effective and efficient delivery model for the JNCC across the UK now and in the future. The resulting report was published in November 2016 and the actions are being taken forward through the resulting Implementation plan agreed by the DAs. The Welsh Government played an active part within the review and supports its findings, which were as follows:

- Key improvements should be made to the size and focus of the Committee and to wider management and ways of working of the JNCC to improve JNCC's delivery focus and increase the overall value for money to the UK public purse.
- JNCC will remain as a Non-Departmental Public Body because it meets the Cabinet Office three tests:
  - it performs a technical function
  - its activities require political impartiality
  - it needs to act independently to establish facts
- JNCC staff and their skills are highly valued by Defra and the Devolved Administrations.

The JNCC review identified some operational changes which will improve delivery of government nature conservation priorities and provide for a leaner, nimbler organisation. They will improve its delivery focus and help provide the best value for money for the UK taxpayer. These are:

- Improvements to structure, leadership and membership of the JNCC Committee to improve its value to sponsors and make the Committee more nimble. This will include a reduction in the size of the Committee when legislation becomes available.
- Reduction in overheads through savings in costs of accommodation and corporate services. This will include £104k for accommodation and £90k for corporate services efficiencies over the next 10 years;
- More government involvement in planning and prioritisation of JNCC’s work programme. The annual business planning process will be made more effective through an annual JNCC led 'Big Room' event;
• For marine functions, smarter commissioning of evidence by policy customers across organisations is recommended through closer working between JNCC, Cefas, MMO, Marine Scotland Science and others;
• Improved collaboration and commissioning of delivery of JNCC offshore marine functions, particularly in partnership with Marine Scotland and SNH for Scottish waters, to enable priorities in each country to be met. Establishment of Scotland-specific implementation projects for offshore work and dedicated working level points of contact for Scottish partners;
• Delegation to Scottish Natural Heritage of JNCC renewables advice in Scottish offshore waters (as has been done in England, with Natural England);
• Stronger collaboration by JNCC with its partners and customers leading to better project and programme design, enhanced career development opportunities for staff, greater leverage of JNCC skills and knowledge sharing both ways. In particular: more joint planning, co-location of staff with partners, and flexible staffing, e.g. secondments both ways. Expanding links with universities and research institutes will also be important;
• A clearer rationale from JNCC for how and why funding is being apportioned across programmes; and a recommendation that the JNCC looks for opportunities for alternative sources of income in addition to government funding to increase its long-term resilience, where this is consistent with HM Treasury's Managing Public Money guidance.

We look forward to hearing the findings of the Committee's work.

Yours sincerely,

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Hannah Blythyn AC/AM
Minister for Environment