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Huw Irranca-Davies MS
Cabinet Secretary for Climate and Rural Affairs
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By email only

26 April 2024

Dear Cabinet Secretary

We read with interest your consultation on Environmental Principles, Governance and Biodiversity Targets for a Greener Wales.

As your consultation sets out, the Office for Environmental Protection was established by new primary legislation in 2021 to fulfil a role in England and Northern Ireland analogous to that envisaged for the Governance Body in Wales, and to scrutinise environmental law reserved to the UK Parliament to decide.

Since being established, we have been enjoyed and benefited from constructive and effective working relationships with the Interim Environmental Assessor for Wales, and Environmental Standards Scotland. We have been pleased to have had discussion with your officials on our experience in establishing the Office for Environmental Protection as they have considered the appropriate arrangements for Wales, and were similarly pleased to give evidence on our experiences to the Climate Change, Environment and Infrastructure Committee in the Senedd in June 2023.

The right legislative provisions and governance framework for Wales is clearly for you and the Senedd to decide. In considering wider responses to your consultation, I draw your attention here to some of our work scrutinising the framework decided for England and Northern Ireland – as is relevant to your consultation – so you can consider this as is appropriate, where you contemplate comparable arrangements for Wales.

Environmental Principles

In England and Northern Ireland, the law requires each government to set out guidance on the application of the Environmental Principles in an Environmental Principles Policy Statement.

The OEP advised Defra and DAERA on their draft EPPSs in July 2021¹ and August 2023² respectively. On the former, we recommended better integration of the policy statement with the UK Government's environmental goals, and clarification on the interpretation and application of the principles. In relation to the draft NI statement, we advised strengthening it so that environmental protection was at the centre of future policymaking and not viewed as something to be fulfilled via a tick box approach after policy has been developed. In both cases, we highlighted the importance not just of the guidance, but also the governance and oversight arrangements set up across government and within departments to support its effective application.

In England, the duty to have due regard to the EPPS started in November 2023. Given the significant role the principles should play, we have chosen to monitor the implementation of the duty, and intend to report our findings to the UK Parliament later this year. When the duty starts in Northern Ireland, we may monitor and report to the Northern Ireland Assembly similarly.

Alongside our previous advice, these reports may provide helpful and growing evidence as to how the environmental principles can be practically implemented, so as to secure the intent your consultation sets out. For example, based on our early experience in monitoring implementation of the EPPS in England, you may wish to consider how prescriptive to be about record-keeping and transparency in relation to how the environmental principles have been considered in policymaking, and with what effect. In our view, monitoring is essential in the early years of implementation.

Environmental Targets

There are statutory environmental targets in England established under the Environment Act 2021³, as well as a wide range of environmental targets established under other policy frameworks. The OEP monitors and reports on progress towards meeting targets and interim targets annually, alongside progress in improving the environment in accordance

¹ Office for Environmental Protection, 'Advice on the Draft Environmental Principles Policy Statement' (2021) <<https://www.theoep.org.uk/index.php/report/advice-draft-environmental-principles-policy-statement>> accessed 26 March 2024.

² Office for Environmental Protection, 'Advice on DAERA's Draft Environmental Principles Policy Statement' (2023) <<https://www.theoep.org.uk/report/advice-daeras-draft-environmental-principles-policy-statement>> accessed 26 March 2024.

³ Environment Act 2021' <<https://www.legislation.gov.uk/ukpga/2021/30/contents/enacted>> accessed 19 October 2023.

with the Government's Environmental Improvement Plans.^{4,5,6} We also provided advice to Ministers in England as the statutory targets were being set and are pleased to highlight some aspects of this work which may assist your own deliberation now.⁷

In our advice and reporting to the UK Government, we have recognised the critical role that a framework of well-crafted environmental targets can play in driving action across all who need to contribute – central government departments, local authorities, delivery partners and civic society at large.

However, we have found a number of environmental targets that are insufficiently coherent, connected or applied. We advocated for the development of a clear and understood hierarchy of targets in each environmental area where Government aspires for significant improvement – so that the suite of targets is both comprehensive and coherent. In our view, there should be an apex target, and a suite of supporting SMART (Specific, Measurable, Attainable, Relevant and Time-bound) interim targets in each area. We judge this clarity as important if targets are to have the galvanising effect intended.

We have also emphasised the importance of transparency in setting out how targets are intended to be achieved. What is more, all targets should be supported by plausible delivery pathways, in order that all who are to play their part understand the contribution they are intended to make, and so progress can be properly tracked and assured.

The environmental governance body

We note the considerations you are giving to the form and powers of the governance body. There are parallels to the considerations which led to the OEP's own design and ways of working. We would be pleased to discuss our experience in this regard, should that be helpful.

In particular, we have warmly welcomed the relations we have established with the Interim Assessor. These constructive and effective ways of working are critical in each jurisdiction, notably where interests may be common and issues may transcend national boundaries. We therefore fully welcome the emphasis on this effective cooperation and sound ways of working in your consultation.

⁴ Office for Environmental Protection, 'Taking Stock: Protecting, Restoring and Improving the Environment in England' (2022) <<https://www.theoep.org.uk/report/taking-stock-protecting-restoring-and-improving-environment-england>>.

⁵ Office for Environmental Protection, 'Progress in Improving the Natural Environment in England, 2021/2022' (2023) <<https://www.theoep.org.uk/report/progress-improving-natural-environment-england-20212022>>.

⁶ Office for Environmental Protection, 'Government Remains Largely off Track to Meet Its Environmental Ambitions, Finds OEP in Annual Progress Report' (2024) <<https://www.theoep.org.uk/report/government-remains-largely-track-meet-its-environmental-ambitions-finds-oep-annual-progress>>.

⁷ Office for Environmental Protection, 'OEP Response to Consultation on Environmental Targets' (2022) <<https://www.theoep.org.uk/report/oep-response-consultation-environmental-targets>>

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Summary

I hope these points are helpful to you.

We would be pleased to provide further insight on our experience in operating our own legislative provisions, organisational structure and design, and on the wider framework of environmental governance established for England and Northern Ireland should that be helpful, and so that you have every opportunity you wish to learn from our experiences in establishing and operating the Office for Environmental Protection so far.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'G Stacey', with a long horizontal flourish extending to the right.

Dame Glenys Stacey
Chair

cc Llyr Gruffydd MS, Chair Climate Change, Environment and Infrastructure Committee