

Draft Environmental Principles and Integrating Environmental Protection Statement

A Stronger Environmental Legislative framework for Wales

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Introduction

Part 1 of the Environment (Principles, Governance and Biodiversity Targets) (Wales) Act 2026 (“the Environmental Governance Act”) sets out an environmental objective and environmental principles. It establishes a new, stronger legislative framework for environmental governance in Wales. It does this by imposing duties on the Welsh Ministers, Natural Resources Wales (“NRW”) and certain other public authorities to apply the environmental principles and to integrate environmental protection. These duties are intended to be the foundation for ensuring environmental protection and the need to improve the environment is integrated into the heart of policy making, and strategic environmental assessment, in Wales. They are essential to contributing to protecting and improving the environment, mitigating and adapting to climate change and halting and reversing the decline in biodiversity. This Environmental Governance Act builds on and strengthens existing provisions in a wider Welsh legislative framework which shapes how public bodies plan, make decisions and account for outcomes.

The Well-being of Future Generations (Wales) Act 2015 (“the WFG Act”) provides the overarching approach to sustainable development in Wales. It requires public bodies to set and publish well-being objectives which set out how the relevant body will maximise its contribution to the well-being goals defined in the WFG Act, and to take all reasonable steps to meet them. It also requires public bodies to apply the sustainable development principle which means acting in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. In practice this means applying the five ways of working. In summary, these are to take account of the short and long term, prevention, integration, collaboration and involvement. Involvement includes involving people who reflect the diversity of the area served by the body. Overall, the purpose is to improve the social, environmental, economic and cultural well-being of Wales.

Alongside this, the Environment (Wales) Act 2016 (“the Environment Act”) establishes Wales’ framework for the sustainable management of natural resources (“SMNR”). It includes the SMNR principles and other provisions which promote an ecosystems approach and build the resilience of ecosystems. Key mechanisms in the Environment Act include:

- the National Natural Resources Policy, which sets out the Welsh Ministers policies and priorities for SMNR;
- the State of Natural Resources Report (“SoNaRR”), prepared by NRW, which provides evidence on the state of natural resources and helps to inform priorities; and
- area statements, prepared by NRW, which help to implement the National Natural Resources Policy by applying national priorities to local places and supporting collaborative delivery.

The Environment Act also places a duty on public authorities to seek to maintain and enhance biodiversity when exercising their functions and, in doing so, to promote the resilience of ecosystems.

Taken together, these Acts provide a robust direction for the embedded consideration of the environment within decision making in Wales. They support joined-up decisions that recognise how outcomes that relate to ecosystems, biodiversity and climate change, interact with economic, social and cultural as well as environmental areas, rather than addressing issues in isolation.

The Environmental Governance Act complements those existing provisions by requiring the Welsh Ministers and NRW, when making policy, and certain other public authorities, when carrying out strategic environmental assessment, to apply the four environmental principles and to integrate environmental protection. Together, these requirements support consistent and transparent decision-making. They help public bodies to protect and improve the environment, support climate change mitigation and adaptation, and halt and reverse biodiversity loss.

The four environmental principles, and the requirement to integrate environmental protection, are fundamental provisions under European Union law that applied in Wales prior to the United Kingdom exiting the European Union.

On 1 May 2021, the UK-EU Trade and Cooperation Agreement (the “TCA”) entered into force, setting out the terms of the future UK-EU relationship. The TCA acknowledges the parties' commitment to action on climate change and to improving their standards of environment protection and includes specific commitments to respect the internationally recognised environmental principles. This legislation helps to implement these commitments.

The duties to apply the principles and to integrate environmental protection, apply to policymaking across all policy areas of the Welsh Ministers and NRW, not just those directly related to the environment. They also apply to a wide range of public authorities when carrying out strategic environmental assessment. This holistic approach ensures that the consideration of the principles and environmental protection are embedded in the planning and development of policies, and the environmental assessment of relevant plans and programmes, promoting a high level of environmental protection and improving our environment which is essential to Wales.

This Statement explains how the Welsh Ministers intend to comply with their duty to apply the principles and integrate environmental protection and provides guidance to NRW and certain other public authorities about how to comply with their respective duties, in accordance with section 6 of the Environmental Governance Act.

Structure of the Environmental Principles and Integrating Environmental Protection Statement

Part A: Environmental Principles and Integrating Environmental Protection, sets out matters that apply across this Statement. It provides an overview of the environmental objective, the duty to apply the environmental principles and integrate environmental protection. It explains how the environmental principles relate to each

other and the duty to integrate environmental protection and how the duties on the Welsh Ministers, NRW and certain public authorities relate to each other.

Part B: The Welsh Ministers duties when making policy, focuses on how the Welsh Ministers propose to comply with their policy-making duties under section 3 of the Environmental Governance Act and related matters. This includes when the section 3 duty applies (and the “no or negligible effect” threshold), what counts as “policy” for these purposes, how the duty to have “special regard” to the environmental principles and to integrate environmental protection operates when making policy. It also explains how the environmental principles and the duty to integrate environmental protection relate to each other and to the environmental objective, how the section 3 duty interacts with other powers and duties (for example, other statutory obligations and impact assessment processes), and how compliance should be demonstrated.

Part C: Guidance to Natural Resources Wales (NRW), provides guidance for NRW and explains how to comply with the policy making duty in article 4A(1) of the Natural Resources Body for Wales (Establishment) Order 2012 (inserted by section 4 of the Environmental Governance Act). This includes how to have “special regard” to the environmental principles, how to integrate environmental protection (referring to Part A), and how the duty relates to NRW’s wider role and general purpose around the sustainable management of natural resources. This Part also explains the relationship of NRW’s policy making duty with other powers and duties and how NRW should demonstrate compliance.

Part D: Guidance to certain public authorities undertaking Strategic Environmental Assessment (SEA), provides guidance for certain public authorities and explains how to comply with their duty to apply the principles and integrate environmental protection when undertaking SEA, in accordance with the duty under section 5(1) of the Environmental Governance Act. It explains how the duty applies throughout the SEA process under the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004 (and any replacement provisions). It sets out how certain public authorities should have regard to the environmental principles and integrate environmental protection at each stage of SEA, from scoping and collecting baseline information through assessment of alternatives, preparing the Environmental Report, consultation, and monitoring. It also explains how the environmental principles and the integration duty relate to the environmental objective, how the section 5(1) duty relates to other powers and duties and how compliance should be demonstrated through existing SEA documentation, including the Environmental Report.

Each of Parts B, C and D must be read with Part A, which is cross-cutting.

Part A: Environmental Principles and Integrating Environmental Protection

1. A healthy environment is essential for our well-being. It supports our prosperity, our health and is a key part of our culture and identity. It provides the natural resources which are fundamental to our lives and livelihoods, for current and future generations. We depend on our natural resources for raw materials, food, water and energy; from our individual needs to those of our key industries.
2. Effective environmental governance will protect and improve the environment and enable us to tackle climate change, biodiversity loss, and other damage to the environment.
3. Part 1 of the Environment (Principles, Governance and Biodiversity Targets) (Wales) Act (“the Environmental Governance Act”) will strengthen environmental protections to ensure these priorities are reflected across Welsh Government, Natural Resources Wales (“NRW”) and public authority decision making whilst supporting innovation and sustainable development tailored to Wales’s needs.

Overview of Part 1 of the Environmental Governance Act: environmental objective and principles

4. Part 1 makes provision for an environmental objective, which is the attainment of a high level of environmental protection and an improvement of the environment (Section 1 (1) (a-d)). Part 1 also establishes four environmental principles. It imposes duties on the Welsh Ministers, NRW and certain public authorities to apply those principles and to integrate environmental protection.
5. These duties will help to meet important Welsh Government and other environmental goals and targets, as well as contribute to the effective implementation of international commitments and agreements.
6. This environmental principles and integrating environmental protection statement (the “Statement”) explains how the Welsh Ministers intend to apply the environmental principles and the duty to integrate environmental protection. The Statement also provides guidance to NRW and certain other public authorities on how to comply with their duties to apply the principles and integrate environmental protection. The environmental principles are:
 - a) the principle that preventative action should be taken to avoid environmental damage;
 - b) the precautionary principle so far as relating to the environment;
 - c) the principle that environmental damage should as a priority be rectified at source;
 - d) the polluter pays principle.

7. The Welsh Ministers and NRW must have special regard to the principles when making policy in relation to Wales, ensuring the principles are considered at the heart of policy-making, including legislative proposals.
8. Certain other public authorities (explained further in Part D) must have regard to the principles when carrying out environmental assessment of plans and programmes relating solely to Wales or to any part of Wales under the Environmental Assessment of Plans and Programmes (Wales) Regulations 2004, commonly referred to as 'Strategic Environmental Assessment(s)' or "SEA", or any corresponding provision replacing those Regulations.
9. The Environmental Governance Act also introduces duties on the Welsh Ministers and NRW when making policy, and certain other public authorities when carrying out SEA, to integrate environmental protection.
10. The duties on the Welsh Ministers, and on certain public authorities when carrying out SEA, are underpinned by the environmental objective, which guides the application and implementation of those duties. In each case, those duties must be exercised for the purpose of contributing to the environmental objective.
11. NRW already has its own general purpose aimed at the sustainable management of natural resources ("SMNR") and which complements the environmental objective. Therefore, the environmental objective does not apply to the duties on NRW.
12. These provisions are considered in further detail below.

