

National Assembly for Wales
Sustainability Committee

Legacy report

March 2011



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The Sustainability Committee is appointed by the National Assembly for Wales to consider and report on issues affecting Climate Change, Energy, Rural Affairs and Agriculture, Environment and Planning

Powers

The Committee was established on 26 June 2007 as one of the Assembly's scrutiny committees. Its powers are set out in the National Assembly for Wales' Standing Orders, particularly SO 12. These are available at www.assemblywales.org

Committee Membership

<i>Committee Member</i>	<i>Party</i>	<i>Constituency or Region</i>
Kirsty Williams (Chair)	Welsh Liberal Democrats	Brecon and Radnorshire
Lorraine Barrett	Labour	Cardiff South and Penarth
Joyce Watson	Labour	Mid and West Wales
Irene James	Labour	Islwyn
Leanne Wood	Plaid Cymru	South Wales Central
Angela Burns	Welsh Conservative Party	Carmarthen West and South Pembrokeshire
Karen Sinclair	Labour	Clwyd South
Rhodri Glyn Thomas	Plaid Cymru	Carmarthen East and Dinefwr
Brynle Williams	Welsh Conservative Party	North Wales

The following Members were also members of the Committee during this Assembly:

Mick Bates	Independent Liberal Democrat	Montgomeryshire
Alun Davies	Labour	Mid and West Wales
Mike German	Welsh Liberal Democrats	South Wales East
Lesley Griffiths	Labour	Wrexham
Alun Ffred Jones	Plaid Cymru	Arfon
Elin Jones	Plaid Cymru	Ceredigion
Darren Millar	Welsh Conservative Party	Clwyd West

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1. Introduction

1. This report is made under Standing Order 10.50, which allows committees to report to the Assembly on matters within its remit, and in line with the established practice of Committees publishing legacy reports at the end of an Assembly. The report gives an overview of the strategic priorities and work activities of the Committee during the Third Assembly and includes key issues that its successor may wish to consider during the Fourth Assembly.

2. Copies of all the Committee's reports, agendas, papers, minutes and transcripts of meetings can be found on the National Assembly website.

Remit and Responsibilities

3. The Sustainability Committee was established on 26 June 2007 as one of the Assembly's four scrutiny committees. Its powers are set out in the National Assembly for Wales's Standing Orders, particularly SO 12.

4. The Sustainability Committee's remit was to consider and report on issues affecting climate change, energy, rural affairs and agriculture, environment and planning.

5. On 5 July 2007, the Sustainability Committee established the Rural Development Sub-committee (RDSC) to scrutinise the Welsh Government on the Government's areas of responsibility that impact on rural development.

6. The Committee believes the RDSC to have been invaluable in allowing the Assembly to give due regard and attention to rural issues, and in reaching out to rural interests. The Committee is strongly of the view that the Fourth Assembly should show the same dedication to rural issues by giving them a comparable profile within whatever new structures are established.

7. The membership of the Committee has undergone several changes during the course of the Assembly. A full list of current and previous Members is found at the front of the report, but the Committee particularly wishes to acknowledge the contribution made by Mick Bates and Mike German.

8. As the Committee's first Chair, Mick played a vital role in driving forward the Committee's work programme and in particular the ambitious inquiry into Carbon Reduction. Mike served as temporary Chair for a period, and then later as permanent Chair, and oversaw the publication of the report on Access to Inland Waterways and the inquiry into Planning.

Work and Achievements

9. Details of all inquiries conducted by the Sustainability Committee, and all reports published by it during the Third Assembly are available on the Committee's website at <http://www.assemblywales.org/bus-home/bus-committees/bus-committees-scrutiny-committees/bus-committees-third-sc-home.htm>

10. During the course of the Third Assembly, the Committee sought many different ways of making its inquiries as effective as possible. The Committee wishes to highlight three experiences in particular which may prove useful to a successor Committee – these are outlined in the 'Ways of Working' section below.

2. Legacy to Successor Committee(s)

Ways of Working

Evidence Gathering

11. As part of the Committee's inquiry into flooding in Wales, the Committee made use of the Assembly bus to gather evidence from people with first-hand experience of flooding in different parts of Wales. In all, the bus called at twelve different locations and Members heard evidence from over two hundred members of the public about their experience of flooding.

12. The Committee felt that this exercise contributed greatly to its understanding of the effects of flooding on communities in Wales, and allowed the Committee to consider evidence beyond that which it would normally receive through written consultation and orally in formal Committee meetings.

