



The Environment Agency's Objectives and Contribution to Sustainable Development in Wales: Statutory Guidance from the National Assembly for Wales

THE ENVIRONMENT AGENCY'S OBJECTIVES AND CONTRIBUTION TO SUSTAINABLE DEVELOPMENT IN WALES: STATUTORY GUIDANCE FROM THE NATIONAL ASSEMBLY FOR WALES

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1. INTRODUCTION AND CONTEXT

This statutory guidance:

- sets out the principles which the Environment Agency should follow in deciding its priorities;
- states the objectives which it should pursue over the next few years; and
- identifies its roles in contributing to the achievement of sustainable development

This guidance relates to Wales; the Department for Environment, Food and Rural Affairs (DEFRA) has issued separate guidance in relation to England.

- 1.1 The Environment Agency was set up under the Environment Act 1995. The main purpose in establishing the Agency was to enable the functions vested in it to be carried out in a way which brought greater overall benefit for the environment as a whole.
- 1.2 Section 4 of the 1995 Act defines the principal aim for the Agency: in discharging its functions the Agency is required so to protect or enhance the environment, taken as a whole, as to make the contribution that the Secretary of State considers appropriate towards achieving sustainable development. This principal aim is subject to the other provisions of the 1995 Act, and to any other enactment under which the Agency operates. Similarly, this guidance is subject to the requirements of legislation under which the Agency operates. It provides guidance to the Agency on such matters as the formulation of approaches that the Agency should take to its work, decisions about priorities for the Agency and the allocation of resources. It is not directly applicable to individual regulatory decisions of the Agency. This guidance has been issued after consultation with the Agency and other interested organisations and individuals. The functions of the Secretary of State under section 4 of the 1995 Act have, so far as exercisable in relation to Wales, been transferred to the National Assembly for Wales (“the Assembly”) by the National Assembly for Wales (Transfer of Functions) Order 1999.
- 1.3 The Agency is required to take into account any likely costs in achieving its principal aim, and to take account of the likely costs and benefits in exercising its powers. This includes both costs to people and organisations, and costs to the environment.
- 1.4 The Assembly is required by section 4 of the 1995 Act, after consultation with the Environment Agency and other interested parties, to give guidance to the Agency from time to time with respect to:
 - the objectives which it considers it appropriate for the Agency to pursue in the discharge of its functions; including
 - the contribution it considers it appropriate for the Agency to make towards the objective of achieving sustainable development.

The Agency must have regard to such guidance.

- 1.5 This guidance replaces that issued jointly by the then Department of the Environment and the Welsh Office in 1996. It has been developed following the first Financial Management and Policy Review (FMPR) of the Agency carried out by the Department for Environment, Food and Rural Affairs during 2001.
- 1.6 Since the creation of the Assembly there has been no single statement bringing together the Assembly's strategic objectives for the Agency nor the environmental priorities it is expected to concentrate on. Neither has there been specific guidance from the Assembly to the Agency in respect of the contribution the Agency is expected to make to sustainable development. The guidance reflects the environmental outcomes which the Welsh Assembly Government ("Assembly Government") policy is designed to achieve, and identifies the Agency's particular role in their achievement, having regard to the areas where it has a unique role to play and the greatest expertise, or where its role, as a result of its experience, skills, work or resources, mean that it is particularly well placed to make a contribution to developing environmental policy or delivering environmental outcomes. The aim is to provide the Agency and its sponsors with a new framework for accountability, which in turn will give the Agency a clear context for taking forward its work.
- 1.7 The Assembly has a duty under Section 121 of the Government of Wales Act 1998 to promote sustainable development in the exercise of its functions. The Act requires the Assembly to make a Scheme setting out how it proposes to implement the duty. The Assembly's Sustainable Development Scheme, "Learning to Live Differently" was adopted by the Assembly Plenary in November 2000. In defining sustainable development within the Scheme, the Assembly states that it will promote development which meets the needs of the present without compromising the ability of future generations to meet their own needs. This means that the Assembly will take social, economic and environmental issues into account in everything that it does. Under Section 5D of the Scheme, headed "By working with others", the Assembly describes how it will work with other public bodies to deliver the changes that it wants. It will guide or require them to:
- promote sustainable development actively through their corporate planning and policy development particularly in key areas such as grant schemes, consultation, guidance and advice to the Assembly and others; and
 - work with each other and with the Assembly's partners whenever possible.
- It will also scrutinise their corporate plans and strategies to make sure that this agenda is incorporated into their activities, and monitor their sustainable development performance.
- 1.8 This statutory guidance therefore identifies the Assembly's objectives for the Agency which reflect the Assembly's Government's own policy priorities including those set out in its Plan for Wales, and gives new guidance on the contribution the Agency should make to sustainable development.