Purpose of the Statement

13. This document is prepared and published in accordance with the Welsh Ministers' duties under sections 6 and 7 of the Environmental Governance Act and should be read alongside the Environmental Governance Act to help understanding of the relevant provisions and their effect.
14. The Statement explains the matters required by section 6(1) and provides guidance to NRW and certain other public authorities in accordance with section 6(2) and (3), respectively. In accordance with section 6(4), the Statement also includes other matters that the Welsh Ministers consider appropriate.
15. The Environmental Governance Act places duties on the Welsh Ministers, NRW and certain public authorities to have regard to the Statement, or to guidance in the Statement (as the case may be), when applying their respective duties to apply the principles and to integrate environmental protection.
16. A duty to "have regard" is a common term in legislation and is the regard that is appropriate in all the circumstances. The duty must be exercised in substance, with rigour and with an open mind.
17. In this Statement, Part A covers 'cross cutting' matters considered relevant to the duties on the Welsh Ministers, NRW and certain other public authorities in Part 1

of the Environmental Governance Act. Parts B, C and D provide more detail on specific aspects of the application of the duties in respect of the Welsh Ministers, NRW and certain public authorities, respectively.

Procedural Arrangements

18. The preparation of this Statement included a public consultation exercise, which ran from 19 June 2026 to 11 September 2026. Further details of the consultation, a summary of the representations received and the Welsh Ministers' response is available at xx. The Statement was laid in draft before the Senedd on xx [date], together with a document giving details of the consultation carried out.
19. The Statement was finalised, laid before Senedd Cymru and published on xx [date].
20. The Welsh Ministers must review this Statement after each general election and may review it at any other time. After reviewing the Statement, the Welsh Ministers may revise it in accordance with the procedural requirements set out in the Environmental Governance Act.

Key Definitions

21. Section 44 of the Environmental Governance Act sets out certain definitions which also apply to this Statement. These include definitions of “environment” and “environmental protection”, which are included below for reference:

22. “Environment” is defined as:

- a) air, water and land (including the earth's crust),
- b) plants, wild animals and other living organisms and their habitats, and
- c) the natural systems, cycles and processes through which the things in paragraphs (a) and (b) interact.

23. “Environmental protection” is defined as:

- a) protection of the environment from the effects of human activity;
- b) maintenance, restoration or enhancement of the environment;
- c) protection of people, in particular their health, from the effects of human activity on the environment;
- d) monitoring, assessing, considering, advising or reporting on anything in paragraphs (a) to (c).

The environmental objective

24. Section 1 of the Environmental Governance Act established an environmental objective which articulates the policy ambition and guides the implementation of the duties to apply the environmental principles and integrate environmental protection.

25. The Welsh Ministers, when making policy, and certain public authorities, when carrying out SEA, must apply the principles and integrate environmental protection, for the purpose of contributing to the environmental objective. The environmental objective does not apply to the duties introduced for NRW, who are instead guided by their 'general purpose' to pursue the SMNR (as detailed further in Part C of this document).
26. The focus of the environmental objective is the attainment of a high level of environmental protection and an improvement of the environment. This includes delivering a standard or threshold which safeguards the environment, aiming to prevent damage, and contribute to a healthy, diverse and resilient environment. A high level of environmental protection will require proactive, comprehensive, and targeted policies and SEA based on strong environmental principles and the integration of environmental protection throughout policy development, implementation and relevant decision-making. This will be informed by and help to deliver a range of environmental targets and indicators which drive action to protect and effectively manage natural resources and improve environmental quality for current and future generations.
27. Attaining a high level of environmental protection doesn't necessarily call for the highest level of protection (which may not be appropriate) but instead encourages a robust and ambitious approach to safeguarding the environment, including protecting people and their health, which requires more than a 'do minimum' approach.
28. Protecting people from the effects of human activity on the environment includes both:
 - a) preventing harm to people's health from human activity that increases present and/or future human exposure to environmental health hazards (for example, air/water/land/noise/light pollution, flooding, extreme temperatures); and
 - b) preventing harm to people's health from human activity that decreases access to environmental health benefits (for example, accessible natural green space, experiencing wildlife, birdsong, urban tree cover providing shade/cooling, natural flood protection, opportunities for green social prescribing, exercise in nature and physical and mental well-being benefits more generally).
29. In taking action to contribute to the environmental objective in accordance with the relevant duties, it is important to recognise the importance of the environment to people's physical and mental health and well-being.
30. Air and water quality, the attractiveness of an area, community safety, and access, availability and quality of green and blue space are just some of the environmental factors recognised as being important to health and well-being.
31. In taking action in accordance with the relevant duties to protect people, in particular their health, from the effects of human activity on the environment, appropriate consideration should be given to health inequalities experienced by

certain population groups. [The Health Impact Assessment \(Wales\) Regulations 2025 guide for public bodies in Wales](#) identifies certain population groups that are more vulnerable to health inequalities. It notes that sensitivity to impacts, positive or negative, depends on local population traits, context and a proposal's nature, and that focus may be needed on groups facing multiple disadvantages. The population groups that the guidance lists for special consideration include (but are not limited to) children and young people, older people, people with long term health conditions, people with mental health conditions and people with physical, sensory or learning disabilities/difficulties.

32. By focussing on an “improvement of the environment”, the environmental objective also emphasises positive change over time which goes over and above maintaining or preserving the status quo. This may, for example, go beyond minimum statutory requirements. In practice, this often takes the form of restoration, enhancement, or regeneration. For example, this could include measures to restore peatlands to increase carbon sequestration, restore biodiversity and mitigate against the effects of climate change e.g. flooding.

33. In addition, the environmental objective emphasises several specific outcomes which are to result from contributing, through the application of the relevant duties, to its achievement. The outcomes, set out at section 1(1)(a) to (d) of the Environmental Governance Act, reflect aspects of Welsh Government legislation and other policy priorities.

- **Meeting the needs of the present without compromising the ability of future generations to meet their own needs and contributing to achieving the well-being goals in section 4 of the Well-being of Future Generations (Wales) Act 2015 (“the WFG Act”) (section 1(1)(a)).**

This provision establishes consistency with the WFG Act and supports its wider implementation by ensuring that a high level of environmental protection and an improved environment is essential to achieving the well-being goals for the benefit of current and future generations. Policies and other action taken to achieve an improved environment can contribute across the WFG Act well-being goals through significant environmental, economic, social and cultural opportunities and benefits. Section 1(1)(a) does not dilute the importance of ensuring a high level of environmental protection and ensures that environmental protection and improvements to the environment are an integral part of improving people's well-being and delivering sustainable development.

- **Maintaining and enhancing the resilience of ecosystems and the benefits they provide (section 1(1)(b))** is an essential part of the policy framework for SMNR in Wales, established by Part 1 of the Environment (Wales) Act 2016 (“the Environment Act”). An “ecosystems approach” seeks to promote healthy and functioning ecosystems which are able to absorb disturbance and deliver benefits over the long-term. This approach promotes holistic decision-making rather than addressing issues in isolation. Section 1(2) sets out factors relevant to the resilience of ecosystems. This complements existing provision in the Environment Act

(section 4(i)) and the Agriculture (Wales) Act 2023 (“the Agriculture Act”) (section 1(7)).

- **Mitigating and adapting to climate change (section 1(1)(c))** includes reducing greenhouse gas emissions and removing carbon from the atmosphere, and taking measures to minimise the impacts of climate change.
- **Contributing to halting and reversing the decline biodiversity (section 1(1)(d))** is vital to the resilience of ecosystems and the achievement of a high level of environmental protection and an improved environment. Halting and reversing biodiversity decline will require, for example, preventing habitat loss, protecting endangered species and restoring degraded ecosystems.

34. These outcomes are complementary and mutually supportive. They are not exhaustive, and it is recognised that attaining a high level of environmental protection and improving the quality of the environment can also achieve other outcomes and benefits.

35. In pursuance of improved environmental outcomes, a range of targets have been set (or will be set) at Wales, UK and international levels which will, if achieved, contribute to a high level of environmental protection, improve the environment, or both. The targets are to be achieved through a range of strategies, plans and other policy documents. Examples of these targets include (but are not limited to):

Climate targets

- At least a 100% net reduction in greenhouse gas emissions in 2050, an 89% reduction in 2040 and a 63% reduction in 2030 (from the 1990/1995 baseline, depending on the greenhouse gas).
- Carbon budgets set a limit on net greenhouse gas emissions in Wales over a five-year period. Targets must be set in regulations at least five years before the start of the period. Carbon Budget 3 (2026-30) requires an average reduction of 58% and Carbon Budget 4 (2031-35) requires an average reduction of 73% lower than the baseline.

