

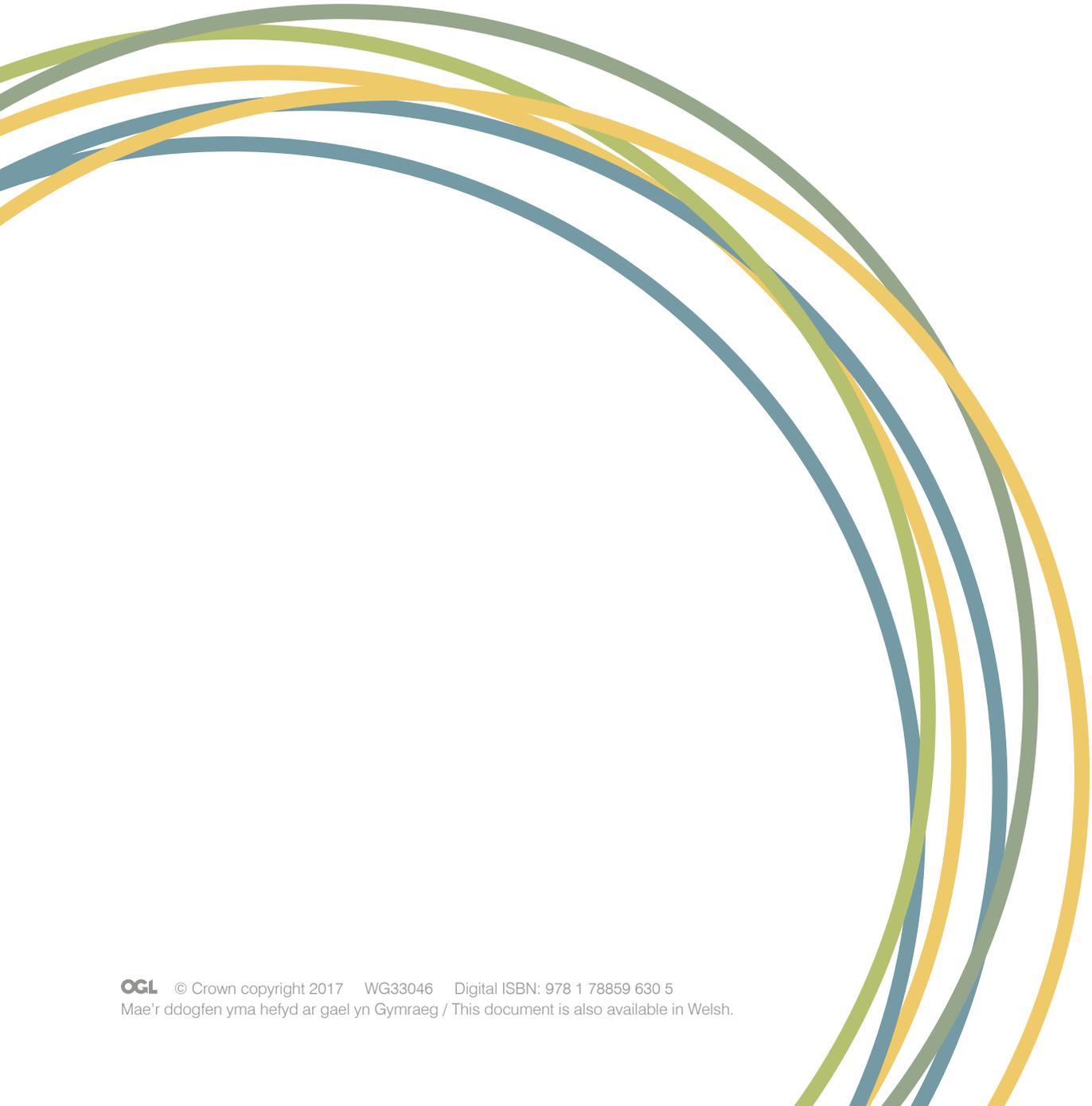


Llywodraeth Cymru  
Welsh Government

# Environment (Wales) Act 2016 Part 1

## Guidance for Section 6 – The Biodiversity and Resilience of Ecosystems Duty

### Frequently Asked Questions



## Environment (Wales) Act 2016 Part 1

### Guidance for Section 6 – The Biodiversity and Resilience of Ecosystems Duty

#### Frequently Asked Questions

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## **Introduction**

This Guidance has been produced by the Welsh Government to assist and support public authorities to comply with the Biodiversity and Resilience of Ecosystems duty (the S6 duty) in the exercise of functions in relation to Wales, introduced by Section 6 under Part 1 of the Environment (Wales) Act 2016.

Public authorities must have regard to this guidance and any other guidance given to it by the Welsh Ministers<sup>1</sup>.

This Guidance is based on Frequently Asked Questions and will be updated as necessary.

Further technical guidance on best practice to maintain and enhance biodiversity will be produced and more information can be found at [www.biodiversitywales.org.uk](http://www.biodiversitywales.org.uk)

## **Contacts**

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[Adran.Section6@gov.wales](mailto:Adran.Section6@gov.wales) for feedback at any time

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<sup>1</sup> Except for the Welsh Ministers, the First Minister for Wales, the Counsel General to the Welsh Government, a Minister of the Crown and a government department, who must have regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992.

