

IEPAW Annual Report 2024-2025

AIDAC Asesydd Interim Diogelu'r Amgylchedd Cymru

IEPAW Interim Environmental Protection Assessor for Wales



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Foreword

It is with pleasure that I present this, the fourth Annual Report of the IEPAW and my last in the role. The fourth year has yet again been a very busy one for the IEPAW with new submissions being received, and work continuing in several areas including water, contaminated land, trees, hedgerows and protected sites.

I was extremely pleased in May 2024 to have both Anna Heslop and Lynda Warren join me as Deputy Interim Assessors. Their contribution has been invaluable to the furtherance of the work of the IEPAW and in enabling us to do as much as we can with the resources available to address concerns raised with us about the functioning of environmental law in Wales.

We are very grateful for the continuous and supportive engagement with our stakeholders, and we are pleased to have been able to host several in person stakeholder events over the past 12 months. These have enabled us to discuss the areas of law that we are considering in more detail and to gauge views about matters which have been raised with us at the IEPAW.

We are now embarking on a period of transition to what will be a permanent scrutiny body for Wales and the IEPAW is committed to working with the Environmental Governance Bill team and others to ensure that, as decisions are made about the design and governance of that new body, the IEPAW also develops and evolves to align and prepare for as smooth a transition as possible.

When this report is published, my term in office as the IEPAW will have come to an end and the post will have been ably taken up by Lynda Warren, with Anna Heslop continuing as Deputy and John Henderson taking up the other Deputy role. We are extremely fortunate to have such an excellent team of environmental law experts leading the IEPAW in Wales going forward and I look forward to seeing how the work of the IEPAW develops over the new few years before the new scrutiny body takes up the mantle.

I would like to take this opportunity to thank all of you for your support, guidance and enthusiasm over the last 4 years. It has been an honour to undertake this role and I will continue to contribute in any way that I can to the effective functioning of environmental law in Wales.

Deys Hlewelyn Jones

1 Introduction

Since March 2021, Nerys Llewelyn Jones has undertaken the role of the Interim Environmental Protection Assessor for Wales (IEPAW). In May 2024, Llewelyn Jones was joined by two deputies, Anna Heslop and Lynda Warren. The IEPAW considers concerns raised by the public about the functioning of environmental law in Wales. This is an interim process that will be in place until a permanent scrutiny body is established in Wales to oversee compliance with environmental law. Dr Llewelyn Jones was initially contracted for a period of up to two years, although this was extended to 29 February 2024 and then to 28 February 2025. The recruitment of two Deputies was commenced in 2023, with appointments being made in May 2024 for a period of 3 years.

The IEPAW is independent from the Welsh Government, although Welsh Government officials provide secretariat support to the IEPAW. Our focus is on the functioning of environmental law, not on breaches of that law. Our aims are to:

- **provide oversight of the functioning of environmental law in Wales; and**
- **to consider systemic issues relating to the working or functioning of environmental law in Wales.**

The role does not involve consideration of:

- **breaches of environmental law;**
- **areas of non-compliance with environmental law; or**
- **issues raised that are covered by another complaints mechanism or process.**

Our aim is to identify where action can be taken to improve the functioning of environmental law to improve environmental outcomes. Details on how to raise a concern about the functioning of environmental law in Wales, as well as our terms of reference, are available at Interim Environmental Protection Assessor for Wales | [GOV.WALES](https://gov.wales).

The IEPAW is committed to publishing an annual report on the submissions received, its work in considering the functioning of environmental law in Wales and any action taken regarding concerns raised. This is the fourth annual report and covers the period 1 March 2024 to 28 February 2025.

2 Climate Change, Environment and Infrastructure Committee Appearance and Report

The annual update to the Climate Change, Environment and Infrastructure Committee (CCEI Committee) on the operation of the interim measures was provided on 18th July 2024. The Interim Assessor, Nerys Llewelyn Jones was joined by the newly appointed deputies, Anna Heslop and Lynda Warren. The CCEI Committee was provided with an outline of activity over the past year and asked questions of the Interim Assessor and Deputies.

CCEI Committee members probed the Interim Assessor and Deputies on progress around impact monitoring, how additional resources have been utilised, report progress, collaboration with other environmental scrutiny bodies in the UK, submissions activity and work around transitioning to the permanent environmental scrutiny body in Wales once legislation for its establishment has been introduced.

The CCEI Committee published its report into the operation of the interim environmental protection measures in October 2024¹. In this, the CCEI Committee gave its views on the operation of the IEPAW over the course of the previous year. Several recommendations were made both for Welsh Government and for the IEPAW. The IEPAW welcomed the following recommendations:

Recommendation 3. *The IEPAW's office should include in its next annual report details of the work it has undertaken to monitor its performance and the impact of its work.*

Recommendation 4. *The IEPAW should keep under review the potential impact of increasing public submissions on the IEPAW's capacity, with a view to making the case for additional resources to manage future demand, if necessary.*

Recommendation 7. *The IEPAW should produce and publish a "lessons learned" report, based on her experience of the interim arrangements, to inform the transition to*

¹ Report on operation of interim environmental protection measures 2023-2024

a permanent governance body. The Welsh Government should commit to publishing a response to the IEPAW's report.