Air quality targets:

- Under the Air Quality Standards (Wales) Regulations 2010, the Welsh Ministers must ensure that levels of certain pollutants do not exceed the set limit values to protect public health and the environment. The key pollutants include sulphur dioxide, nitrogen dioxide, benzene, carbon monoxide, lead, PM10 and PM2.5.
- The National Emission Ceilings Regulations 2018 aim to reduce transboundary air pollution by setting emission reduction commitments for certain pollutants occurring with the UK.
- Targets will also be set in regulations under the Environment (Air Quality and Soundscapes) (Wales) Act 2024 (for fine particulate matter PM_{2.5} by February 2027 and a long-term target for one of the following pollutants by

February 2030: ammonia; particulate matter (PM₁₀); ground level ozone; nitrogen dioxide; carbon monoxide, sulphur dioxide).

Water quality targets, standards and objectives such as the standards and objectives set out under the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.

Indicators and targets for the four **Sustainable Land Management (SLM) objectives** established by the Agriculture Act, were set out in the SLM Indicators and Targets Statement published in December 2025.

Biodiversity Targets which will be established in regulations made under the biodiversity targets framework inserted into the Environment Act by Part 3 of the Environmental Governance Act. Targets must be set under the four priority areas set out in section 6C of the Environment Act; reducing the risk of the extinction of native species; the effective management of ecosystems; reducing pollution; and the quality of evidence to inform decisions relating to biodiversity, access to that evidence and its use and application. Draft target regulations must be laid before the Senedd within 2 years of Royal Assent of the Environmental Governance Act.

Recycling: minimum target of 70% of local authority collected municipal waste is recycled by 2025.

36. Policy and SEA decision-makers are expected to consider and record how the application of their respective duties under Part 1 of the Environmental Governance Act contributes to a high level of environmental protection and improves the environment. This includes how the policy or decision contributes to any relevant environmental targets and / or the plans and strategies and other policy documents that deliver them. If there is no contribution to relevant environmental targets, this should be explained.

Duty to integrate environmental protection

37. The duties introduced for the Welsh Ministers, NRW and certain public authorities by Part 1 of the Environmental Governance Act include a requirement to integrate environmental protection (at section 3(1)(b), article 4A(1)(b) of the Natural Resources Body for Wales (Establishment) Order 2012 (the “NRW Establishment Order”) (inserted by section 4(2)) and section 5(1)(b), respectively). This duty requires that environmental protection is integrated throughout the policy making process into all of the Welsh Ministers’ and NRW’s policies, and throughout SEA carried out by certain public authorities.
38. The duty to integrate environmental protection means that alongside the duties on the Welsh Ministers, NRW and certain public authorities to apply the environmental principles, opportunities should also be positively explored throughout policy making and SEA to incorporate as many measures as reasonably possible to protect, maintain, restore or improve the environment and to protect people, in particular their health, from the effects of human activity on the environment. Opportunities should be explored to incorporate appropriate

monitoring, assessment, and reporting mechanisms to promote transparency and accountability and to support evidence building and review.

39. The integration duty ensures that environmental concerns and environmental protection are not an afterthought but are at the heart of policy and decision making. The integration duty also creates opportunities not only to prevent, minimise and/or mitigate damage by applying the environmental principles, but also to enhance environmental protection. The aim is to have positive environmental outcomes following the application of the duty. The application of the integration duty is considered further below.

The environmental principles

40. Section 2 of the Environmental Governance Act sets out certain environmental principles, described below.

The principle that preventative action should be taken to avoid environmental damage

41. The prevention principle means that decision-making should always aim to prevent environmental damage.
42. The prevention principle is fundamentally important to ensure environmental damage is avoided. It is most effective when action is taken at an early stage before damage has occurred. The prevention principle focusses on preventing damage occurring, rather than repairing damage after it has occurred and, as a result, seeks to avoid environmental degradation which otherwise may be irreversible or excessively expensive to repair. In this way, timely prevention of environmental damage contributes to a high level of environmental protection and can result in social and economic benefits as environmental damage can have significant consequences for people and nature. For example, it may be more costly to clean up or remedy damage after it has occurred, if any remedy is possible.
43. Where environmental damage may be caused, risks should be clearly defined for appropriate preventative measures to be anticipated and implemented.
44. In applying the prevention principle, it will be necessary to assess the potential environmental damage (which may take more than one form) and then consider how this might be prevented. This should be done at an early stage, before any damage has occurred, or as early as possible if damage has already occurred. In circumstances where damage has already occurred, the principle should be used to prevent further damage from occurring and ensure that damage does not intensify or spread.
45. If it is decided that some environmental damage cannot be avoided by taking a particular course of action careful consideration should be given to whether to proceed. In some cases, the circumstances will mean that other important considerations or counteracting factors, such as public health considerations,

excessive costs or other impacts, results in some environmental damage that cannot be avoided to achieve the policy objectives. In that case it will be appropriate to consider the application of the other environmental principles.

46. Depending on the circumstances, the prevention principle should generally be preferred to rectification at source and the polluter pays principle, as these latter two principles are used in instances when prevention of environmental damage cannot be achieved. The other principles will often be used to support the aim of preventing environmental damage.

47. In applying the prevention principle, it is recommended you undertake the following steps:

- Step 1 - Assess the potential environmental damage of a particular course of action, taking account of relevant evidence. The precautionary principle (see below) will assist in cases where impact is uncertain.
- Step 2 - Where the proposed course of action may cause environmental damage, decision makers should consider whether there are any reasonable alternatives that can achieve the desired outcome and that would result in no damage or benefit the environment. These alternatives should be weighed against the original policy goals and any costs and benefits.
- Step 3 - If there are no reasonable alternatives that can avoid damage or benefit the environment, decision makers should consider what might help to reduce the impacts on the environment. Consideration should be given to what measures can be taken to minimise and/or mitigate the impacts on the environment, including appropriate application of the other principles.
- Step 4 - Where action is taken that will have negative environmental effects, but measures have been taken to minimise or mitigate those impacts, implementation should be monitored to ensure those measures are successful. Decision makers should be prepared to take any further action if necessary.

The precautionary principle so far as relating to the environment

48. The precautionary principle means that where there are threats of serious or irreversible damage to the environment, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent or reduce environmental degradation.

49. The precautionary principle is important in considering when and how to take action where the best available evidence regarding the likelihood and/or severity of environmental damage is subject to a degree of scientific uncertainty.

50. Applying the precautionary principle allows decision makers to deal with scientific uncertainties regarding evidence of potential environmental damage, assess the potential risks and take action to prevent or reduce damage.

51. The complexity of ecological processes means there will frequently be inherent uncertainty in the environmental impacts of decisions. The precautionary principle

therefore provides an important framework for decision making to prevent environmental degradation, particularly in the case of high impact events, such as, for example, climate change.

52. In applying the precautionary principle decision makers will need to assess and weigh the risks of environmental damage of different options using the best available scientific evidence and then take action to prevent that damage. A fundamental aspect of the principle is that the level of uncertainty determines the acceptable level of risk. As the likely risk of serious damage increases, the level of certainty necessary before action is taken reduces.
53. Where there are gaps in the scientific evidence base, this should not be used as a reason for inaction if there is a plausible risk of serious or irreversible damage. Achieving scientific certainty may take considerable time and, where the environmental risk is serious or irreversible, inaction could increase the risk of damage occurring or could cause or worsen the potential damage.
54. Nevertheless, the application of the precautionary principle requires credible evidence indicating that the risk of serious or irreversible damage is both plausible and substantive. When considering measures to prevent or reduce environmental damage, these options should be appraised to assess their expected net benefits. Accordingly, the precautionary principle should not be invoked based on speculation alone, and decision makers are not obligated to demonstrate the policy is totally without risk in order to proceed.
55. In applying the precautionary principle, it is recommended you undertake the following steps:
- Step 1 - Gather the best available evidence on the potential environmental damage of a proposed course of action, including evidence of uncertainties.
 - Step 2 - Evaluate the evidence to establish the degree of scientific uncertainty about the seriousness and/or likelihood of environmental damage.
 - Step 3 - Carry out a risk assessment of the potential environmental damage based on the best available scientific evidence. Risk in this case should be understood as a combination of the likelihood of the environmental damage occurring and its severity.
 - Step 4 - Consider precautionary measures to prevent or reduce risk of damage by engaging with interested parties as appropriate.

The principle that environmental damage should as a priority be rectified at source

56. The rectification at source principle means that environmental damage should be addressed, as a priority, at its source, rather than in the wider environment. Alongside the polluter pays principle, it can be used to ensure polluters are held responsible for the costs of environmental damage they cause. It may be used to prioritise action at source across a range of areas (for example, waste

generation, deforestation and pollution) where environmental damage cannot be wholly prevented or has already occurred.