13. The Committee would suggest that this is an exercise well worth repeating in future, for inquiries where the personal experiences of members of the public can contribute to the quality of the evidence and, through that, the Committee's understanding of the issues.

Expert Advisers

14. The Committee recruited external Expert Advisers to advise it for three of its inquiries: Carbon Reduction, The Marine Bill and Planning.

15. The Committee found that the input of the expert advisers to these inquiries contributed greatly to its understanding of these issues, and was invaluable in informing Members' consideration of the evidence and helping the Committee formulate its recommendations.

16. The Committee suggests that the successor Committee should make use of expert advisors for inquiries that deal with particularly technical issues, or where the Committee's own expertise is limited.

Rural Development Sub-committee

17. At the outset, the Committee established a Rural Development Sub-committee to consider issues related to agriculture and rural affairs. This was done so as to ensure that these issues were given sufficient attention, something which may not otherwise have been possible given the broad range of issues that the Sustainability Committee was responsible for.

18. The Committee believes that this arrangement has worked well, and that a successor Committee should consider how agriculture and rural affairs can be given due prominence within its work programme.

Committee Reports

Planning

19. The Committee published a report on Planning Policy in January 2001, including thirty recommendations to the Welsh Government. Among the key recommendations were:

- that there should be a Welsh Planning Act bringing together all planning legislation relevant to Wales;
- that Planning Policy Wales should include a clearer statement of priorities and how conflicts between them should be resolved;
- that the Welsh Government does more to encourage the sharing and developing of expertise on planning, and we have made detailed recommendations to that effect;
- a review of the respective roles of the planning and the building control systems, once building regulations are devolved in 2012;
- the need for an impact test for any new national planning policies before they are introduced;
- the need for new guidance to local authorities on how Strategic Search Areas (SSAs) can be refined by Local Development Plans (LDPs);
- a call for a published timetable of planned reforms in planning policy and Technical Advice Notices (TANs) to give a greater degree of certainty to policy users;

- the need to review the role and function of the Wales Spatial Plan and how it relates to the development plan framework;
- the continuing issue of devolving responsibility for energy consents of over 50 Megawatts to Welsh Ministers.

20. The Government responded on 9 March, accepting the majority of the Committee's recommendations. However, the Committee is of the view that further scrutiny is required in many of the areas where the Welsh Government has claimed to be already taking action.

21. The Committee recommends that a successor Committee revisit the report on Planning in Wales, and scrutinise the new Government regarding its implementation of the recommendations.

Biodiversity

22. The Committee published a report on Biodiversity in January 2011. The report included nineteen recommendations to the Welsh Government on how progress could be made to ensure that the biodiversity loss that led to Wales missing the 2010 biodiversity targets could be reversed.

23. Despite all EU member states and regions missing the 2010 targets, the Committee believes that its report is the only one to have been published on the reasons for that failure by any national or regional parliamentary body in the whole EU.

24. The Government responded on 16 March, accepting fifteen of the Committee's nineteen recommendations.

25. The Committee is of the view that both the Welsh Government and the National Assembly need to take greater responsibility in the biodiversity targets during the Fourth Assembly. **The Committee recommends that a successor Committee revisit the report on Biodiversity in Wales, and regularly scrutinise the new Government regarding its implementation of the recommendations and its progress towards achieving the 2020 targets.**

Carbon Reduction

26. The inquiry into Carbon Reduction in Wales was the most substantial piece of work undertaken by the Committee during the Third Assembly, lasting from September 2007 to October 2010.

27. The Committee published five sectoral reports looking at carbon reduction in the residential, transport, land use, industry and public bodies, and energy sectors. In October 2010, the Committee published a final report containing eleven cross-cutting headline recommendations to the Welsh Government.

28. The publication of the final report coincided with the publication of the Welsh Government's own Carbon Reduction Strategy.

29. Due to the centrality of carbon reduction to the sustainability and climate change agendas, the Committee recommends that a successor Committee scrutinise the new Government's implementation of the recommendations made by the Committee in its report, and its policy on carbon reduction in general.

Other Committee Work

Mainstreaming Sustainability

30. In July 2009, the Committee published a report on 'Mainstreaming Sustainability in Ministerial Portfolios - 10 years of the Statutory Duty' following scrutiny sessions with Welsh Government Ministers and Officials.