Recommendation 8. *The IEPAW should ensure that its next annual report sets out details of how it is feeding into establishment of the new body.*

The IEPAW provided its response to the report on 11th November 2024. This confirmed the actions in response to the recommendations:

Recommendation 3. *A section has been added to this Annual Report detailing our work on performance and impact monitoring.*

Recommendation 4. *We continue to review the impact of submissions on our capacity and liaise with Welsh Government staff on issues relating to resources on a regular basis.*

Recommendation 7. *The Lessons Learned Report is due to be published in 2025.*

Recommendation 8. *We have met monthly with members of the Environmental Governance Bill team in Welsh Government since June to discuss progress towards the establishment of the permanent environmental governance body. A section has been added to the Annual Report detailing our contributions.*

3 Stakeholder Engagement

The IEPAW has continued to host quarterly virtual stakeholder meetings to provide updates on various activities. These continue to be well attended by a range of different stakeholders both regular attendees and new stakeholders as the profile of the IEPAW increases because of our ongoing engagement.

In addition to virtual events, the IEPAW also hosted several in person stakeholder events in 2024 and early 2025. These include two day events in Cardiff. The first on 10 April 2024 focused on the Environmental Governance and Biodiversity White paper, proposals for work on issues around Water Quality by the IEPAW, and progress on our protected sites report.

An interesting and useful workshop session was held on the White Paper. The Environmental Governance Bill team provided a detailed analysis of the White Paper and were able to clarify some of the finer points. Stakeholders had the opportunity to put questions to and raise issues with the Bill team.

The discussion around Water Quality enabled us to test initial thinking around how to progress our work in this area. Points raised by those attending highlighted the complexity of the topic as well as the range of views held by different stakeholders. It confirmed our preferred approach of adopting a phased investigation that focuses on specific issues. As we noted in our discussions with stakeholders, the statutory review of the Agricultural Pollution Regulations was a factor in our decision to postpone work around agricultural activities until that work had been completed to avoid duplication but also to put our resources to best use.

The second event held on 10 September 2024 continued our focus around water quality with a presentation from Professor Isabelle Durance, Director of Cardiff University's Water Institute. This focused on evidence she and her team have collected around combined sewage overflows and potential approaches to managing pressures on the sewage network. The discussion that followed explored stakeholder views on proposals her team had developed around reducing input pressures that might provide cost-effective solutions to the issues faced by water companies.

Stakeholders critically assessed the proposals and offered thoughts on how they might fit alongside other action water companies might take in addition to considering potential regulatory issues that might need addressing.

Dr Llewelyn Jones also gave an outline of the Lesson's Learned Report, requested by the CCEI Committee and due to be published in the summer of 2025. She took questions from stakeholders on her experiences as Interim Assessor and what she thought were the most important lessons for the new environmental governance body to consider.

We hosted an event at the Royal Welsh Show in Builth Wells on 25th July 2024 on the theme of Water Quality. This was a collaboration with the Future Generations Commissioner for Wales, Derek Walker, with whom we have been liaising closely in relation to our water project. The event was well attended and took the format of a panel who presented on their perspectives on water quality. Anna Heslop, Deputy Interim Assessor chaired the event and was joined on the panel by Derek Walker, Gail Davies-Walsh, CEO of Afonydd Cymru and Arpana Chunilal who provided a public perspective as a water sports enthusiast. The question-and-answer session provided for a lively and interactive discussion and was an opportunity for the audience to probe issues and gain an insight into some of the factors affecting water quality in rivers throughout Wales. There was a significant focus on agricultural activity given the venue, however it also provided the opportunity to engage with several new stakeholders who provided additional insights into how water quality in Welsh rivers affects rural communities.

On 24th September 2024, Nerys Llewelyn Jones co-chaired a session at the Westminster Forum on the Future of Environmental Governance and Protection in Wales². Contributions from academics, government officials, environmental groups and local authorities considered the future of environmental governance in Wales and provided learning from a wealth of different experiences and expertise. Nerys gave a presentation on her experiences as Interim Assessor and her view on key attributes for a permanent environmental governance body in Wales. Members of the Environmental Governance Bill team gave an outline of progress to date, and a high-level outline of plans to deliver the bill by the end of the current Senedd term. Other contributors considered the challenges and opportunities both the bill and the new body would face. The forum also benefited from insights provided by Dame Glenys Stacey, Chair of the Office of Environmental

2 Westminster Forum Projects | The future for environmental governance and protection in Wales

Protection (OEP) in England and Northern Ireland in her reflections on the establishment of the OEP.