57. By requiring that environmental damage be tackled where it arises, the principle also encourages practices that eliminate or reduce broader environmental damage. This could be, for example, through incentivising cleaner production methods, sustainable land use, and pollution control technologies rather than reactive (and typically more costly) methods like cleanup or compensation.
58. The principle of the rectification of environmental damage at source supports preventive and remedial action at the origin of the problem and should be considered whenever damage cannot be completely prevented.
59. Example scenarios of where the rectification at source principle might be applied include:
 - a) Measures in agricultural practice, such as appropriate methods of spreading to prevent surface slurry runoff into rivers and streams.
 - b) Setting and enforcing standards to minimise microplastic pollution.
 - c) Reducing rainwater runoff to address potential flooding by integrating relevant infrastructure into urban planning.
 - d) Using technologies such as sulphur capture at industrial sites to reduce environmental damage at its source.
60. Applying the principle of the rectification of pollution at source requires an understanding of the environmental damage that could or has occurred and from where that damage originates. Decision makers should then consider the feasibility of rectifying the damage at source.

The polluter pays principle

61. The polluter pays principle means that polluters should be responsible for the costs of environmental damage they cause.
62. The costs of pollution can include measures that relate to the avoidance, containment or abatement of pollution as well as all costs associated with remediation. The polluter pays principle is intended to ensure those who cause environmental damage bear these costs, rather than the wider community. This includes (but is not limited to) damage that cannot be avoided or is caused by accident. It is intended to ensure accountability for environmental damage, to incentivise the polluter to minimise pollution, to promote sustainable practices and align with broader environmental goals. It moves the costs of environmental pollution to the person causing the pollution and away from those affected and wider society.
63. The polluter pays principle can be applied to tackle environmental damage once it has occurred, or where there is a threat of damage. It can also have a preventative effect by ensuring that potential polluters consider the potential costs of remedying environmental damage when designing and operating polluting, or potentially polluting, processes. This could include for example, taking

preventative measures where there are imminent threats of environmental damage, in order to prevent or minimise it (for example, by imposing obligations on operators of activities that cause an imminent threat of environmental damage in accordance with the Environmental Damage (Prevention and Remediation) (Wales) Regulations 2009).

64. In this way, the polluter pays principle can serve different functions depending on where it is used in the decision-making process. For example, it can be used early in policy design to take preventative measures where there are threats of environmental damage, creating a deterrent effect.
65. In applying the polluter pays principle, decision makers will need to identify the potential polluter(s) and the nature of the potential polluting activities. The polluter may be an individual, a collective entity or group, or an entire sector, and different approaches may be required based upon this.
66. In making this assessment, decision makers should consider the driving factors causing the pollution and the party, or parties, responsible. The decision maker should use reasonable judgement to navigate complexities around identifying the polluter and the extent to which they should pay for the damage. For example, would the approach maximise environmental benefit by incentivising the necessary behavioural change to deter future environmental damage? Is the approach fair and reasonable? Would the costs be more effectively levied against individuals or a group, or the sector as a whole?
67. There will be complex cases, for example, where the potential costs of pollution may occur over many years. In such cases it will be necessary to consider whether appropriate financial provision should be made while the economic activity is still taking place, such as through a bond or other appropriate financial arrangement.
68. With this information, public authorities can assess the type of polluter and the extent of environmental damage caused by the activity, or the potential for damage, and determine what the polluter should pay. For example, payment could be matched to the level of environmental damage caused and may also take account of any other economic, social or community costs and potential advantages to society of the relevant activity.
69. However, when determining payments, policy makers must balance the damage caused against the practicality and impact of holding polluters financially responsible. Full cost recovery may not always be feasible or appropriate so alternative funding approaches may be required.
70. Polluters can pay directly, for example through fees, charges or compensation. They may also pay indirectly by meeting regulatory or contractual obligations that require extra investment to minimise environmental damage. Fines may apply if these requirements are breached.
71. Given the multiple issues to be considered decision makers should give careful consideration to how best to recover the costs of environmental damage and

deter further environmental damage on a case by case approach. This may involve identifying who the polluter is, and considering how much the polluter should pay and how the polluter should pay.

The environmental principles relationship with each other and the duties to integrate environmental protection

72. The duties to integrate environmental protection on the Welsh Ministers, NRW and certain other public authorities (at section 3(1)(b), article 4A(1)(b) of the NRW Establishment Order and section 5(1)(b)) require decision makers to consider all positive and negative effects on the environment and to identify and include appropriate environmental protection measures. As noted in paragraphs 22 and 23 above, “environmental protection” and “environment” have specific meanings under the Environmental Governance Act (section 44). Environmental protection includes protecting the environment and also people from the effects of human activity on the environment.
73. Decision makers should consider any actual or potential environmental impacts when making their decisions, including any environmental damage as well as opportunities to improve the environment. Assessments should be made throughout the policy making or SEA process of opportunities to address any damage through applying the environmental principles and to implement other environmental protection measures.
74. A careful assessment of the positive and negative effects on the environment must be undertaken. This should include any cumulative or in-combination effects. The steps taken to integrate environmental protection should be reasonable and appropriate in the circumstances. It will not be necessary, for example, to implement in all cases all the potential protection measures identified, provided this is reasonable and appropriate in all the circumstances.
75. Consideration should be given not only to the economic impacts of proposals, for example in terms of cost implications, but also the wider benefits (economic and otherwise) of environmental protection and improvement, including for example in terms of improved air, soil and water quality and associated improved health, social and economic outcomes.
76. All the principles must be considered when applying the duties imposed on the Welsh Ministers, NRW and certain public authorities (by section 3(1)(a), and article 4A(1)(a) of the NRW Establishment Order and section 5(1)(a)) respectively. In some cases it may be appropriate to give a greater effect to one or more of the principles. Though the Environmental Governance Act prescribes no hierarchy for the principles, the prevention principle should generally be considered first, as it is always preferable that decision-making will aim to prevent environmental damage. The focus should be placed on preventing damage occurring, rather than repairing damage after it has occurred, although recognising that this is not always possible.

77. The prevention principle is complementary to the precautionary principle, which operates where information is less certain. Depending on the circumstances, the prevention principle should generally be preferred to rectification at source and the polluter pays principle, as these latter two principles are used in instances when prevention of environmental damage cannot be achieved. This is because there may be situations in which the risk of some environmental damage has to be accepted because it would be unreasonable or impossible to prevent all possible damage. In situations where environmental damage is either ongoing or unavoidable, the principles of rectification at source and polluter pays should be applied to minimise, mitigate or discourage further damage.
78. By assigning clear responsibility for environmental damage through the rectification at source and polluter pays principles, policies can also help prevent damage from happening in the first place. This accountability discourages people and organisations from causing damage, as they know they will be culpable for addressing the damage caused. However, it is important to ensure that these measures do not simply make it easier for polluters to pay for restoration rather than avoid causing damage in the first place.
79. In summary, the prevention principle should be prioritised where possible, aiming to stop environmental damage before it occurs. When complete prevention is not possible, other principles, such as rectification at source and polluter pays, provide mechanisms for minimising, mitigating, or addressing damage, ensuring clear accountability. The precautionary principle is relevant when there is uncertainty about the risks of serious or irreversible damage.
80. The approach detailed in this section is intended to help decision makers approach a range of scenarios. However, this framework may not be appropriate in all cases and each case must be taken on its own merits.

How the duties on the Welsh Ministers, NRW and certain public authorities relate to each other

81. The duties placed on the Welsh Ministers, NRW, and certain public authorities (by section 3(1) and section 5(1) of the Environmental Governance Act and article 4A(1) of the NRW Establishment Order), are designed to be complementary and tailored to the specific roles and responsibilities of each organisation.
82. They represent a layered approach which ensures that environmental protection is not siloed but is a shared responsibility across governance levels, with appropriate guidance and oversight mechanisms. For example, the Office of Environmental Governance Wales (“OEGW”) will provide strategic oversight of the requirements on public authorities to comply with environmental law and hold the Welsh Government, and other public authorities, to account.
83. The duties on the Welsh Ministers are to be applied broadly and strategically across all policymaking (except, where a policy would have no or a negligible effect on the environment) and not just environmental policy.

84. The duties on NRW reflect their central role in environmental policy and governance in Wales and builds on their general purpose to pursue SMNR. Alongside the duty on the Welsh Ministers this widens and strengthens the application of the principles across policymaking.
85. In turn, the duties on certain public authorities when carrying out SEA are a targeted approach designed to ensure that the principles and the integration of environmental protection are meaningfully considered in plans and programmes likely to have significant environmental effects. The duties are intended to enhance environmental outcomes in decision-making for relevant plans and programmes.
86. The duties on NRW and the Welsh Ministers, alongside the duties on certain public authorities in conducting SEA, collectively contribute to the achievement of the environmental objective, or in NRW's case, its general purpose. These aligned duties ensure a coherent and comprehensive approach to apply the environmental principles and integrate environmental protection across policy and decision-making in Wales.

Part B: The Welsh Ministers' duties when making policy

87. Part B explains further how the Welsh Ministers propose to comply with their duties under section 3 of the Environmental Governance Act and related matters. Part B should be read alongside Part A. Together they explain the matters set out at section 6(1) of the Act and also certain other matters the Welsh Ministers consider appropriate (section 6(4)).

88. The Welsh Ministers are required to have regard to this Statement in complying with their policy making duty under section 3(1) of the Environmental Governance Act. A duty to “have regard” is the regard that is appropriate in all the circumstances. The duty must be exercised in substance, with rigour and with an open mind.