## Overview

- Section 6 under Part 1 of the Environment (Wales) Act 2016 introduced an **enhanced biodiversity and resilience of ecosystems duty** (the S6 duty) for **public authorities** in the exercise of functions in relation to Wales<sup>2</sup>.
- The S6 duty requires that public authorities **must seek to maintain and enhance biodiversity** so far as consistent with the proper exercise of their functions and in so doing **promote the resilience of ecosystems**.
- To comply with the S6 duty public authorities should **embed the consideration of biodiversity and ecosystems** into their early thinking and business planning, including any policies, plans, programmes and projects, as well as their day to day activities.
- To comply with the S6 duty, most public authorities must **prepare and publish a plan** setting out what they propose to do to maintain and enhance biodiversity, and promote resilience.
- This plan can and should be **an integral part of any planning document** as part of the public authority's business or corporate planning processes. A standalone plan is not necessarily required.
- A public authority, in complying with the S6 duty, must have regard to:
  - The section 7 list of habitats and species of principal importance for Wales
  - The State of Natural Resources Report (SoNaRR), published by NRW
  - Any Area Statement which covers all or part of the area in which the authority exercises its functions, once these are produced.
- The **Nature Recovery Action Plan for Wales** contains six objectives which should be used to help develop and guide actions to comply with the S6 duty, and further technical guidance will be produced.
- A **report** on what the public authority has done to comply with the duty **must be published by the end of 2019** and then every three years after this date.
- Complying with the S6 duty will help public bodies subject to the Well-being of Future Generations (Wales) Act 2015 (the WFG Act) to maximise their contributions to the Well-being goals.

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<sup>2</sup> The full text of the Duty and the Explanatory Notes can be found at: <http://www.legislation.gov.uk/anaw/2016/3/contents>

## Q1 What is the enhanced biodiversity duty under the Environment (Wales) Act?

Section 6 of the Environment (Wales) Act replaces and strengthens, in Wales, the previous biodiversity duty under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 so that all public authorities, when carrying out their functions in relation to Wales<sup>3</sup>, must seek to maintain and enhance biodiversity wherever possible within the proper exercise of their functions<sup>4</sup>.

In so doing, public authorities must also seek to promote the resilience of ecosystems.

**As biodiversity drives the functioning of ecosystems, and underpins ecosystem resilience and the sustainable management of natural resources, the S6 duty aims to ensure that the consideration of biodiversity becomes an integral part of the decisions and actions that public authorities take in relation to Wales.**

Further details on biodiversity, resilience and the framework and principles of Sustainable Management of Natural Resources (SMNR) introduced by the Environment (Wales) Act can be found in the Annex.

Key to compliance with the S6 duty is embedding biodiversity into decision making at all levels. This should start at the corporate level, where early thinking and planning should seek to maintain and enhance biodiversity, preventing its loss in the first instance<sup>5</sup>.

To support this embedding, the S6 duty introduces a new planning and reporting requirement.

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## Q2 What must a public authority do to comply with the S6 biodiversity duty?

The S6 duty requires that public authorities must seek to maintain and enhance biodiversity so far as consistent with the proper exercise of their functions, and in so doing, promote the resilience of ecosystems.

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<sup>3</sup> The duty also applies to UK public authorities where functions take place in Wales, or in relation to Wales. Two exceptions are set out in subsection (3): the functions of Her Majesty's Revenue and Customs (HMRC) and the **judicial** functions of courts and tribunals are not subject to the duty. However, HMRC are still covered by the NERC Duty in relation to Wales.

<sup>4</sup> There is not intended to be a conflict between the general functions of an authority and the biodiversity duty. The duty applies when public authorities are carrying out their functions.

<sup>5</sup> **Biodiversity (biological diversity)** means the diversity of living organisms, whether at the genetic, species or ecosystem level. Section 7 of the Environment (Wales) Act provides a focus on species and habitats of principal importance – see Q16.

The emphasis of the S6 duty is that public authorities **should embed the consideration of biodiversity and ecosystems** into their early thinking and business planning, including any policies, plans, programmes and projects as well as their day to day activities.

Each function of a public authority should consider where and how they can maintain and enhance biodiversity and promote resilience. In some cases action across the organisation as a whole is more appropriate.

To comply with the S6 duty, most public authorities must **prepare and publish a plan** setting out what they propose to do to maintain and enhance biodiversity and promote resilience.

A public authority, in complying with the S6 duty, must have regard to:

- The section 7 list of habitats and species of principal importance for Wales
- The State of Natural Resources Report, published by NRW
- Any Area Statement which covers all or part of the area in which the authority exercises its functions, once these are produced.

A **report** on what the public authority has done to comply with the duty **must be published by the end of 2019** and then every three years after this date.

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### **Q3 How does promoting the resilience of ecosystems extend what we need to do for biodiversity?**

Traditional action for biodiversity was and is often focused in areas put aside for nature to improve conditions for target species and habitats, and that action should continue where appropriate and/or required by law. The Environment (Wales) Act recognises that actions are also required in the wider landscape to improve biodiversity and ecosystem resilience.

In order to promote the resilience of ecosystems and increase their ability to adapt to events (for example, the impacts of climate change), public authorities should seek to improve its attributes i.e.

- **diversity between and within ecosystems**
- **the connections between and within ecosystems**
- **the scale of ecosystems**
- **the condition of ecosystems (including their structure and functioning).**

Promoting resilience may in some cases require change – for example, to reconnect fragmented areas of ecosystems, or to meet the needs of species dependent on them. It may also be necessary to manage change in land or sea use so that ecosystems are able to adapt to climate change.