31. The Committee found that the commitment to mainstreaming sustainability was inconsistently implemented across Government, and recommended that each Minister examines their portfolio and establishes explicit links between their portfolio responsibilities and sustainable development.

32. Follow-up sessions were held in January and February 2011. While the Committee found that some progress had been made since its initial inquiry, implementation continued to be inconsistent with some Ministers remaining unclear about their responsibilities in this area. There is therefore still much progress to be made in mainstreaming sustainability across all Government departments.

33. Under the GOWA 1998, the Welsh Government has a statutory duty to mainstream sustainability. **The Committee recommends that a successor Committee regularly reviews the Welsh Government's progress towards mainstreaming sustainability across all policy areas and portfolios.**

Delivery Bodies Merger

34. The Welsh Government included the restructuring of the environmental delivery bodies CCW, EAW and FCW as part of its consultation on the New Environment Framework 'A Living Wales' in 2010. Provisions giving Welsh Ministers the power to reform the environmental delivery bodies are included in the Public Bodies Bill currently being considered by the UK Parliament.

35. The Sustainability Committee considered the possible implications of such a merger at two sessions in Spring 2011, and also considered the process undertaken by the Welsh Government in drawing up and consulting on its proposals.

36. The Committee found that there remained much uncertainty regarding the Government's intentions, and the details of its proposals and how these would work.

37. A final announcement on the merger will not be made until the Fourth Assembly, and **the Committee therefore recommends that a successor Committee revisit the issue once the Welsh Government has formally announced its decision and detailed proposals.**

38. **The successor Committee may also want to look at the New Environment Framework more generally, especially in the context of biodiversity (see above).**

Salient Issues and Horizon Scanning

Waste & Recycling

39. The issue of waste and recycling is one which the Sustainability Committee considered to be of the utmost importance, but unfortunately time constraints prevented us from conducting an inquiry into the issue during the Third Assembly.

40. The Welsh Government's new waste strategy 'Towards Zero Waste' was published in June 2010, and includes targets for 70%

recycling within all sectors by 2025 and achieving 'zero waste' by 2050. The Waste (Wales) Measure 2010 establishes statutory targets for the percentage of a local authority's municipal waste that is to be recycled, prepared for re-use and composted. From December 2010 to January 2011, the Welsh Government consulted on Regulations setting out the targets, how they will be monitored and the penalties for non-compliance by local authorities.

41. The Committee recommends that a successor Committee scrutinise how the Government intends to achieve these targets, and look at whether adequate resources are being dedicated by the Welsh Government to make their achievement possible.

42. In spring 2011, the Welsh Government is expected to introduce a levy on single use carrier bags in Wales. **The successor Committee may wish to include reviewing the impact and effectiveness of the levy as part of a broader inquiry into waste and recycling, or to conduct a separate short inquiry into the issue. Issues that could be looked at include the distribution of the proceeds from the levy, which the Welsh Government expects retailers to pass on to charities and good causes on a voluntary basis.**

Energy Generation

43. The Welsh Government published an Energy Policy Statement in March 2010, outlining its ambitions for low carbon energy in Wales. Among other sources, the statement drew on the results of consultations on the Renewable Energy Route Map, the Bioenergy Action Plan and the Ministerial Marine Energy Policy Statement.

44. Renewable energy generation is a potentially significant contributor to the Welsh Government's 'One Wales' commitment of reducing carbon emissions in devolved areas of competence by 3% per year by 2011.

45. The Sustainability Committee's report 'Carbon Reduction from Energy Production - 4th report of the Sustainability Committee's Inquiry into Carbon Reduction in Wales' published in May 2009 made a total of nineteen recommendations to the Welsh Government. In its response, the Government suggested that 'with Wales coastline, geography and climate, it is quite feasible for us within 20 years to

produce more electricity from renewables than we consume as a nation’.

46. When the TAN8 Strategic Search Areas (SSAs) were announced in 2005, the Welsh Government set a target of producing four terawatts of energy from renewable sources by 2010 and seven terawatts by 2020. By 2010, only three terawatts of energy was being produced by renewable sources in Wales, though the Welsh Government claimed that another five were already either proposed, approved or in the planning system.

47. TAN8 and the SSAs themselves have come in for criticism from some, with calls for the policy of concentrating wind energy developments in particular areas to be reviewed. Some developments have also been hampered in some areas by the absence of transition lines and transportation problems due to poor networks.

48. In October 2010, the UK Government announced that it would not be proceeding with a Severn Estuary tidal power scheme, though the Welsh Government has indicated it will continue to investigate options for using tidal power in future.