Duty on the Welsh Ministers

89. Section 3(1) of the Environmental Governance Act states the Welsh Ministers must, for the purpose of contributing to the environmental objective:

- (a) have special regard to the environmental principles when making policy in relation to Wales, and
- (b) integrate environmental protection into the making of such policy.

90. Section 3(4) provides that section 3(1) does not apply where the policy in question would have no effect or a negligible effect on the environment.

How the Welsh Ministers propose to comply with the policy making duty in section 3(1)

91. The duty applies whenever the Welsh Ministers make policy in relation to Wales except where a policy would have no or a negligible effect on the environment. In practice, it is considered that the duty will usually apply to policy making because it is anticipated that policy making will have no or a negligible effect on the environment only in very rare cases.

92. “Policy” in this context is to be understood broadly as an intended course of action adopted to achieve an objective or outcome. In this context, ‘making policy’ is intended to include making, developing, adopting, revising, or repealing policy, with examples such as:

- legislative proposals;
- policy statements, strategies and frameworks;
- setting and revision of targets and other aims and objectives;
- ministerial statements setting out the government’s formal position on an issue;

- any other document that sets out a change in approach to an established policy position.

Wales

93. “Wales” is defined broadly to include so far as policy relates to fishing, fisheries or fish health, the area of the Welsh zone beyond the seaward limit of the territorial sea. This extends for these purposes the definition of “Wales” in Schedule 1 to the Legislation (Wales) Act 2019. “Welsh zone” is defined by Schedule 1 to that Act.

Policy implementation and individual decisions

94. The duty applies to policy-making and is not to be re-applied when policy is implemented. The duty does not apply to individual regulatory, planning or licensing decisions made by the Welsh Ministers (or authorities acting on their behalf). These include, for example, “called-in” planning decisions under the Town and Country Planning Act 1990. Such decisions would be made within the planning policy framework, which would take appropriate account of the principles under these provisions.

95. In some instances, individual Ministerial decisions will be made with significant impacts on, or risk to, the environment and which effectively require new policy to be made or existing policy to be amended. In that case, policy should be updated, and this would be subject to the duties.

The environmental principles

96. The application and interpretation of the principles is discussed in Part A, which must also be considered alongside this Part when applying the policy making duty imposed on the Welsh Ministers.

‘Special regard’

97. A duty to have “special regard” to a particular matter means that the decision maker to which the duty applies is required to give “considerable importance and weight” to that matter. (See, for example, *East Northamptonshire DC v Secretary of State for Communities and Local Government Barnwell Manor Wind Energy Ltd v East Northamptonshire DC* (2014) EWCA Civ 137).

98. This means the Welsh Ministers are required to give special attention of considerable importance and weight to the principles when making policy (except where a policy would have no or a negligible effect on the environment). The aim is to be ambitious and provide clear policy direction to deliver the desired policy outcomes by contributing to the environmental objective, while also providing sufficient flexibility to operate effectively and appropriately across the full range of Welsh Government policy areas.

99. The approach can be contrasted with the more common “have due regard” or “have regard” style duty, where the weight to be given to relevant factors is a matter for the decision maker (provided the decision maker does not act unreasonably).
100. As with a duty to “have regard”, there is a balancing exercise to carry out, but in the case of a “special regard” duty, those factors to which the decision maker is to have special regard are to be given particular importance in the balancing exercise. In this case, this means that the environmental principles must feature prominently in the balancing exercise and resulting decision-making.
101. Circumstances may mean that other important considerations or counteracting factors, such as major public health considerations or significant social impacts, or excessive cost, should be given greater weight than the principles. In circumstances with minimal environmental impact, the principles may have limited effect (and in cases where a policy would have a negligible or no environmental effect the duty will not apply). The intention is to emphasise the importance of the principles, while accommodating diverse areas and factors to be considered by the Welsh Ministers when making policy in relation to Wales.

‘No effect or a negligible effect on the environment’

102. The duty placed on the Welsh Ministers is to have special regard to the principles, and to integrate environment protection, when making policy in relation to Wales. The duty applies broadly, across the full range of Welsh Government policy making, not just to environmental policy. The duty applies to any policy, except where a policy would have no or a negligible effect on the environment. This is deliberately a very low threshold and policy makers will have to carefully assess the effect of their policy to determine whether their policy meets this criteria.
103. The intention is to avoid the duty applying in those circumstances where policy making has no environmental effect or the environmental effect is so small as to be insignificant or inconsequential, which would be unnecessary and could undermine effective implementation in other cases when the environmental effect is more significant. In practice, it is considered that the duty will usually apply to the Welsh Ministers’ policy making because it is likely that policy making will have no or a negligible effect on the environment only in very rare cases.
104. In such cases, however, policy makers will need to demonstrate how they have carefully assessed any environmental effects and explain and record the reasons for reaching the conclusion that the policy would have no or a negligible effect on the environment.
105. Existing impact assessment tools or an appropriate alternative method will be used to determine whether a policy would have no or a negligible effect on the environment.

Exceptions and Urgency

106. No provision is made in the Environmental Governance Act for exceptions for specific policy areas (such as finance or budgets).
107. In the case of a national emergency where urgent action is needed, the duty should be applied in a way that is appropriate to the context and the need for a very prompt response. As the urgency recedes the duty is to be considered in the usual way.
108. In general, the duty to have special regard to the principles and to integrate environmental protection applies to all policy making (except where a policy would have no or a negligible effect on the environment). This includes policy making that involves budgets, the allocation of resources, financing or expenditure. The duty will be applied, for example, when spending proposals are developed and submitted for approval prior to the setting of the annual budget and also subsequently to individual policies with spending implications. If there is a policy impact, so that the budget process is not discrete from the policy making process, then the duty will apply to the budget process. For example, if a policy has to be adjusted because of less resource being available, then the duty would apply to that decision. The duty will not apply to the budget process only to the extent that things done during the budget process merely reflect policy making already undertaken.
109. The Welsh Government undertakes a Strategic Integrated Impact Assessment (“SIIA”) when preparing the Welsh Government Draft Budget. The purpose of the SIIA is to identify key trends, strategic and cumulative impacts of decisions made in the Draft Budget. The SIIA should include an entry on the Welsh Ministers section 3(1) duty to ensure the opportunity is taken to assess the impact of the budget in this context, and alongside other important matters such as equality, socio-economic impacts and the well-being of future generations.

Policy made by others on behalf of the Welsh Ministers

110. The duty on the Welsh Ministers applies whenever they are making policy, including legislative proposals, strategies, frameworks, setting targets and other objectives, and ministerial statements. In practice, most policymaking is undertaken by Welsh Government departments and submitted to the Welsh Ministers for consideration and approval, and the Welsh Ministers must be assured that the principles and integration duty have been correctly applied throughout the policy making process, before giving approval.
111. However, in certain circumstances, some public authorities may also make policy proposals for the Welsh Ministers. In these circumstances, the duty on the Welsh Ministers also applies. Such public authorities must therefore ensure and demonstrate that they have given special regard to the principles and integrated environmental protection when making policies (except where a policy would have no or a negligible effect on the environment). This should be done, and clearly evidenced, before being sent to the Welsh Ministers for approval. The expectation is that appropriate administrative arrangements will be made with such public authorities to address this scenario.

How the environmental principles and the duty to integrate environmental protection relate to the environmental objective

112. Part A explains in detail the role of the environmental objective and the relationship between the environmental principles and the integration of environmental protection.
113. The environmental objective provides clarity and focus to the application of the duties on the Welsh Ministers. It is the overarching aim towards which the application of the environmental principles and the integration duty are directed. The clearly stated purpose of those duties is to contribute to the environmental objective.
114. In summary, the environmental principles provide tools to enhance environmental outcomes. The integration duty places environmental protection at the centre of policy making and ensures these tools and other environmental protection measures are carefully and thoughtfully applied throughout the policy making process. The environmental objective provides the ambitious and unifying goal. Together, they ensure that a high level of environmental protection and improvement of the environment are an integral and dynamic part of the policy making process.

Relationship of the Welsh Ministers' policy making duty with other powers and duties

115. The Welsh Ministers are subject to various duties when making policy, and the requirements of the Environmental Governance Act must be applied alongside other relevant statutory obligations. Policy makers should ensure they have regard to this Statement throughout the process.
116. For example, policy makers will need to consider the ways in which the policy making duty relates to the duties on the Welsh Ministers with respect to the setting and publishing of well-being objectives (section 3, WFG Act). Those well-being objectives provide an important context for policy making throughout Welsh Government. They are supported by indicators to help track progress in meeting Wales's statutory well-being goals.
117. The duty to have special regard to the principles and to integrate environmental protection will ensure that in making policies to support the well-being objectives the environmental effects will be considered, whether positive or negative, and appropriate environmental protection measures identified and implemented. The duty is particularly important given the broad scope of the Welsh Ministers' policy making responsibilities because the greatest threat of environmental damage often arises outside the realm of environmental policy.
118. This is one example of the many statutory obligations and policy priorities that the Welsh Ministers must consider when making policy. Others include the environmental targets and strategies highlighted in Part A of this document.