The IEPAW co-hosted an on-farm site event at Crai, Sennybridge on 28 January 2025 to discuss sustainability in farming and how this contributes to improving water quality. Representatives of the Usk Catchment Partnership and the local farming community outlined methods they have been exploring that enable farmers to coordinate approaches to farming with environmental and conservation goals. They demonstrated how they were able to identify synergies between the different objectives across these areas whilst also meeting business objectives.

A presentation from Professor Sandra Esteves of the University of South Wales demonstrated how she was collaborating with local farmers to test phosphate recovery techniques that held commercial potential. Both she and farming representatives outlined the commercial, agricultural and environmental benefits that innovative approaches were having.

The event considered the legal and regulatory landscape with an eye on whether there might be potential remedies to assist famers, ecologists and businesses working in this space. We are considering both the responses from the attendees and evidence we have developed from other sources.

4 UK Environmental Governance Engagement

The IEPAW continues to collaborate extensively with partners across the UK. This includes the Office of Environmental Protection (OEP) for England and Northern Ireland, and Environmental Standards Scotland (ESS). Collaboration includes regular information sharing activities and bespoke projects.

These activities reflect the importance all four nations attach to environmental issues and the benefits that have been identified from this engagement over recent years. There have also been additional benefits for the IEPAW given the different powers and remits of each body. It has been invaluable to consider perspectives to gauge views, insights and experiences from our counterparts across the UK.

The information shared during various exchanges is a significant supplemental resource that aids the IEPAW in its work to fulfil its responsibilities. The relationship between the IEPAW, the OEP and ESS is based on the tripartite memorandum of understanding³ setting out how we cooperate and share information.

Of particular significance to this collaboration is the joint annual meeting of the IEPAW, the OEP and the ESS. Senior members of each organisation meet each year to share updates on key topics. This allows mutual areas of interest to be identified for collaboration during the coming year. It was a pleasure to host this event in Cardiff this year on 14 and 15 August.

As was noted last year, all four nations continue to allocate resources to work on water quality. This reflects the high levels of public interest in this topic as well as issues identified by each organisation. Discussions allowed us to identify areas where we could focus collaboration with the OEP on cross-border issues affecting water bodies passing through both Wales and England. We were also able to build on previous discussions around the evaluation of regulatory regimes that apply to the management of water quality which has proven beneficial to all parties.

3 Memorandum of Understanding between the Office for Environmental Protection_0.pdf (theoep.org.uk)

With the forthcoming Environmental Governance and Biodiversity Bill being introduced in the Senedd, discussions of the experiences of the OEP and the ESS around their establishment were also extremely beneficial. These provided insights that we have been able to utilise in discussions with the Environmental Governance Bill team responsible for the establishment of the proposed permanent environmental governance body. As work progresses in this area, we continue to draw on these insights.

As in previous years, we continue to meet regularly with the OEP and ESS to provide regular updates on each other's work and emerging topics. These meetings also enable us to identify opportunities for bespoke activities in specific areas such as protected sites or cross-border water bodies.

We have also begun closer collaboration with both the OEP and ESS on the regulation of contaminated land. This work is in the early stages of development and has emerged from concerns raised with us about the historic disposal of chemicals such as PCBs.

Our discussions have focused on how effectively current environmental law is functioning. Although our initial focus was on the concerns raised in submissions, discussions with partners in the regular meetings we have with the OEP and ESS have helped us to identify broader issues that require consideration. We have identified possible issues related to the management of historical disposal sites. This has led to questions around the operations of regulations applicable in this area which we are beginning to explore in more detail. We are now working more closely with the OEP and ESS with a specific focus in this area alongside our regular information sharing meetings.

The OEP invited us and the ESS to attend a recent Workshop organised with members of its College of Experts. This proved an invaluable opportunity to collaborate with the OEP, the ESS and experts from across academia, business and the environmental sector with wide-ranging knowledge of the Contaminated Land Regulations. The workshop enabled us to explore technical aspects of the regulations and the current challenges regulators and local authorities face applying them. We are extremely grateful to the OEP for this opportunity.

A further topic of continued collaboration is the management of Special Protected Areas (SPAs) and Ramsar wetland sites. The SPA-Ramsar Review established by DEFRA in 2001 is currently

working on the phase 2 report into the status of the SPA network. Since there are issues for all national conservation bodies to consider following its publication, we continue to meet to discuss potential issues that may arise from this work. We are currently awaiting the publication of the Phase 2 report and the response of Devolved Governments and regulators as they move forward with Phase 3, the implementation of the recommendations of the Phase 2 Report. The publication of the report and the responses of the bodies implementing the recommendations will determine our next steps in this area.

5 Process

We continue to apply our standards for responses to submissions we receive on the functioning of environmental law in Wales. This includes our commitment to respond to any submission form received by us within 20 working days.

All submissions are subject to a scoping exercise to determine whether the issue raised relates to the functioning of environmental law and therefore comes within the scope of the IEPAW. A further prioritisation exercise, in line with our prioritisation principles⁴, is to consider whether the submission raises a matter of significance and what the most appropriate course of action is. Given the limited resources available to the IEPAW, it is necessary to consider how and where to utilise them.