49. The issue of planning consent for power generation schemes of over 50MW continues to cause controversy, with the Welsh Government wanting responsibility for these schemes devolved to it from the Department for Energy and Climate Change. The Committee recommended in its Planning report that the Welsh Government continue to push for the devolution of these powers, but the Committee also believes that the Welsh Government needs to make clear what structures it would put in place to deal with these decisions once devolved.

50. The Committee suggests that a successor Committee should consider conducting a wide-ranging inquiry into energy production in Wales.

Targets

51. An issue which was raised consistently during the course of several of the Committee’s inquiries, including Biodiversity, Carbon Reduction, Planning and Mainstreaming Sustainability was that of different targets set by the Welsh Government.

52. Evidence received by the Committee during these inquiries referred to conflicting or competing targets, often set by Government without the necessary resource commitment that would make them achievable. In some cases, it appeared to the Committee that the setting of the target was seen as a policy achievement in itself, but that the Welsh Government was then not prepared to take responsibility for fulfilling the objectives set.

53. The Committee has become concerned that there is a tendency towards setting long-term, unrealistic targets, rather than focusing on shorter term step-by-step objectives. In some cases, there were not even adequate measures in place for monitoring progress towards the targets that had been set.

54. The Committee recommends that the successor Committee looks at the issue of targets as part of every inquiry to which they are relevant, and that the Committee should consider undertaking a cross-cutting piece of work on Welsh Government targets within the sector, looking holistically at the issues outlined above.

Building Regulations

55. Building Regulations ensure the health and safety of people in and around buildings by providing functional requirements for building design and construction. They also promote energy efficiency in buildings and contribute to meeting the needs of disabled people. The Building Regulations Division of the Department for Communities and Local Government is currently responsible for Building Regulations in England and Wales.

56. However, an Order in Council was approved in November 2009 to transfer powers to make Building Regulations for buildings in Wales to the Welsh Ministers with effect from 31 December 2011.

57. The Welsh Government's prime motivation for securing the devolution of building regulations has been so that it can ensure new buildings in Wales are more energy efficient and sustainable. The built environment generates around 40% of all carbon emissions in the UK. The Welsh Assembly Government's energy efficiency aspiration is for all new buildings to be zero carbon.

58. The devolution of the regulations potentially presents a challenge in terms of capacity and resources for the Welsh Government. The

Welsh Government budgets for 2011-12 allocates £700,000 to the work of developing new regulations, but in the past Welsh Ministers have suggested that an investment of £10million would be required to build the required capacity.

59. The Committee recommends that a successor Committee conduct an inquiry into the Welsh Government's preparations for the devolution of building regulations, and of the Government's plans for new regulations.

Coastal Erosion / Tidal Flooding

60. The issue of coastal erosion and how to deal with it is one which will become more and more important as the full effects of climate change on sea levels and extreme weather events become clear. The issue of coastal erosion, and whether the most appropriate response in different areas is no active intervention allowing the coast to evolve naturally, managed retreat, or improved defences is therefore a question that requires long-term planning.

61. The Sustainability Committee inquiry into Flooding conducted in 2010 did not consider tidal floods and coastal defences as the issue was being considered by the Public Accounts Committee (PAC) at the time. That Committee's inquiry followed on from a highly critical report by the Wales Audit Office 'Coastal Erosion and Tidal Flooding Risks in Wales' published in October 2010.

62. PAC found that there was a lack of clarity over the Welsh Government's approach, including whether the New Approaches Programme was still relevant or not, and that key stakeholders such as the Environment Agency Wales and some local authorities, were left without a clear idea of the Welsh Government's approach, or how it should be implemented. The Committee also found that the Welsh Government needs to start communicating the difficult realities, as well as the opportunities, of adopting a risk-based approach to managing coastal erosion and tidal flooding risks to the communities that will be affected.

63. Shoreline Management Plans (SMPs) are non-statutory documents which assess the risks posed by coastal erosion and flooding and present a policy framework for managing these risks in England and Wales over the long-term. There are four SMPs for Wales. The second generation of SMPs for Wales are currently at various stages of

development and following their adoption they will be implemented at a local level via several strategies such as the flood risk management strategies, the impacts of which a successor Committee may wish to consider.

64. The Committee recommends that a successor Committee look at the issue of coastal erosion and sea defences in detail, with the objective of making recommendations that can feed into the Welsh Government's development of a realistic and achievable long-term strategy to the Welsh Government in this area.