Change is inevitable and the Section 6 duty does not prohibit that but it must be managed in a manner consistent with the duty. The principles of SMNR as set out in the Environment (Wales) Act, see Annex, which include using adaptive management, can help guide actions and decision making. Further guidance will be produced on this.

Public authorities with no land will still need to consider each of the aspects of resilience, as their decisions and actions can influence ecosystems indirectly, for example through their procurement policy, or through funding decisions and conditions.

Section 6 also applies to biodiversity in a global sense and requires public authorities to consider the effect of decisions taken, or activities carried out, within Wales, but also in relation to biodiversity outside of Wales<sup>6</sup>. This is illustrated by the example of a procurement policy of a public authority in Wales -the biodiversity implications of purchasing decisions would need to be considered – will it have an adverse effect on a protected area? Can it be purchased from a more sustainable source locally?

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#### **Q4 Who does the S6 duty apply to?**

Organisations and individuals who were previously subject to Section 40 of the NERC Act are subject to the S6 duty in relation to Wales, as well as any newly created public authorities such as Transport for Wales.

Section 6(9) lists the wide range of public authorities that the duty applies to, and this is further defined in section 6(10). The list includes the Welsh Ministers, public bodies, holders of public office and statutory undertakers. Also included are a wide range of organisations including local authorities, local health boards, national health trusts, and national park authorities.

They also include UK public organisations where they carry out functions in relation to Wales, for example UK government departments and agencies such as the DVLA and the Patent Office.

Public bodies that are subject to the Wellbeing of Future Generations (Wales) Act 2015 are also subject to the Section 6 duty.

However, Section 6 of the Environment (Wales) Act does not provide a definitive list of public bodies – if you are not sure if your organisation is subject to the S6 duty please contact us at [Adran.Section6@gov.wales](mailto:Adran.Section6@gov.wales)

Ministers of the Crown and UK Government Departments are not subject to some of the requirements of the S6 duty, see <http://www.legislation.gov.uk/anaw/2016/3/notes/division/2/1/6> for a table showing which parts of the duty are applicable.

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<sup>6</sup> This also maximises the contribution to the Globally Responsible Wales goal under the Well-being of Future Generations (Wales) Act 2015

## Q5 What information and evidence must public authorities have regard to when complying with the S6 duty?

Under subsection (4), the Welsh Ministers, the Counsel General, government departments and Ministers of the Crown are under a duty to have regard to the **Convention on Biological Diversity (CBD) 1992**<sup>7</sup>, a global agreement addressing all aspects of biodiversity. The Welsh Government has published the Nature Recovery Action Plan for Wales<sup>8</sup> which sets out six objectives for reversing the decline of biodiversity, to address the CBD commitments.

Other public authorities are required to have regard to **any guidance issued by the Welsh Ministers**. This document constitutes part of that guidance. Further technical guidance on **best practice** for meeting the S6 duty will be developed. However the Nature Recovery Action Plan for Wales, as above, sets out six objectives for reversing the decline of biodiversity and for meeting the CBD commitments. These objectives can be used to identify and take forward action to meet the S6 duty, see Q8 below.

Subsection (5) requires that in complying with the S6 duty public authorities, other than Ministers of the Crown or government departments must also have regard to:

- the **list of living organisms and types of habitat published under section 7**<sup>9</sup>,
- the **State of Natural Resources Report**<sup>10</sup> and
- any **area statement**<sup>11</sup> published under section 11 of the Environment (Wales) Act, which includes all or part of an area in relation to which the public authority exercises functions, when they become available.

Area statements will provide an important spatial evidence base to help join up local action and collaboration with others.

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## Q6 Who within an organisation is responsible for complying with the duty?

The duty applies in the exercise of an organisation's functions, so it applies to whoever is responsible for, and takes decisions with regard to, those functions. However, the overarching responsibility for compliance lies with the final decision-making body, or the head of the organisation, e.g. the CEO or the Board of Governance.

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<sup>7</sup> <https://www.cbd.int/doc/legal/cbd-en.pdf> The Nature Recovery Action Plan for Wales sets out how this will be addressed in Wales.

<sup>8</sup> <http://gov.wales/topics/environmentcountryside/consmanagement/conservationbiodiversity/?lang=en>

<sup>9</sup> <http://www.biodiversitywales.org.uk/Environment-Wales-Act>

<sup>10</sup> <http://www.naturalresources.wales/sonarr?lang=en>

<sup>11</sup> Area statements will be produced by Natural Resources Wales between 2017 and 2019 to provide an evidence base for the sustainable management of natural resources. All of Wales will be covered by one or more area statements. See Annex for further detail.

## Q7 What constitutes a plan for the purposes of the S6 duty?

Under subsection (6), public authorities, other than a Minister of the Crown or government department, must prepare and publish a plan setting out what they propose to do to maintain and enhance biodiversity, having regard to any guidance given by the Welsh Ministers, and the documents listed in subsection (5).

These public authorities must also review their plans (**referred to as the S6 plan in this guidance**) in light of their report, published under subsection (7).

A plan for the purposes of the S6 duty should include a high level statement that demonstrates commitment to and responsibility for complying with the duty at a corporate level. It should then include the steps that 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 (see Q8 below) as these aim to reverse the decline of biodiversity in Wales.