As part of these activities, we attempt to determine whether any submission may be effectively incorporated into work in progress. This allows us to make maximum use of available resources as well as to address as many submissions as possible. Where it is determined that a submission considered to be in scope cannot be so incorporated, it is added to our future work programme for consideration when capacity allows.

We also continue to keep all submissions under ongoing review except where we have determined that no further action is required. This may be because we have concluded any possible action. Alternatively, a submission may have been deemed outside of scope without the possibility of this changing at any future date.

Where submissions have been determined to be outside of scope but the possibility of this changing at some point, we continue to keep them under review. This includes reviewing the original scoping decision to determine whether there have been significant regulatory or legislative changes that affect that decision.

This approach follows changes introduced last year based upon recommendations made in a previous Climate Change, Environment and Infrastructure Committee report⁵ to improve impact

4 Interim Environmental Protection Assessor for Wales (IEPAW) prioritisation principles | GOV.WALES

5 Report on operation of interim environmental protection measures 2022-2023

monitoring.

The IEPAW received notification of a complaint that Welsh Government had received a complaint about our handling of a submission.

Welsh Government agreed with the scoping decision reached by the IEPAW. It noted that the decision aligned with the Terms of Reference of the IEPAW.

Welsh Government noted that the IEPAW should review how the role and Terms of Reference of the IEPAW could be communicated more effectively to the general public and that all communications with individual submitters should maintain a clear and consistent approach to messaging. The suggestions are being incorporated into the communications strategy.

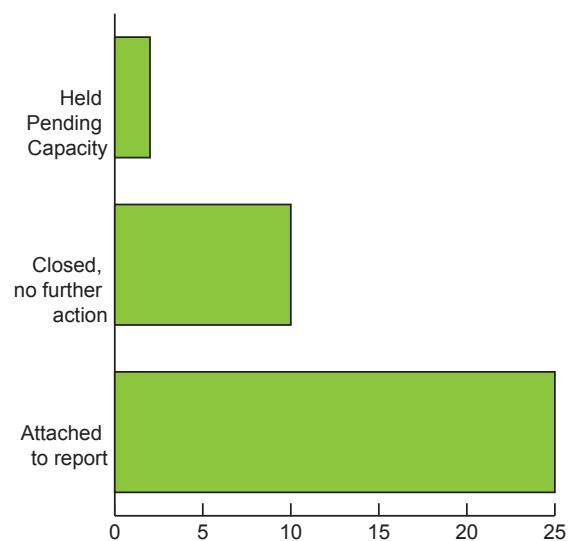
6 Presentations

6.1 Overview of all Submissions Received

Since April 2024 we have received two submissions. This brings the total number of submissions received by the IEPAW since its inception to 38. Although most submissions received have been deemed to be within scope, both submissions received this year have been determined to be outside the scope of the IEPAW, not relating to the functioning of environmental law.

Fig 1: Status of all submissions received to date by the IEPAW

Current Status of Submissions Received by the IEPAW to March 2025



Both submissions received this year related to the law around wildlife and habitats. Further details are given in the section below. Those submissions that have been closed with no further action being taken by the IEPAW relate to submissions received prior to March 2023. Although both submissions received this year are deemed outside the scope of the IEPAW, they will remain under review for the next year to determine whether any further information comes to light that might affect the scoping decision.

Fig 2: Number of within scope received by IEPAW, by category of environmental law.

To date 68% of all submissions received have related to the functioning of environmental law and so been deemed in scope. Water quality remains the topic on which the most submissions have been received.

Are submissions received within the scope of the IEPAW?