There will be other aspects to consider in areas that are not directly related to the environment, depending on the policy area and objectives.

Demonstrating compliance

119. Transparency and accessibility in the application of the Welsh Ministers' duties under section 3 is important to achieve effective and consistent implementation and to facilitate scrutiny and accountability. Policymakers should document their application of the section 3(1) duty throughout the policy making process. In so doing, the Welsh Ministers will also need to explain how their duty to have regard to this Statement has been carried out.

120. Assessments of the application of these duties:

- should explain how this has occurred from an early stage and throughout the policy making process;
- should be evidence based, using the best available scientific evidence where possible and appropriate;
- include an assessment of environmental effects (both positive and negative); and
- explain how the application of the duties has affected policy making including any changes made to the policy as a result.

121. In circumstances where, after careful assessment, a policy is determined to have no effect, or a negligible effect, on the environment, so that it is decided that the duty does not apply, this must be reasonably and robustly explained as part of the policy making process to provide assurance (and a clear audit trail) that the duty has been considered correctly.

122. Where there are likely to be negative environmental effects, further explanation of this and the way the section 3(1) duty has been applied to prevent or mitigate those effects will be required, taking account of this Statement.

123. Policy makers are expected to consider and record how their approach to have special regard to the principles and integrate environmental protection contributes to the environmental objective in accordance with the section 3(1) duty. This includes whether or not the policy or decision contributes to any relevant environmental targets and / or the plans and strategies that deliver them. Policy makers should set out clearly, where relevant, how the policy contributes to these targets and / or the plans and strategies that deliver them.

124. Wherever possible, assessments should be linked to specific targets or outcomes and explain how the application of the duties has affected policy making to help to deliver them. In instances where a policy relates to matters relevant to an environmental target, but there is no contribution to that environmental target, this should be explained.

125. Policy making is usually carried out by officials on behalf of Ministers, for consideration and approval by Ministers. Officials must make appropriate arrangements to document their assessments of the application of these duties

throughout the policy making process. In the interests of transparency and accessibility, the expectation is that assessments carried out in accordance with the policy making duty will be published with the policy, when appropriate. The assessment may be published as a separate document (such as, for example, a consultation document), or as part of a policy. If the assessment is published as part of a policy, it should be clearly indicated so that it is easily identifiable and accessible.

126. The duty also applies where the Welsh Ministers are undertaking policy making that requires SEA. In that case, policymakers would need to complete an environmental report in accordance with SEA requirements. They should consider whether the analysis of relevant environmental effects and the application of the duties in relation to the policy should be recorded within the environmental report.
127. The Welsh Ministers will need to demonstrate compliance with the duties whether or not policy is prepared by the Welsh Ministers or another public authority on their behalf. Appropriate administrative arrangements must be made with relevant authorities to address this scenario where relevant.

Part C: Guidance to Natural Resources Wales (NRW)

128. This guidance forms part of this Statement prepared and published by the Welsh Ministers in accordance with sections 6 and 7 of the Environmental Governance Act.
129. This Part, and Part A, are guidance issued to NRW in accordance with the requirements of section 6(2) of the Environmental Governance Act and also set out certain additional matters in accordance with section 6(4). This Part should be read in conjunction with Part A of the Statement.
130. NRW is required to have regard to this guidance in complying with its policy making duty under article 4A(1) of the NRW Establishment Order. A duty to “have regard” is the regard that is appropriate in all the circumstances. The duty must be exercised in substance, with rigour and with an open mind.

Duties on NRW

131. Section 4 of the Environmental Governance Act amends the NRW Establishment Order (by inserting a new article 4A) and requires NRW to:
- a) have special regard to the environmental principles when making policy in relation to Wales, and
 - b) integrate environmental protection into the making of such policy.

How to comply with the policy making duty in article 4A(1) of the NRW Establishment Order

132. The duty applies whenever NRW makes policy in relation to Wales. Policy in this context is to be understood broadly as an intended course of action adopted to achieve an objective or outcome. In this context, ‘making policy’ is intended to include making, developing, adopting, revising, or repealing policy, with examples such as:
- legislative proposals (for example, byelaws and regulations);
 - policy statements, strategies and frameworks;
 - setting and revision of targets and other aims and objectives;
 - any other document that sets out a change in approach to an established policy position.
133. The duty applies to all NRW policy making because it is considered that all NRW policy making has, or could have, an effect on the environment, given NRW’s role and remit.

Wales

134. “Wales” includes so far as policy relates to fishing, fisheries or fish health, the area of the Welsh zone beyond the seaward limit of the territorial sea. This extends for these purposes the definition of “Wales” in Schedule 1 to the Legislation (Wales) Act 2019. “Welsh zone” is defined by Schedule 1 to that Act.

Policy implementation and individual decisions

135. The duty applies to policy making and is not to be re-applied when policy is implemented. The duty does not apply to individual regulatory, planning or licensing decisions made by NRW (or authorities acting on their behalf).

136. Such decisions would be made within NRW’s decision making frameworks and guidance and it is these frameworks which are expected to take appropriate account of the duties under these provisions.

137. In some instances, individual decisions might be made with significant impacts on, or risk to, the environment and which effectively require NRW to make new policy, or to amend existing policy. Where this happens, such policy would be subject to the duties.

The environmental principles

138. The application and interpretation of the principles is discussed in Part A, which must also be considered alongside this Part when applying the policy making duty imposed on NRW.

‘Special regard’

139. A duty to have “special regard” to the environmental principles means NRW is required to give “considerable importance and weight” to the principles when making policy. This strengthens the role of environmental principles in policy making as framed by the strategic context provided by NRW’s general purpose.

140. The approach can be contrasted with the more common “have due regard” or “have regard” style duty, where the weight to be given to relevant factors is a matter for the decision maker (provided the decision maker does not act unreasonably).

141. As with a duty to have “due regard”, there is a balancing exercise to carry out. This means that necessary flexibility is provided to consider other relevant factors across the range of NRW policy making. But in the case of a “special regard” duty, those factors to which the decision maker is to have special regard are to be given particular importance in the balancing exercise. In this case the duty to have “special regard” means the environmental principles must feature prominently in the balancing exercise and resulting decision making carried out by NRW.

Exceptions and Urgency

142. The duties apply to all policy areas (including, for example, finance or budgets), though in practice NRW's financial resources are determined by the Welsh Ministers through an annual grant, as outlined in a 'Statement of Budgetary Provision'. This is considered and reflected in the relevant annual business plan of NRW, which is informed by a detailed baseline (or zero-based) review of its expenditure and statutory obligations. The duty will apply to the allocation of resources and business planning process insofar as that process involves policy making. For example, if a policy has to be adjusted because of less resource being available, then the duty would apply to that decision. The duty will not apply only to the extent that things done during the budget process merely reflect policy making already undertaken.
143. In the case of a national emergency where urgent action is needed, the duty should be applied in a way that is appropriate to the context and the need for a very prompt response. As the urgency recedes the duty is to be considered in the usual way.

Giving effect to NRW's general purpose

144. The provisions of the Environmental Governance Act complement NRW's general purpose under article 4 of the NRW Establishment Order, which is to:

- (a) pursue SMNR in relation to Wales, and
- (b) apply the principles of SMNR,

in the exercise of its functions, so far as consistent with their proper exercise.

145. SMNR is defined at section 3 of the Environment Act and is aimed at maintaining and enhancing the resilience of ecosystems and the benefits they provide. The principles of SMNR are defined by section 4 of the Environment Act.
146. The Environmental Governance Act provides a legal framework to embed environmental principles and the integration of environmental protection consistently and transparently across Welsh public policy, an area in which NRW has a leading role. This provides a focus for NRW's current roles and responsibilities within the context of a consistent approach to environmental protection across the public sector in Wales. Having special regard to the environmental principles and integrating environmental protection into policy making will contribute to the achievement of NRW's general purpose.
147. Although there are recognised overlaps between aspects of the SMNR principles and the environmental principles, these are complementary and mutually strengthening.

How the environmental principles relate to each other and NRW's integration duty

148. Part A explains the relationship between the environmental principles and the integration of environmental protection.

Relationship of NRW's policy making duty with other powers and duties

149. NRW is subject to a range of duties that may affect policy making for different purposes depending on the nature of the policy in question. However, when making policy in all contexts, NRW now must have 'special regard' to the environmental principles and integrate environmental protection in policy making.
150. This will need to be done alongside an appropriate consideration of all other relevant factors, duties and powers, including NRW's general purpose (discussed above). In so doing, NRW must have regard to this Statement.
151. Examples of wider relevant factors, include, but are not limited to:
- **Section 6 of the Environment Act** which requires NRW as a public authority to seek to maintain and enhance biodiversity and in so doing promote the resilience of ecosystems in the exercise of its functions.
 - Publication of area statements to facilitate implementation of the [Natural Resources Policy \("NRP"\)](#) published by the Welsh Government, which sets national priorities for SMNR.
 - Carrying out sustainable development in accordance with the **WFG Act**, including setting and publishing well-being objectives designed to maximise NRW's contribution to achieving each of the well-being goals, and taking all reasonable steps (in exercising its functions) to meet those objectives.