Best practice would be that the S6 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 plan to fulfil the S6 duty that is a separate document from regular corporate planning activities may not be necessary, although they may be useful operationally, and can be referred to for further detail of how action for biodiversity will be cascaded through the organisation's functions, e.g. a Local Biodiversity Action Plan if this is still up to date and live, or a local Nature Recovery Action Plan or Ecosystem Resilience Plan where these exist.

For those public bodies subject to the Wellbeing of Future Generations Act (Wales) 2015 (the WFG Act) the S6 plan should be integrated into their statement of the steps to be taken to meet their well-being objectives, which in turn should be in their corporate plan, see Q13 below.

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## Q8 What should be in the S6 plan?

The plan should consist of a statement of what the public authority will do to maintain and enhance biodiversity, across all of its functions, and in so doing promote the resilience of ecosystems. As above, this statement should be embedded within any corporate or business planning document.

It should then include the steps that will be taken to fulfil this commitment across each of the functions of the organisation.

**These steps** should, as far as possible, be guided by the 6 objectives of the Nature Recovery Action Plan for Wales (NRAP<sup>12</sup>) which have been identified to contribute to reversing the decline of biodiversity in Wales.

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<sup>12</sup> Previously referred to as the Nature Recovery Plan for Wales, this can be found [here](#)

The 6 objectives to maintain and enhance biodiversity are:

- Objective 1: Engage and support participation and understanding **to embed biodiversity throughout decision making at all levels**
- Objective 2: **Safeguard species and habitats** of principal importance and improve their management
- Objective 3: **Increase the resilience\*** of our natural environment by restoring degraded habitats and habitat creation
- Objective 4: **Tackle key pressures** on species and habitats
- Objective 5: Improve our **evidence, understanding and monitoring**
- Objective 6: Put in place a framework of **governance and support** for delivery.<sup>13</sup>

\*The Environment (Wales) Act sets out the following attributes of ecosystem resilience:

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

Each function of a public authority should consider where they can contribute to the NRAP objectives and to promoting resilience, through addressing its attributes as above. In some cases action across the organisation as a whole is more appropriate.

Some examples are given below:

- Raise awareness across the organisation about how each and every role can impact and influence biodiversity and consider measures to enhance biodiversity and ecosystems in all policies, plans and projects. Embed this into your corporate business planning
- Think about how enhancing biodiversity can help deliver across the organisation's activities e.g. to support active recreation, education, flood prevention, and local food growing. For example, green roofs help to provide wildlife habitats, reduce energy consumption and improve drainage systems
- Use native, bio-diverse, nature based solutions wherever possible

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<sup>13</sup> These objectives address the strategic goals of the UN's Convention on Biological Diversity <https://www.cbd.int/sp/elements/default.shtml>

- Reduce, re-use, recycle materials, but where products such as paper are bought, ensure that supplies come from sustainable sources – i.e. paper from sustainable forests
- Look for opportunities, whether they are big or small, to help encourage biodiversity – e.g. plant native species, wildflower areas for pollinators, leaving areas of unmown grass; and improving connectivity between valuable habitats
- Safeguard protected species, habitats and areas
- Restore habitats to as natural and resilient state as possible
- Support the creation of new habitats, such as local orchards, native hedges, wildflower meadows or other areas of wildlife-friendly green space that is accessible to local communities
- Manage the land over which you have control to be wildlife friendly, and involve staff in the planning and management of this
- Take action to support pollinators and become a Bee Friendly<sup>14</sup> organisation
- If you have responsibility for road verge management, manage these in a way which contributes to road safety and wildlife conservation
- Making decisions and plans based on the best available evidence, and contributing to our body of knowledge where possible, for example by supporting citizen-science initiatives
- Providing support, involvement and/or funding for partnerships and collaboration for local and community-based biodiversity action

Any existing actions, delivery structures and capacity for biodiversity within a public authority will continue to contribute to action for biodiversity, but should be reviewed to ensure this is fully embedded and fit for purpose under the S6 duty.

We are looking for better land use choices that fully take into account opportunities to maintain and enhance biodiversity early in the decision making process, increasing resilience, and in turn providing the wider benefits to society.

Capacity and expertise to support this process may be found within your organisation or you can contact Wales Biodiversity Partnership who can provide or direct you to further advice and guidance: [www.biodiversitywales.org.uk/CONTACT](http://www.biodiversitywales.org.uk/CONTACT)

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<sup>14</sup> <https://www.biodiversitywales.org.uk/Wales-Action-Plan-for-Pollinators>

## **Q9 What further guidance is available to identify the actions needed?**

The previous Natural Environment Research Council (NERC) duty and the wealth of work undertaken by public authorities (in particular by Local Authorities, their biodiversity officers, and Local Biodiversity Partnerships) has been successful in many ways. Work continues to raise awareness; provide and support volunteering opportunities; manage and connect local wildlife sites; and support biodiversity action through other functions (for example, roadside verge management by transport authorities)<sup>15</sup>.

These specific actions remain important and essential, and to this end, much guidance produced previously to support biodiversity action at ground level and across functions remains relevant and useful, such as the NERC Act guidance published by Defra<sup>16</sup>.