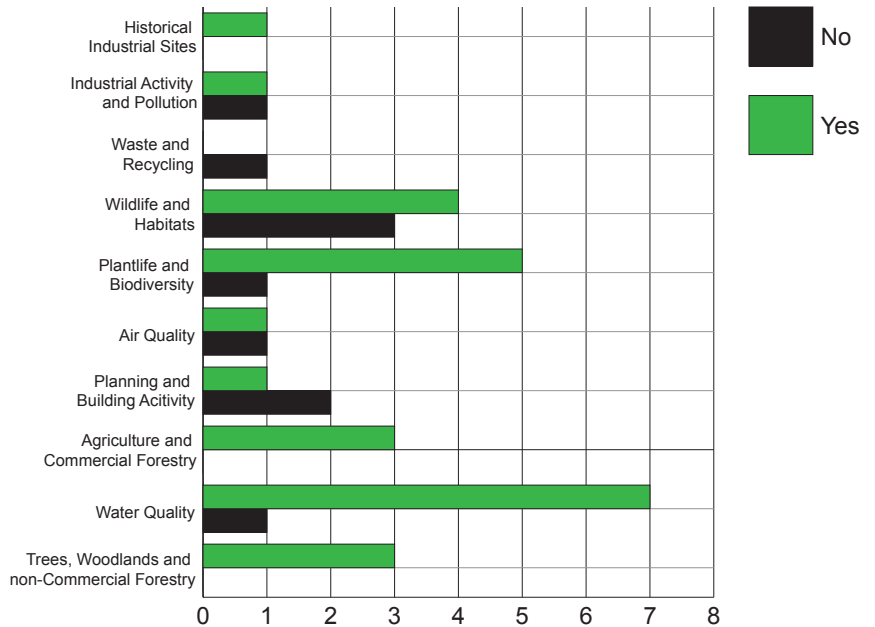


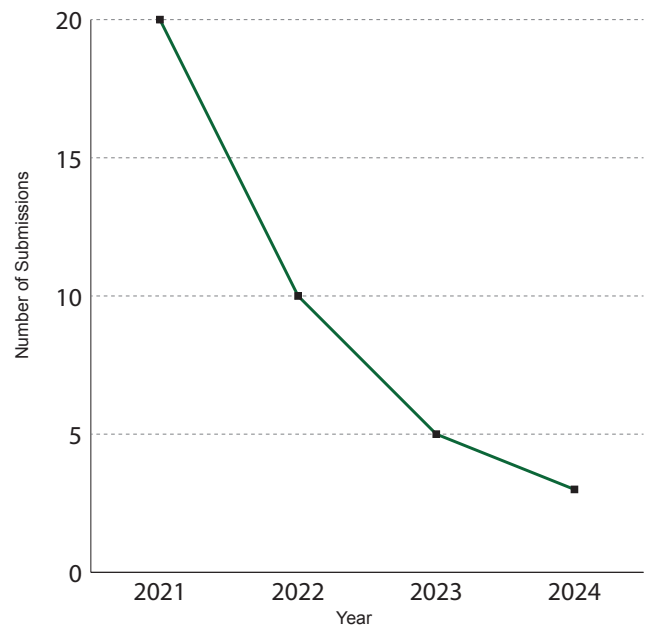
Fig 3: Total number of submissions received each year.

With only 2 submissions received between March 2024 and February 2025, this represents a drop on those received in 2023. It is also the lowest number of submissions in a single year to date. It is unclear what the reason is for this fall.

This year is the first year in which we have received no submissions relating to the functioning of environmental law.

This means that the number of submissions

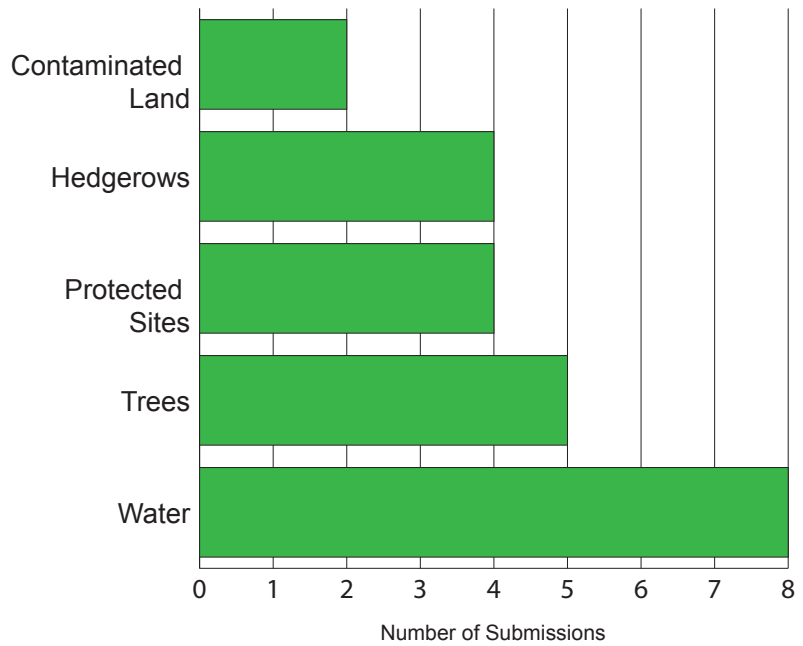
Submissions Received 2021 - 2024



allocated to reports remains unchanged compared to 2022-2023. Of the 38 submissions received to date 26 have been linked to reports with 2 further reports to be considered for inclusion in a further report once sufficient capacity becomes available.

Fig 4: Submissions linked to reports in development by the IEPAW to date.

Submissions Linked to IEPAW Reports



Overall, most submissions continue to come within the scope of the IEPAW and are being addressed through reports or other actions.

6.2 Submissions Received 2024 – 2025

As noted above, two submissions were received this year (April 2024 – March 2025). Neither of these submissions fell within the scope of the IEPAW. Under the terms of reference of the IEPAW, it is only possible to consider submissions that relate to the functioning of environmental law. This precludes breaches of environmental law or matters that are dealt with under other mechanisms. The IEPAW is non-statutory and does not have the investigatory powers of the environmental regulators of England, Northern Ireland and Scotland.