UK Legislation

65. During the course of the Third Assembly, the Sustainability Committee has considered several pieces of UK legislation, including the Planning Bill, Flood and Water Management Bill, Marine Bill and Climate Change Bill.

66. UK legislation currently in the pipeline that may be of interest to the successor Committee include:

Energy Bill

67. The Energy Bill has three principal objectives: tackling barriers to investment in energy efficiency; enhancing energy security; and enabling investment in low carbon energy supplies.

68. The Secretary of State for Energy and Climate Change Chris Huhne MP was due to appear before the Sustainability Committee on 10 March 2010 to answer Members' questions on the Bill. Unfortunately however, the meeting was cancelled at the last minute and the committee subsequently wrote to the Secretary of State with a series of questions on the Bill.

69. Once a response has been received from the Secretary of State, the Committee recommends that the successor Committee write to the relevant Parliamentary Committee responsible for scrutinising the Energy Bill outlining its views.

Localism Bill

70. The *Localism Bill* was introduced in the House of Commons on Monday 13 December by the Rt.Hon. Eric Pickles MP, Secretary of State for Communities and Local Government. The Bill was announced in the

Queen's speech on the 25 May 2010 which stated that it was intended to devolve greater powers to councils and neighbourhoods and give local communities control over housing and planning decisions. Much of the Bill applies to England only.

71. The Bill gives the National Assembly for Wales legislative competence in respect of three matters, including competence in relation to the planning applications and enforcement system. The Welsh Government says it is seeking Measure powers over these aspects of planning, so that it can implement more of the recommendations of the GVA Grimley review of the planning applications system at the appropriate time.

72. The Bill also makes provision in relation to significant infrastructure projects in Wales and England, particularly the abolition of the Infrastructure Planning Commission (IPC). The Minister for Environment, Sustainability and Housing stated in July 2010 that she was seeking to meet with the UK Minister for Planning and Decentralisation to argue that the Bill should also devolve responsibility for large-scale energy consents. At present however the Bill does not provide for this.

73. The Bill also makes amendments to the arrangements for collection of the Community Infrastructure Levy (CIL). The CIL was introduced by the Planning Act 2008. It is considered a tax and as a result responsibility for it is not devolved. However the CIL has implications for local planning authorities when preparing their Local Development Plans and for the future use of Section 106 agreements in Wales.

74. More information on all aspects of the Bill can be found in the MRS research paper at <http://www.assemblywales.org/11-003.pdf>

75. The Committee suggests that a successor Committee may wish to look at the provisions of the Localism Bill and their potential impact on Wales, particularly in relation to planning and to the consenting of large-scale infrastructure projects.

Public Bodies Bill

76. The *Public Bodies Bill* has been introduced into the House of Lords at Westminster. It is the UK Government's main vehicle for delivering its promised cuts of NDPBs. It is an "enabling" Bill in that its provisions

provide Order making powers for Ministers in respect of bodies listed in the Bill. This could include their modification, merger or abolition. As such, the Bill has an impact across a wide range of policy areas which are within the competence of the National Assembly for Wales and the Welsh Assembly Government.

77. In Wales, the Bill has a particular impact on the delivery of environmental policy as Clauses 13 to 16 of the Bill would give Welsh Ministers specific powers to reform environmental bodies in Wales. These powers were been requested by the Welsh Assembly Government to enable changes to be made to the functions and structure of the Environment Agency in Wales (EAW, Forestry Commission in Wales (FCW) and the Countryside Council for Wales (CCW) following the consultation on the New Environmental Framework.

78. Clause 13 enables Welsh Ministers by order, subject to affirmative procedure in the Assembly, to alter, abolish or add to the functions of CCW, EAW and FCW and provides for orders to transfer functions between Welsh Ministers, the CCW, the EAW, the FAW or a new body.

79. These powers are controversial since, in effect, they give Welsh Ministers the powers to amend Acts of Parliament concerning matters over which the National Assembly for Wales does not have the power to make legislation.

80. More information on the Public Bodies Bill and its impact on Wales can be found in the MRS research paper at <http://www.assemblywales.org/10-070.pdf>

81. The Committee recommends that a successor Committee monitor the progress of the Public Bodies Bill and the powers it gives Welsh Ministers over environmental bodies in Wales. It may also want to scrutinise Welsh Ministers' subsequent use of those powers as outlined in the 'Delivery Bodies Merger' section above.