Likewise, there is a wealth of guidance on actions for biodiversity, including the objectives of the Action Plan for Pollinators<sup>17</sup> which can also be used to identify actions. This guidance is signposted on the Wales Biodiversity Partnership website at <http://www.biodiversitywales.org.uk/Environment-Wales-Act>

Further technical guidance to reflect the Natural Resources Policy, the area statement process as this develops further, and best practice guidance on how to use the Nature Recovery Action Plan objectives, will be produced.

Particularly, further guidance will be developed to assist in embedding the consideration of biodiversity and ecosystem resilience at a corporate level. For example an approach similar to that taken for Health and Safety and Equality could help this process – e.g. preparing an audit of how the public authority is currently addressing the S6 duty as a first step. As this develops, the sharing of best practice examples will be encouraged and facilitated, and the approach will evolve as we gain a better understanding through improved evidence and experiences.

The statutory land use planning function of local planning authorities will be a key driver in achieving compliance with the S6 duty. Further guidance will be issued in early 2018 with the publication of a consultation draft of a restructured Planning Policy Wales.

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## **Q10 When should the S6 plan be produced?**

Whilst the Environment (Wales) Act does not specify when a public authority must prepare and publish its first plan, if the S6 plan has not been prepared in the first year after Part 1 of the Act coming into force, it should be prepared as soon as

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<sup>15</sup> 'Celebrating success: Collaborative action for nature in Wales' (Wales Biodiversity Partnership) illustrates this and provides examples of how this can be continued to address the S6 duty.

<http://www.biodiversitywales.org.uk/Environment-Wales-Act>

<sup>16</sup> <http://www.biodiversitywales.org.uk/Environment-Wales-Act>

<sup>17</sup> <http://gov.wales/topics/environmentcountryside/consmanagement/conservationbiodiversity/action-plan-for-pollinators/?lang=en>

possible. This will demonstrate that the public authority is complying with the S6 duty, and enable timely reporting by the end of 2019.

Detail of the plan may also be required, or useful, as part of any submission to Welsh Government, for example, for funding applications - so its early preparation would be beneficial.

However, it would be reasonable for a public authority to align its planning and reporting for the S6 duty with their corporate planning cycles, particularly where this can demonstrate the embedding of the S6 duty.

It will be best practice for the public bodies subject to the WFG Act to incorporate their S6 plan into their delivery of the requirements of that Act i.e. their well-being statement under section 7<sup>18</sup>, the first of which was required before 1 April 2017. See Q13 below for further information for Public Bodies subject to the WFG Act.

The S6 plan can be revised at any time.

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#### **Q11 Where and how should the S6 plan be published?**

The Environment (Wales) Act specifies that an S6 plan must be prepared and published. Best practice would be that the S6 plan forms part of the Corporate Plan, and, where that is published, will fulfil the requirement to publish the S6 plan. The plan may additionally or separately be published in any chosen format which is publicly accessible, including on the public authority's website. Best practice would be that this is on the corporate section of the website.

When completed, or at a stage where it can be shared with the Welsh Government, please send your S6 plan to [Adran.Section6@gov.wales](mailto:Adran.Section6@gov.wales)

#### **Q12 How should the S6 duty be reported?**

Subsection (7) requires that, before the end of 2019, and before the end of every third year after 2019, all public authorities must publish a report on **what they have done** to comply with the S6 duty.

Organisations are encouraged to identify their own ways of reporting - this could again be part of their ordinary reporting systems and/or process, such as their annual report, or as a specific document.

Public authorities who are required to publish a plan **must review** that plan in the light of their report.

This could include an evaluation of:

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<sup>18</sup> <http://www.legislation.gov.uk/anaw/2015/2/section/7/enacted>

- how well corporate planning systems have considered and committed to maintaining and enhancing biodiversity and ecosystem resilience
- how well the Nature Recovery Action Plan objectives are being met, including the use of best available evidence
- how the aspects of ecosystem resilience have been used pro-actively
- any measures of biodiversity and ecosystem resilience that can be applied (for example, contributing to the National Indicators for the WFG Act)
- notable achievements for habitats or species.

Further guidance will be provided on reporting for the S6 Duty.

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### **Q13 How does the S6 duty relate to Public Bodies subject to the Well-being of Future Generations (Wales) Act?**

The S6 duty, and the other duties under the Environment Act, can help organisations to seek the best outcomes for the economic, environmental, social and cultural well-being of Wales as required by the WFG Act.

Public bodies subject to the WFG Act are also subject to the S6 duty. Complying with the S6 duty requires those public bodies to maintain and enhance biodiversity, which is part of the sustainable management of natural resources and the well-being goals.

The objective of the sustainable management of natural resources includes contributing to the achievement of the well-being goals under the WFG Act by maintaining and enhancing the resilience of ecosystems and the benefits they provide.

The process of complying with the S6 duty therefore assists public bodies in complying with the WFG Act<sup>19</sup>. The application of the sustainable development principle under the WFG Act will also be a useful tool for organisations seeking to embed their duties under S6 into their planning:

- In setting or reviewing their well-being objectives and the steps they will take to meet them (S3, 7, and 9 of the WFG Act), public bodies should have regard to the evidence required under subsection (5) of the S6 duty – the Section 7 lists, the State of Natural Resources Report and any relevant area statement<sup>\*1</sup>.
- A well-being objective, or steps to meet one, can include steps to be taken to comply with the S6 duty. This would fulfil the requirement for a S6 plan<sup>\*2</sup>. The

<sup>19</sup> <http://gov.wales/docs/desh/publications/160225-spsf-2-individual-role-en.pdf>

statutory guidance on the individual duty under the WFG Act indicates these steps in turn should form part of their corporate plan.