The first submission related to the monitoring and control of a restricted species upon release into the wild. Questions were raised over whether decisions on enforcement activity were impeding the functioning of the law.

The second submission related to the management of protected sites. Questions were raised over whether there was sufficient clarity in legislation on powers of enforcement that was impacting the performance of enforcement authorities.

Both submissions were concerned with specific incidents. The IEPAW concluded that Natural Resources Wales would be the appropriate body to consider the issues raised.

7 Reports Under Development

We continued to work on reports relating to trees and woodlands, hedgerows and protected sites. With the recruitment of Anna Heslop and Lynda Warren as Deputy Interim Assessors, it has been necessary to organise the distribution of responsibility for development of key aspects of the work of the IEPAW. Consequently, Nerys Llewelyn Jones retained responsibility for the trees report and the hedgerows report. Lynda Warren has taken over responsibility for the development of the protected sites report and work on contaminated land and Anna Heslop is progressing the water quality and SPA projects.

7.1 Water Quality

We have also been reviewing further commitments considering submissions and public interest. Given the level of interest and concern around water quality, together with the number of submissions received to date, we have chosen to prioritise work in this area over others we had previously been considering. Given the scale and complexity of this topic, we have made the decision to break up our work into different areas relating to water quality. Although there has been interest in the impact of agricultural activity on water quality, the majority of submissions related to sewage. It was also noted that Welsh government was planning a review of the Agricultural Pollution Regulations and that we might end up duplicating activity. Given the resources available to us, we felt it prudent to await the outcome of this review and consider its implications at that point.

As a first stage, we are focusing on the functioning of wastewater regulations. This also reflects several concerns raised in submissions. A call for evidence was issued in the Summer of 2024 and closed in early September 2024. We have been supported in the initial analysis by a PhD student on placement with the IEPAW at that time.

The announcement of an independent Commission into the water sector and its regulation in

October⁶ had clear implications for this work. Given the scope of the Commission's work and its relevance to regulation of wastewater treatment in both England and Wales, it was considered necessary to identify how this would affect the findings and recommendations of our work to that point. We are currently engaged in discussions with representatives of the Commission around their work and its implications. As this work is still in its early stages, we are still considering our findings to date and possible changes to our approach to the topic.

7.2 Contaminated Land

Of similar concern has been the issue of the historic disposal of chemical waste in several locations around Wales. Submissions received by the IEPAW around the disposal of PCBs and the management of these sites have been subject to detailed consideration. We have noted the impact of extreme weather events on the condition of some sites. Discussions with colleagues from the OEP and ESS have raised similar concerns relating to contaminated land. Given the potential impact of any possible underperformance of regulations in this area, we consider it sufficiently important to expedite activity around these issues. Lynda Warren is taking the lead. It is still in the early stages and is the subject of an ongoing series of meetings with the OEP and ESS that will increase the resources available for this work.

7.3 Protected Sites

Work on the protected sites report nears completion. This follows submissions received regarding the status of protected sites, their monitoring and management. Lynda Warren has undertaken a review of the work to date, drawing on her expertise in relation to the topic. It has been necessary to undertake a substantial review of work considering recent developments relating to biodiversity.

6 Governments launch largest review of sector since privatisation - GOV.UK

7.4 Trees and Hedgerows

Dr Llewelyn Jones completed her work on reports around the protection of hedgerows in Wales and the legal protection of trees in Wales.

8 Impact Monitoring

The Climate Change, Environment and Infrastructure Committee has raised the issue of Impact Monitoring in two of its recent reports on the operation of the interim measures⁷. In its report for 2022-2023, it made the following recommendation:

Recommendation 2. The IEPAW should establish a formal process to monitor the impact of its recommendations on Welsh Government decisions and environmental outcomes. This will allow the IEPAW to assess its impact.

In its report for 2023-2024, it made the following recommendation:

Recommendation 3. The IEPAW's office should include in its next annual report details of the work it has undertaken to monitor its performance and the impact of its work.

In the IEPAW Annual Report 2023-2024⁸, we provided an update on our work during that year to develop impact monitoring processes. This included a additional section on Impact Monitoring in which we outlined our progress addressing the recommendation of the Committee and providing details of our assessments.

As noted last year, we have established formal processes for reviews of submissions. We continue to develop our impact monitoring processes and these now include procedures for identifying and reviewing the impact of Report Recommendations. We are also developing our approach to monitoring and reporting on our internal processes.

⁷ Report on operation of interim environmental protection measures 2022-23, September 2023; Report on operation of interim environmental protection measures 2023-24,

⁸ Interim Environmental Protection Assessor for Wales: Annual Report 2023 to 2024

External Impact Monitoring Development

Determining an effective approach to monitoring the impact of report recommendations has presented several challenges. Both legal changes and environmental outcomes involve extended time scales. Both also involve complex, dynamic systems that do not function in a linear, mechanistic manner. It has therefore been necessary to identify approaches that take these into account.