Applying the NRW's policy making duty will also link to delivering any specific targets or outcomes required of NRW.

Demonstrating compliance

152. Transparency and accessibility in the application of the duty imposed on NRW by article 4A of the NRW Establishment Order is important to achieve effective and consistent implementation and facilitate scrutiny and accountability.
153. Compliance with the duty by NRW will need to be explicit and accountable. Policymakers should therefore document their application of the duties throughout the policy making process. In so doing, policy makers will also need to explain how their duty to have regard to this Statement has been carried out.
154. Assessments of the application of these duties:
- should explain how this has occurred from an early stage and throughout the policy-making process;
 - should be evidence based, using the best available scientific evidence where possible and appropriate;

- include an assessment of environmental effects (both positive and negative); and
- explain how the application of the duties has affected policy making, including any changes made to the policy as a result.

155. Where there are likely to be negative environmental effects, further explanation of this and the way the duty to have special regard to the environmental principles and to integrate environmental protection has been applied to prevent or mitigate those effects will be required, taking account of this Statement.

156. Wherever possible, assessments should be linked to specific targets or outcomes and explain how the application of the duties has affected policy making to help to deliver them. In instances where a policy relates to matters relevant to an environmental target, but there is no contribution to that environmental target, this should be explained.

157. The duty also applies where NRW is undertaking policy making that requires SEA. In that case, policymakers need to complete an environmental report in accordance with SEA requirements. They should consider whether the analysis of relevant environmental effects and the application of the duties in relation to the policy should be recorded within the environmental report.

158. In the interests of transparency and accessibility the expectation is that assessments carried out in accordance with the policy making duty will be published with the policy, when appropriate. The assessment may be published as a separate document (such as, for example, a consultation document), or as part of a policy. If the assessment is published as part of a policy, it should be clearly indicated so that it is easily identifiable and accessible.

Part D: Guidance to certain public authorities undertaking Strategic Environmental Assessment (SEA)

159. This guidance forms part of this Statement prepared and published by the Welsh Ministers, in accordance with sections 6 and 7 of the Environmental Governance Act.
160. This Part D, and Part A, are guidance issued to certain public authorities in accordance with the requirements of section 6(3) of the Environmental Governance Act and also set out certain additional matters in accordance with section 6(4).
161. This Part D should be read in conjunction with Part A of this document and, alongside the [Environmental Assessment of Plans and Programmes \(Wales\) Regulations 2004, \(the “2004 Regulations”\)](#), the [Practical Guide to the Strategic Environmental Assessment Directive](#) (“the SEA Practical Guide”), the [Strategic Environmental Assessment in Wales Guidance](#) (the “Wales SEA Guidance”) and other relevant guidance.
162. Certain public authorities are required to have regard to this guidance in complying with their duty under section 5(1) of the Environmental Governance Act. A duty to “have regard” is the regard that is appropriate in all the circumstances. The duty must be exercised in substance, with rigour and with an open mind.
163. Section 5(1) applies when certain public authorities are carrying out functions in connection with the assessment of plans and programmes relating solely to Wales or to any part of Wales under the 2004 Regulations (or any corresponding provision replacing those Regulations).
164. Section 5(4) defines “public authority” for the purposes of sections 5 and 6 of the Environmental Governance Act. A “public authority” means a person, other than the Welsh Ministers or Natural Resources Wales, who is (a) a devolved Welsh authority within the meaning given by section 157A of the Government of Wales Act 2006, or (b) listed in paragraph 9(2) or (6) of Schedule 7B to that Act. Further details are given below.
165. These requirements relate to the situation where certain public authorities are carrying out an SEA. In carrying out SEAs they will need to ensure that these principles are explicitly considered.

Environmental Assessment of Plans and Programmes (Wales) Regulations 2004

166. The requirement to carry out strategic environmental assessment (“SEA”) originates from EU Directive 2001/42/EC. This requires EU Member States to

make an environmental assessment for plans and programmes likely to have significant environmental effects and aim "...for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development..." (article 1). That Directive was implemented by the 2004 Regulations, as regards plans and programmes relating solely to the whole or any part of Wales. The objectives of the Directive and the 2004 Regulations align well with the environmental objective in the Environmental Governance Act (see Part A).

167. The 2004 Regulations require the "responsible authority" (as defined by regulation 2(1)) to conduct an assessment of the likely significant environmental effects of certain plans and programmes. This includes those setting frameworks for development consent in certain sectors. The assessment involves preparing an environmental report detailing likely significant environmental effects and reasonable alternatives, and to consult, including with NRW and Cadw, who are the designated consultation bodies (unless Cadw is the "responsible authority" as regards a plan or programme, in which case see regulation 4(2)).
168. The plan or programme cannot be adopted until account is taken of certain matters, including the environmental report and consultation. After adoption, the responsible authority must publish the plan or programme, the environmental report, and a statement explaining certain matters, including how the environmental report was considered and how environmental considerations have been integrated into the plan or programme. They must also monitor the plan or programme's implementation for unforeseen adverse environmental effects so that appropriate remedial action can be taken.

Environmental assessments: certain public authorities' duties under the Environmental Governance Act

169. Section 5(1) of the Environmental Governance Act requires certain public authorities to, for the purpose of contributing to the environmental objective, have regard to the environmental principles and integrate environmental protection when carrying out any functions in connection with the assessment of plans and programmes under the "2004 Regulations". This is referred to as "the section 5(1) duty" in this guidance.
170. Environmental assessment of the likely significant effects of relevant plans and programmes leads to improved environmental protection, more robust plans and programmes, and further consideration of alternatives. As such, the section 5(1) duty provides an important opportunity to contribute to the environmental objective, through the application of the environmental principles and the duty to integrate environmental protection (see also Part A). SEA, and the section 5(1) duty, should be fully integrated into the plan or programme-making process from the outset and at each decision-making stage thereafter.
171. Complying with the section 5(1) duty as part of the process of SEA will help to better achieve the underlying legislative requirements and goals of the 2004

Regulations. In turn, those goals align with the section 5(1) duty and will help to contribute to the environmental objective. For example, Schedule 1 to the 2004 Regulations outlines the criteria for determining the likely significance of effects on the environment, including the relevance of the plan or programme for the integration of environmental considerations in particular with a view to promoting sustainable development. Schedule 2 (and regulation 12) specifically connects information for the environmental report prepared as part of SEA with established environmental protection objectives, including the environmental objective established under the Environmental Governance Act, which are relevant to the plan or programme.

172. The section 5(1) duty applies to each “public authority”, as defined at section 5(4) of the Environmental Governance Act. This is a broad definition that includes public authorities within the legislative scope of Senedd Cymru, other than the Welsh Ministers or NRW.
173. In practice the majority of “responsible authorities” (as defined by regulation 2(1) of the 2004 Regulations) will align with the definition of “public authority” (as defined by section 5(4) of the Environmental Governance Act). However, there may be public authorities who are “responsible authorities” but are not a “public authority” for these purposes, because they do not fall within the definition at section 5(4) (such as, for example, Network Rail and the Crown Estate). In these circumstances we encourage those public authorities to nevertheless adopt the approach set out in this guidance to ensure consistency with the wider regime and policy framework.
174. The section 5(1) duty also applies to any corresponding provision replacing the 2004 Regulations. This means that this duty applies to the 2004 Regulations as amended, revoked and replaced or re-enacted, so that the duty applies to any future provision for environmental assessment of plans and programmes that relate solely to Wales or any part of Wales.
175. The intent of this duty is to enable a targeted and proportionate approach that complements the wider policy making duties imposed on the Welsh Ministers and NRW by focussing consideration of the environmental principles and environmental protection on scenarios of potentially significant environmental impact. In doing so, this will ensure the preparation and adoption of relevant plans and programmes through the SEA process contributes to the aims of the 2004 Regulations and to achieving the environmental objective established by the Environmental Governance Act (see Part A) in a way that is consistent, transparent, explicit and accountable.

How to comply with the section 5(1) duty

176. [The SEA Practical Guide](#) offers general guidance on how to comply with the 2004 Regulations. Further detail is also available in the Wales SEA [Guidance](#).

Considering whether an SEA is required

177. It is the responsibility of the responsible authority preparing the plan or programme, or the responsible authority on whose behalf it is being prepared, to decide if it requires an SEA. The SEA Practical Guide provides help for responsible authorities to determine whether an SEA is needed for a plan or programme. The section 5(1) duty applies at this stage and compliance with the duty should be clearly recorded.

Duty to “have regard”

178. The duty imposed on certain public authorities by section 5(1) to “have regard” is the regard that is appropriate in all the circumstances. The duty must be exercised in substance, with rigour and with an open mind. This is deliberately different from the duty placed on the Welsh Ministers and NRW to have “special regard” to the environmental principles. This difference reflects the fact that the SEA regime is already focussed on the environmental impacts of certain plans and programmes. So in that context, it is not necessary to add further weight and emphasis to the application of the environmental principles provided by the “special regard” duty.