- In such a case, the report on compliance with the S6 duty can be within the report on how they are meeting their well-being objectives.
- The well-being objectives and statement should be kept under review, and developed and built upon in future years. So long as well-being objectives or steps which incorporate the S6 duty are also reviewed and/or revised in this process, it would also meet the S6 requirement to review and revise the S6 plan.

Published well-being objectives and statements about them under the WFG Act must actually set out how biodiversity will be maintained and enhanced, and how in so doing the resilience of ecosystems will be promoted, for both duties to be discharged.

\*1 Area statements will also provide evidence which Public Service Boards (PSBs) must have regard to in developing well-being assessments, which will inform Local Well-being Plans. PSBs can also draw upon the State of Natural Resources Report as part of that process<sup>20</sup>.

\*2 If the statement is high level, further detail can be referred to elsewhere, in other local plans, such as Local Biodiversity Action Plans, Nature Recovery Plans or Ecosystem Resilience Plans if they set out what the public body will do to comply with S6.

#### **Q14 What happens if a public authority has prepared an S6 plan which does not follow this guidance?**

One of the principles of SMNR set out in the Environment (Wales) Act (see Annex below) is that we should be adaptable and plan, monitor, review and change our work as we gain a better understanding through our improved evidence and experiences.

Using this principle we can work together to ensure that with every iteration of the S6 plan further steps can be taken to embed the duty to maintain and enhance biodiversity into every function of a public body.

You can submit your S6 plan to [Adran.Section6@gov.wales](mailto:Adran.Section6@gov.wales) for feedback at any time.

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#### **Q15 How will transition from the EU affect the S6 duty?**

The S6 duty will continue to apply after Wales has exited the European Union.

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<sup>20</sup> <http://gov.wales/docs/desh/publications/161111-spsf-3-collective-role-en.pdf>

Our commitments to sustainable development, green growth and the principles of the Ecosystem Approach are enshrined in Welsh law through the WFG and Environment (Wales) Acts.

These in turn draw on the International Convention on Human Rights, the UN Convention on Biological Diversity, the UN Climate Change Convention and the UN Sustainable Development Goals. When we have left the EU we will still be obliged by these UN conventions.

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#### **Q16 How does the S6 duty relate to Section 7 of the Environment (Wales) Act?**

Section 7 of the Environment (Wales) Act states that Welsh Ministers must prepare and publish a list of the living organisms and types of habitat (the Section 7 lists), which in their opinion, are of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales.

Welsh Ministers must then take all reasonable steps to maintain and enhance these species and habitats, and encourage others to take such steps.

Public authorities, in complying with the S6 duty **must have regard to** the S7 lists, which provides a focus on species and habitats of principal importance. This will also assist public authorities in meeting objective 2 of the Nature Recovery Action Plan.

The S7 lists have replaced the previous S42 lists (the lists of species and habitats of principal importance for the purpose of conserving biodiversity, under the Natural Environment and Rural Communities Act 2006). Wherever you were required to have regard to the S42 lists, you should now refer to the S7 lists.

The current S7 lists are exactly the same as the previous S42 lists as they were transposed as an interim measure, when Part 1 of the Environment (Wales) Act came into force. Further information, and the lists, can be found [here](#).

These lists are under review by Welsh Government and Natural Resources Wales to ensure they are fit for purpose to meet the new legislation. Criteria for the lists will be consulted on, and refreshed lists and guidance in place as soon as possible.

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## **Q17 What has happened to the UKBAP and Local Biodiversity Action Plan partnerships?**

Work which was previously carried out under the UK Biodiversity Action Plan (UK BAP), including the production of Local Biodiversity Action Plans, was devolved to the country level (England, Northern Ireland, Scotland, Wales), and each of the four countries works to their own strategies and targets to address both the CBD and EU biodiversity targets and goals.

The UK Biodiversity Framework shows how the work of the four UK countries joins up with work at a UK level to achieve the Aichi Biodiversity Targets and the aims of the EU Biodiversity Strategy. It identifies the activities required to complement the country biodiversity strategies, and where work in the country strategies contributes to international obligations.

The Nature Recovery Action Plan for Wales (NRAP) is the national biodiversity strategy and action plan required under the Convention on Biological Diversity to reverse the decline of biodiversity in Wales. Work is underway to embed the objectives of the NRAP across Wales through the services and functions of both public, and also private organisations where they receive public funding, and the S6 duty will help to achieve this.

Partnership working and collaboration will be key to delivering action for biodiversity. The Local Biodiversity Action Partnerships, which were part of the UKBAP process, are seen as a vital part of the Nature Recovery Framework for Wales, and are being developed into Local Nature Partnerships. Their role will be further clarified through the NRAP implementation group, ensuring links are made to the frameworks for both the WFG (including PSBs) and the Environment (Wales) Act (including Area Statements).

Local Nature Partnerships co-ordinate and carry out a wealth of action for biodiversity, as well as providing and co-ordinating local evidence, mainly from much valued volunteers. These partnerships will be essential actors in the delivery framework for the sustainable management of natural resources – feeding in to the evidence for the State of Natural Resources Report, helping to deliver the Natural Resources Policy and supporting the production of Area Statements and carrying out collaborative action locally – as well as for the NRAP.