Traditional SMART (Specific, Measurable, Achievable, Realistic and Timebound) targets are widely used in monitoring however the issues noted above make them poorly suited to addressing current needs. Alternative approaches such as PACT (Purposive, Actionable, Continuous and Trackable) afford greater flexibility and allow for the complex, extended nature of the domain within which the IEPAW operates.

The emphasis in the PACT approach is on progress over time. Evaluating this in terms of the achievement of milestones ensures that evaluation can be undertaken on an ongoing basis. Reporting on impact will therefore focus on activity at regular intervals with a view to moving towards desired outcomes.

The following milestones have been identified for use in the IEPAW External Impact Monitoring process:

- **recommendations are rejected;**
- **recommendations are agreed in principle;**
- **stakeholders express agreement with recommendations;**
- **commitment is made to act on recommendations;**
- **a clear timeframe for action is agreed;**

- **measures are introduced to act on commitments;**
- **implementation of measures;**
- **stakeholders express agreement with implemented measures;**
- **evidence of the use of measures to address identified issues is noted;**
- **reduction in the occurrence of identified issues;**
- **evidence of environmental impact is noted by stakeholders.**

These milestones provide a clear pathway from the delivery of report recommendations to improved environmental outcomes. Evidence is drawn from a range of stakeholders, including government and regulatory sources, third-sector organisations and members of the public. Where recommendations include time-frames, it is possible to assess progress within these and to query responsible parties on this. The approach also recognises the constraints on responsible parties. Legislative changes are affected by policy agendas, for instance.

Evidence is used to assess progress against each individual recommendation as well as the cumulative impact of each report. Percentages have been chosen as a simple metric with full progress being considered to be assessment that environmental improvements have been identified by stakeholders. We recognise that some milestones are more significant than others but we have weighted each one equally at present.

The approach also recognises that the achievement of positive environmental outcomes following recommendations is likely to extend beyond the lifetime of the IEPAW. We hope that this approach is something that will be useful to the future body.

8.1.1 External Impact Monitoring: REUL Report Recommendations

Whilst we have formulated the above monitoring mechanism for future reports, we do not consider it to be appropriate for the REUL Report. This report was largely focused on actions which

ultimately sit in the power of UK Government rather than Welsh Government.

Evidence has been collected on responses to the REUL report published in February 2023 by the IEPAW⁹. The Minister for Climate Change, Julie James, published the response of the Welsh Government to the report on 12 May¹⁰ 2023. To date Welsh Government has also published two biannual updates on the application of the measures contained within the REUL act¹¹. The response of the Minister and the two Biannual updates have been used to assess the impact of the report to date.

Consideration of the impact of the REUL report has also needed to consider the circumstances Welsh Government was working within. It should also be noted that the REUL Act has a scope that extends beyond that of the IEPAW.

The Retained European Law (Revocation and Reform) Act received Royal Assent on 29th June 2023¹². As a UK Government Act, it is recognised that the ability of the Welsh Government to influence decisions made by UK Government is contingent on the policy priorities of each of the two governments. The political sensitivity of the withdrawal of the UK from the EU is also acknowledged as a factor since this requires both governments to consider related activity pragmatically.

A review of the REUL dashboard¹³ made available by UK Government was undertaken. This review attempted to determine which pieces of legislation included on the dashboard relate to environmental law. This was necessary to understand what aspects fell within the Terms of Reference of the IEPAW¹⁴. Since the dashboard does not include a specific category to allow such an analysis, it was necessary to identify such law through other approaches. This included

9 The Retained EU Law (Revocation and Reform) Bill

10 The Retained EU Law (Revocation and Reform) Bill: report - Minister's response

11 First bi-annual Welsh Government retained EU law (REUL) Act update: July 2023 to December 2023 [HTML] | GOV.WALES & Second bi-annual Welsh Government retained EU law (REUL) Act update: January 2024 to June 2024 [HTML] | GOV.WALES

12 Retained EU Law (Revocation And Reform) Act 2023.

13 Retained EU law and assimilated law dashboard - GOV.UK

14 Terms of reference: Interim Environmental Protection Assessor for Wales | GOV.WALES

identifying lead departments that may have responsibility for aspects of environmental law.

Departments considered included the Department for Environment, Food and Rural Affairs, the Department for Energy Security and Net Zero, the Ministry of Housing, Communities and Local Government and the Department for Transport. These

departments have previously had responsibility for items of legislation relating to environmental issues. The review also sought to identify items that had been affected by the application of the REUL Act since its introduction.

This review identified approximately 1100 pieces of legislation that might impact environmental law in Wales. It was considered that a final determination of the impact of each piece of legislation would only be possible with a review of each item individually. It was also considered that a full determination of the impact of any changes would be beyond the capacity of the IEPAW at this time.

It should be noted that many of the recommendations made to Welsh Government relate to its interaction with the UK Government since the REUL Bill was introduced in Westminster. Whilst it is possible to identify which items included in the dashboard apply to Wales, the dashboard does not include details of items related to devolved or reserved matters. Welsh Government requested that this information be made available on the dashboard¹⁵. UK government requested that devolved administrations provide the data for this purpose.¹⁶ It has therefore not been possible to differentiate between legislation on devolved and reserved matters.