The environmental principles

179. The application and interpretation of the environmental principles is discussed in Part A, which must also be considered alongside this Part D by public authorities when complying with the section 5(1) duty.

Applying the section 5(1) duty to the SEA process

180. The SEA Practical Guide outlines the stages in the SEA process. The section 5(1) duty must be applied by the public authority at all stages, together with other relevant considerations. They should keep at the forefront of their mind the need to have regard to the environmental principles and to integrate environmental protection with the purpose of contributing to the environmental objective (see Part A). An overview of some of the key stages and how the duty can apply, follows:

Stage A: Setting the context and objectives, establishing the baseline and deciding on the scope

This stage includes the collection of baseline information from which to predict and monitor environmental effects. This information should include best available evidence on the potential damage that may be caused by the different options under consideration for a plan or programme. Each of the environmental principles, and the duty to integrate environmental protection, should be considered as explained more fully in Part A. If baseline information is unavailable or unsatisfactory the principles should be applied to manage those uncertainties and to identify appropriate action to develop better information.

The SEA objectives are used to help show whether the objectives of the plan or programme are beneficial for the environment, to compare the

environmental effects of alternatives, or to suggest improvements. The section 5(1) duty should be carefully considered when developing SEA objectives, including how the SEA objectives can be developed, through the application of the section 5(1) duty, to contribute to the environmental objective. For example, an SEA objective may involve protecting specific wildlife sites or improving biodiversity so as to contribute to a high level of environment protection and an improvement of the environment.

The application of the section 5(1) duty should be explained by the public authority when consulting NRW and Cadw on the scope of the Environmental Report.

Stage B: Developing and refining alternatives and assessing effects

The section 5(1) duty must be considered throughout the development of alternatives and the assessment of effects (see also Part A). For example, the duty should be applied when testing the objectives of the plan or programme against the SEA objectives, and to help to develop alternatives. The duty should also be considered when predicting, assessing and evaluating the effects of a plan or programme and assessing alternatives. The duty should also be applied when considering how to prevent, reduce and as fully as possible offset any significant adverse effects and to implement monitoring measures.

Stage C: Preparing the Environmental Report

The Environmental Report must include certain information as specified in more detail in the 2004 Regulations. The report must identify, describe and evaluate the likely significant effects on the environment of (a) implementing the plan or programme; and (b) reasonable alternatives, taking into account the objectives and the geographical scope of the plan or programme. The report must also include such of the information referred to in Schedule 2 as may reasonably be required.

In preparing and providing that information, decision makers must have regard to the section 5(1) duty (see also Part A).

When deciding on the scope and level of detail of the information that must be included in the report, the responsible authority must also consult NRW and Cadw.

Evidence of the application of the environmental principles and integration duty to the plan or programme, including the contribution this has made to the environmental objective, should then be clearly recorded within the draft Environmental Report submitted for consultation. This includes whether or not the plan or programme contributes to any relevant environmental targets and / or the plans and strategies that deliver them. Decision makers should set out clearly, where relevant, how the plan or programme contributes to these targets and / or the plans and strategies that deliver them.

Stage D: Consulting on the draft plan or programme and the Environmental Report

Consultation is an important aspect of the SEA process and public authorities will need to consult NRW, Cadw and the public on the draft plan or programme and the Environmental Report.

Consultees will consider the additional information regarding the application of the section 5(1) duty as part of the draft plan or programme and Environmental Report submitted to them. This additional information and analysis should support consultation authorities in assessing the overall quality of the information presented to them on the environmental impacts and risks and improve the effective implementation of this duty and the SEA process.

Depending on the outcome of consultation stages, decision makers may need to revisit earlier stages of the SEA process to review the application of these duties.

Following consultation on the draft plan or programme and the Environmental Report, the responsible authority will finalise the plan or programme taking into account relevant considerations, including responses received. As soon as reasonably practicable after the adoption of a plan or programme, public authorities must make available certain information, including how responses to the consultation have been taken into account.

The adoption of the final plan by the responsible authority must be accompanied by a statement setting out certain particulars. This statement must set out (amongst other things) how environmental considerations, including the section 5(1) duty, have been integrated into the plan or programme, how the Environmental Report has been taken into account, the reasons for choosing the plan or programme as adopted in light of other reasonable alternatives and the monitoring of significant environmental effects that is to be carried out.

Stage E: Monitoring the significant effects of implementing the plan or programme on the environment

The public authority must monitor the significant environmental effects of implementing the plan or programme, in order to identify any problems at an early stage and to enable appropriate remedial action. The authority may also monitor for other purposes.

Where measures have been taken, following consideration of the section 5(1) duty, to prevent, minimise or mitigate any negative effects on the environment, implementation should be monitored to ensure those measures are successful or to take any further action that might be necessary. Where monitoring identifies adverse effects, appropriate remedial action should be taken. Monitoring may also identify other opportunities to take action to

protect and improve the environment and these should be considered for development and implementation.

How the environmental principles relate to each other and the integration duty

181. Part A explains the relationship between the environmental principles and the integration of environmental protection.

How the environmental principles and the integration duty relate to the environmental objective

182. Part A of the Statement explains how the environmental principles relate to each other and to the duty to integrate environmental protection. Part A also explains the environmental objective and how the environmental principles and the duty to integrate environmental protection relate to that objective. As noted already, Part A should be considered with this Part when applying the section 5(1) duty.

183. The environmental principles provide tools to enhance environmental outcomes. The integration duty places environmental protection at the centre of decision making and ensures these tools and other environmental protection measures are carefully and thoughtfully applied throughout the SEA process. The environmental objective provides the ambitious and unifying goal. Together, they ensure that a high level of environmental protection and improvement of the environment are an integral and dynamic part of the decision-making process.

How the section 5(1) duty relates to other powers and duties

184. Public authorities are subject to a wide range of duties when carrying out SEA. It is normally during Stage A of the SEA process (as set out in the SEA Practical Guide) that decision makers will scope relevant environmental legislation and any wider considerations. For example, this may include duties under the WFG Act, the Environment Act and the Equality Act 2010, including the socio-economic duty and the public sector equality duty. It will be necessary for certain public authorities to have regard to the section 5(1) duty alongside other relevant considerations and throughout the SEA process. In so doing, public authorities must have regard to this guidance throughout the process.

185. By way of example, the section 5(1) duty is closely aligned with halting and reversing the decline in biodiversity and the ecosystems approach, including through contributing to the environmental objective, as explained in Part A.

186. Section 6 of the Environment Act places a duty on public authorities in Wales to enhance biodiversity in the exercise of their functions in relation to Wales, and in so doing promote the resilience of ecosystems. Together, this and the section 5(1) duty might involve developing objectives to improve biodiversity and the resilience of ecosystems when considering the environmental effects of a plan or

programme, which can contribute both to the section 6 duty and the environmental objective.

187. This ecosystem approach is a crucial part of the environmental policy framework in Wales as it considers the complex interrelationships within ecosystems, promoting holistic decision-making rather than addressing issues in isolation. This is explicitly recognised by the environmental objective. In essence, the application of the section 5(1) duty, in pursuit of the environmental objective, can also help public authorities demonstrate their compliance with the section 6 duty in the Environment Act.
188. SEA can also complement and help to improve other environmental assessment. For example, it can help to provide context and useful information for the Environmental Impact Assessment of specific projects and in this way the application of the duty to SEA can influence improved environmental outcomes more widely.
189. The relationship of the section 5(1) duty to the duties placed on the Welsh Ministers and NRW by Part 1 of the Environmental Governance Act is discussed in Part A.

Demonstrating compliance

190. Evidencing compliance with the duties should be undertaken through the existing process of environmental assessment and in particular compliance should be recorded in the Environmental Report.
191. Public authorities will start to clearly record their consideration of the environmental principles and integration of environmental protection during pre-screening and screening.
192. If a plan or programme requires SEA, evidence of the application of the environmental principles and integration duty to the plan or programme and the contribution this has made to the environmental objective, should then be clearly recorded within the draft Environmental Report issued for consultation.
193. The additional information and analysis provided regarding consideration of the section 5(1) duty should support the consultation bodies and others assess the overall quality of the information presented to them on environmental effects.
194. Compliance with the section 5(1) duty should be clearly documented and explained in the final Environmental Report.

Glossary

Term / acronym	Meaning
2004 Regulations	Environmental Assessment of Plans and Programmes (Wales) Regulations 2004
Environment Act	Environment (Wales) Act 2016
Environmental Governance Act	Environment (Principles, Governance and Biodiversity Targets) (Wales) Act 2026
NRW	Natural Resources Wales
NRW Establishment Order	Natural Resources Body for Wales (Establishment) Order 2012
OEGW	Office of Environmental Governance Wales
SEA	Strategic Environmental Assessment
SEA Practical Guide	Practical Guide to the Strategic Environmental Assessment Directive
Senedd Cymru	The Welsh Parliament
SMNR	Sustainable Management of Natural Resources
SoNaRR	State of Natural Resources Report
TCA	UK–EU Trade and Cooperation Agreement
Wales SEA Guidance	Strategic Environmental Assessment in Wales Guidance
WFG Act	Well-being of Future Generations (Wales) Act 2015