All NRW members of PSBs and relevant LNP officer have been asked to meet informally to discuss biodiversity in their area. Relevant members of LNPs are encouraged to join PSB subgroups as and when opportunities arise.

Wales Biodiversity Partnership provides a network and forum for Local Nature Partnerships and organisations working for biodiversity across Wales. Their website [www.biodiversitywales.org.uk](http://www.biodiversitywales.org.uk) holds a wealth of information, including S6 guidance and the S7 lists.

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## Annex

### What are ecosystems and biodiversity?

**Biodiversity (biological diversity)** means the diversity of living organisms, whether at the genetic, species or ecosystem level.

Biodiversity is the variety of life found on earth. It includes all species of plants and animals, their abundance and genetic diversity. It is our fascinating wildlife and iconic species and habitats; it is vital to connect people with nature; and it contributes to society's well-being, sense of place and cultural identity.

**Ecosystems** are functioning units made up of our living organisms (plants, animals and micro-organisms) in conjunction with their non-living environment (air, water, minerals and soil) and all the diverse and complex interactions that take place between them. They can function at many different scales.

### Why are they important?

Biodiversity underpins our lives and livelihoods and supports the functioning and resilience of ecosystems in oceans, wetlands, lakes, rivers, mountains, forests and agricultural landscapes.

Our economy, health and well-being depends on healthy, resilient ecosystems, which provide us with our food, clean water and the air we breathe, the raw materials and energy for our industries and protect us against hazards, such as flooding and climate change.

Changes in the distribution and abundance of plants, animals, and microbes affect ecosystem functions and the capacity of those functions to deliver ecosystem services. Loss of species from ecosystems affect their ability to resist invasion by other species, affect production and nutrient cycling, and affect the reliability and stability of ecosystems.

Therefore, biodiversity is essential to sustaining ecosystems that provide the vital services our lives depend on. Where biodiversity is lost and perhaps never fully recovered, it affects the capacity of ecosystems to adapt to changes and disturbances.

### Why is promoting resilient ecosystems important?

Building resilience into our ecosystems is important because healthy, resilient ecosystems are more able to address pressures and demands on them – such as climate change –so they can continue to deliver the wide range of ecosystem services for our well-being and prosperity now and for the future. Our approach is about being proactive and putting in place actions to build resilience, rather than manage our ecosystems and natural resources to 'environmental limits' because of the many uncertainties with these.

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Our aim is to sustainably manage our natural resources in a way and at a rate that meets the needs of the present generation without compromising the needs of future generations and which contribute to the seven well-being goals in the Well-being of Future Generations (Wales) Act 2015.

## How do we address ecosystem resilience?

We need to look at the following aspects of resilience

- **Diversity** - generally speaking, 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** - the underpinning supporting services of ecosystems need to be in a healthy condition to function effectively, to deliver a range of important ecosystem services
- **Adaptability** – the ability of ecosystems to adapt to events, understanding that ecosystems are not static and will change over time.

## Bringing in the benefits

Ecosystems provide a wide range of services, which in turn create benefits that link natural resources with people's well-being. They are:

- **Supporting systems and services:** necessary for the production of all other ecosystem services, such as soil formation, nutrients cycling, pollination and primary production
- **Provisioning services:** such as crops, fish, timber and genetic material
- **Regulating services:** such as water purification, biological control mechanisms, carbon sequestration
- **Cultural services:** providing a source of aesthetic, spiritual, religious, recreational or scientific enrichment.

By looking at ecosystem resilience and benefits together, we link to a wider set of beneficiaries, potential partners and funders who will understand the importance of our natural resources and their sustainable management.

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## **How will we know when we are achieving sustainable management of natural resources?**

For the sustainable management of our natural resources to be realised, we need to ensure that:

- Natural resources are not continuously declining and are not being used faster than they can be replenished;
- The health and resilience of our ecosystems is not being compromised
- The benefits from ecosystem services are being optimised;
- The contribution to well-being of ecosystem service provision continues to meet our basic needs, and is not declining.

## **How does the Environment (Wales) Act help to reverse the decline of biodiversity?**

The Environment (Wales) Act introduces the sustainable management of natural resources which ensures that the way in which we manage and use our natural resources and ecosystems does not result in their long term decline. Biodiversity underpins healthy functioning ecosystems and is also an important benefit that society derives from our natural resources and ecosystems. Sustainable management of natural resources is how we manage natural resources to deliver sustainable development and the requirements of the Well-being of Future Generations (Wales) Act by applying the ecosystem approach. It is about:

- how we use our natural resources
- how we reduce the pressures on our natural systems through actions such as resource efficiency, and is very much about positive actions , such as restoring degraded habitats and resilient ecosystems

## **How will we do this?**

The Environment (Wales) Act puts in place principles of sustainable management of natural resources (SMNR). These are our ways of working. In producing and implementing the Natural Resources Policy and the S7 Biodiversity Lists (see below) we will apply the principles. They are to:

- (a) manage adaptively, by planning, monitoring, reviewing and, where appropriate, changing action;
- (b) consider the appropriate spatial scale for action;
- (c) promote and engage in collaboration and co-operation;
- (d) make appropriate arrangements for public participation in decision-making;
- (e) take account of all relevant evidence and gather evidence in respect of uncertainties;
- (f) take account of the benefits and intrinsic value of natural resources and ecosystems;
- (g) take account of the short, medium and long term consequences of actions;
- (h) take action to prevent significant damage to ecosystems;

- (i) take account of the resilience of ecosystems, in particular the following aspects—
  - (i) diversity between and within ecosystems;
  - (ii) the connections between and within ecosystems;
  - (iii) the scale of ecosystems;
  - (iv) the condition of ecosystems (including their structure and functioning);
  - (v) the adaptability of ecosystems.