As Welsh Government noted in its initial response to the REUL Report, collaboration on the Bill and its implication for devolved legislation involved UK Government Ministers, departments and committees. It also co-sponsored amendments to the Bill introduced in the House of Lords. Considerable effort therefore appears to have been expended by Welsh Government engaging in the development of the Bill. It must be noted that this effort was not limited to environmental law though.

15 Written Statement: Retained EU Law Interactive Dashboard (27 June 2022) | GOV.WALES

16 Badenoch Retained EU law letter

It must be recognised that the REUL Bill represented a significant challenge for Welsh Government. It was introduced with a tight deadline for implementation. It also covered the entirety of retained EU law and including both reserved and devolved law.

It should also be noted that many of the recommendations relate to actions by Welsh Government during the passage of the Bill. It has now received Royal Assent. Evaluation has therefore included the final published Act, and the use of powers included in the Act. Several recommendations related to provisions included in the Bill. Consequently, impact analysis has taken this into account.

It has, however, been difficult to determine what specific action has been taken in respect of several recommendations made in the Report. This has been because documents published by Welsh Government outlining activity and progress has covered all REUL and has not generally focused on specific areas of law, particularly environmental law. This has been the primary obstacle to effectively evaluating the impact of recommendations made in the Report. It has been necessary to take these caveats into account when undertaking this assessment.

8.2 Internal Impact Monitoring: Submissions Reviews

As noted above, the IEPAW has received 38 submissions in total. We undertake quarterly reviews of all submissions to determine whether any significant changes have implications for decisions we have previously made, particularly regarding submissions originally determined to be outside scope.

Several submissions have now been closed with no further action being taken by the IEPAW. These submissions are no longer included in our submissions review. In the case of several of these, the decision has been made on the basis that the issue raised by submitters has been resolved by appropriate bodies taking appropriate action.

Consequently, 10 submissions have now been closed and 2 are being held pending capacity. A further 2 submissions that were being held pending capacity have now been added for consideration in our next phase of work on water quality. Since these relate to the effect of

ammonia emissions from agricultural activity, it was determined that this inclusion would enable us to address submitter concerns more efficiently.

8.3 Development Activity

In addition to expanding our impact monitoring to include report recommendations, we continue to address other monitoring processes. We have committed to include processes to evaluate the impact of internal IEPAW activity and are working to refine these. We are not currently at a point where we are able to include outcomes from this work.

9 Supporting the Transition to the Permanent Environmental Governance Body

The IEPAW has met monthly with members of the Environmental Governance Bill team. We receive updates on key developments in the progress of the Bill including relevant details on how the new permanent scrutiny body might look. We have been able to provide insights into how proposals might function given our experience to date as the IEPAW. This ongoing dialogue with the team continues to support their work whilst providing us with information that guides our transitional arrangements preparation. To date discussions have been quite high level, reflecting the focus of the Bill team at this stage. The IEPAW is keen to progress our conversations on the functional and operational elements of the new body as understanding this will be crucial for the IEPAW to assist with a smooth transition.

The IEPAW team have also attended the stakeholder sessions that the Environmental Governance Bill team have organised on various aspects of the Bill. We have participated fully in those sessions offering suggestions and asking questions about proposals but also so that we can understand better the concerns of stakeholders during this transitional period.

The IEPAW is working on a Lessons Learned Report. This provides a thematic review of the IEPAW's operation to date and reflects on all the activities the IEPAW has undertaken over the last four years. It includes considerations and suggestions for the establishment of a new permanent body. It has been informed by stakeholder comments including those at the Westminster Forum hosted by Nerys Llewelyn Jones in September.¹⁷ We hope that it will be of benefit to the new scrutiny body in rapidly establishing itself as an integral part of the environmental governance landscape in Wales.

17 Westminster Forum Projects | The future for environmental governance and protection in Wales

10 Conclusion

The IEPAW is an interim position, and we look forward to the outcome of work by Welsh Government to bring forward legislation for the establishment of a permanent body in Wales. The IEPAW has engaged with the Welsh Government Environmental Governance team in relation to their ongoing work and fed in suggestions based on the experience of the IEPAW to date. We also welcome commitments made by the Welsh Ministers to ensuring a seamless transition from the IEPAW to this new body.

We welcome comments and feedback in relation to the role of IEPAW and its work. If you wish to raise a concern about the functioning of environmental law in Wales, you can fill in a Submission Form which can be found on the IEPAW website at Interim Environmental Protection Assessor for Wales: [Submission Form | GOV.WALES](#). Further information about our activities, details of calls for evidence or stakeholder events can also be found on the IEPAW website at Interim Environmental Protection Assessor for Wales | [GOV.WALES](#). If you have any comments about this or the role or wish to be added to the mailing list, please contact us at IEPAW@gov.wales.