## **The SMNR delivery framework**

The delivery framework for the sustainable management of natural resources is an iterative process of evidence gathering, policy development and delivery across Wales which will help to address the pressures on biodiversity.

- **State of Natural Resources Report (SoNaRR)**

Natural Resources Wales reports on the status of Wales' natural resources and tracks the progress being made towards achieving the sustainable management of natural resources. The first report was published in September 2016 and a new report will be produced every 5 years to set out the current best knowledge on the sustainable management of natural resources in Wales.

SoNaRR:

- supports Natural Resources Wales' reporting on its progress towards its duty to pursue SMNR and apply the principles of SMNR in the exercise of its functions
- provides evidence to support Public Service Delivery ahead of Area Statements to feed into Well-being assessments, objectives and plans
- provides evidence to support public authorities ahead of Area Statements for the S6 duty
- provides evidence which the Welsh Ministers must have regard to when producing the Natural Resources Policy.

- **The Natural Resources Policy (NRP)**

This sets out the Welsh Ministers' policies for contributing to the sustainable management of natural resources (SMNR), and also sets out the risks, opportunities and priorities for SMNR, including what should be done in relation to biodiversity and climate change. The Environment (Wales) Act also requires that the Natural Resources Policy is developed and implemented by applying the principles of SMNR.

In developing the policy, Welsh Ministers' are required to apply the principles of sustainable management of natural resources, and must take all reasonable steps to implement the NRP and encourage others to take such steps.

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- **Area Statements**

Produced by Natural Resources Wales, area statements to be produced between 2017 and 2019 provide an evidence base for the sustainable management of natural resources, at the appropriate scale for action to take forward the Welsh Ministers' priorities in the Natural Resources Policy.

Local priorities for the sustainable management of natural resources will also be identified as area statements are developed to inform local wellbeing plans. All of Wales will be covered by one or more area statements.

Area Statements will:

- Provide evidence to support Public Authorities in complying with the S6 duty
- Provide evidence to support action across public services and support collaborative, innovative action through local partnerships.
- feed into assessments of local well-being and Local Well-being Plans and act as an evidence base for Public Service Boards.

- **Biodiversity and Resilience of Ecosystems Duty (the Section 6 duty)**

Section 6 of Part 1 of the Environment (Wales) Act puts in place a Biodiversity and Resilience of Ecosystems Duty for public authorities. Public authorities must seek to maintain and enhance biodiversity, and in so doing, promote the resilience of ecosystems.

Biodiversity underpins ecosystem resilience and the sustainable management of natural resources, the S6 duty aims to ensure that biodiversity becomes an integral part of the decisions and actions that public authorities take in relation to Wales.

In addition to maintaining and enhancing biodiversity the aims of the S6 biodiversity duty are:

- To enhance the capacity of our natural resources to provide essential ecosystem services, such as water management, climate regulation and crop pollination, as well as enhancing our environment.
- To illustrate the essential role biodiversity plays in the long-term sustainability of the ecological and physical processes that underpin the way ecosystems work.
- To improve the consideration of impacts on biodiversity in the decision-making processes covered by the Environment (Wales) Act.
- To ensure that the duty to maintain and enhance biodiversity is not an additional burden on public authorities, but instead, an integral component of the legislative framework under the Environment (Wales) Act.
- To assist Public Bodies subject to the Well-being of Future Generations Act to maximise their contributions to achieving the well-being goals.

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- **Section 7 – Biodiversity Lists**

Section 7 of the Act states that Welsh Ministers must prepare and publish a list of the living organisms and types of habitat which are of principal importance for the purpose of maintaining and enhancing biodiversity in relation to Wales.

Welsh Ministers must then take all reasonable steps to maintain and enhance these species and habitats, and encourage others to take such steps.

Public authorities, in complying with the S6 duty, must have regard to the S7 lists. This will also assist public authorities in meeting objective 2 of the Nature Recovery Action Plan.

### **The Nature Recovery Action Plan for Wales**

The Nature Recovery Action Plan for Wales sets out how Wales will deliver the commitments of the UN Convention on Biological Diversity and the EU Biodiversity Strategy to halt the decline in our biodiversity by 2020 and then reverse that decline.

It iterates our commitment to biodiversity in Wales, the issues we need to address and our objectives for action.

It sets out how our current and proposed action, including through the Well-being of Future Generations (Wales) Act 2015, and through the Sustainable Management of Natural Resources, will contribute to reversing the loss of biodiversity in Wales.

### **The Interface with the Well-being of Future Generations (Wales) Act and the Planning (Wales) Act**

Developed in parallel with the Well-being of Future Generations (Wales) Act, the sustainable management of natural resources complements and links with the WFG Act; being a fundamental part of sustainable development. The Environment (Wales) Act's provisions are also closely linked to the Planning (Wales) Act as illustrated in the following diagram.