- 1.9 The Agency is expected to focus primarily on the achievement of the objectives set out in this statutory guidance and should prioritise its work and resources in Wales accordingly. The objectives are not intended to provide a comprehensive picture of what the Agency may wish to do over the next 5 years or so (or what the Assembly may ask it to do). Neither are they intended unreasonably to limit the activity of the Agency, or the resources to be made available to it. But the Agency, like all Assembly Sponsored and other Public Bodies, operates in a resource-constrained environment where hard choices need to be made. The priorities set out in this guidance will be an important factor in influencing the Assembly's strategic decisions, including in relation to the Agency's resources.

2. PRIORITISATION AND ACCOUNTABILITY

Principles for Prioritisation

- 2.1 The Agency should prioritise its activities and its resource allocations, according to the following principles:
- **Relevance to objectives:** Giving priority to work which is clearly related to the specific delivery of the objectives set out in this statutory guidance which reflect the Agency's contribution to the environmental outcomes which the Assembly Government wishes to achieve.
 - **Legislative remit:** Giving priority to work which supports or enhances the delivery of its statutory duties, the exercise of its powers and particularly to those areas where it has unique duties or functions or the principal statutory role.
 - **Relative expertise:** Giving priority to those areas or activities where, by virtue of its functions and resources, it has developed or will need to develop a unique or leading level of expertise, or a high level of specialist skills or leverage.

Accountability

- 2.2 The Agency should develop, in accordance with the principles outlined in this guidance, and agree with the Assembly Government and, as appropriate, the Secretary of State for Environment, Food and Rural Affairs:
- a corporate strategy for England and Wales which describes how the Agency will work to deliver the objectives outlined in this guidance;
 - a corporate plan in year for England and Wales which translates these objectives into specific targets; and
 - a corporate plan each year for Wales that translates these objectives into specific targets related to its activities in Wales.
- 2.3 The Agency's Management Statement further sets out its accountability, and the administrative arrangements that have been put in place between the Assembly, central Government and the Agency to support this. The Financial Memorandum sets out the framework of financial controls.

3. SUSTAINABLE DEVELOPMENT

Statutory and policy basis

3.1 Section 4(3) of the 1995 Act requires the Assembly to give guidance on the contribution which it considers it appropriate for the Agency to make, in discharging its functions, towards attaining the objective of achieving sustainable development. This guidance must have regard to the Agency's responsibilities and resources. It should take account of the principles and approaches in the UK Sustainable Development Strategy which are embraced in the Assembly's Sustainable Development Scheme. These are:

- taking a long - term perspective;
- putting people at the centre;
- taking account of the full range of costs and benefits;
- respecting environmental limits;
- the precautionary principle;
- using scientific knowledge;
- transparency, information, participation and access to justice; and
- preventing pollution as far as is possible, and making the polluter pay for damage done by pollution.

Agency roles

3.2 The Agency's principal roles in contributing to the achievement of sustainable development under the Assembly's sustainable development scheme are:

- protecting or enhancing the environment in a way which takes account (subject to and in accordance with the 1995 Act and any other enactment) of economic and social considerations;
- being an independent advisor on environmental matters affecting policy-making, both within the Assembly and more widely; and
- through its advice to the Assembly and its work with other organisations and with the public, facilitating decisions that will be conducive to sustainable development.

3.3 These roles are an integral part of the Agency's normal business. It follows that, in the allocation of its resources, sustainable development should not be seen as a separate and additional undertaking.

3.4 The Agency's main contribution to achieving sustainable development will be to deliver the statutory objectives in part 4 of this guidance in a way which takes account (subject to and in accordance with the 1995 Act and any other enactment) of economic and social considerations.

- 3.5 As an independent advisor, the Agency will be one of the Assembly's main sources of expert advice on environmental matters, which are a key component of sustainable development. It is an important source of influence as policy and strategy develop, given the skills and expertise it has at its command. The Agency is also well placed to influence the actions of others in relation to environmental matters. It should strive to maintain itself as a recognised centre of knowledge and expertise within its areas of responsibility. In addition, the Agency has a wider role in advising the Assembly on the environmental dimension of broader policy areas, such as transport, energy, economic development and spatial planning.
- 3.6 It is for democratically elected bodies at all levels to take the public policy decisions that will integrate social, economic and environmental needs. However, all organisations can contribute to identifying courses of action that will help to meet these needs simultaneously. The Agency's advice and influence should reflect the environmental perspective, where its expertise is greatest. In framing its advice and views the Agency in Wales should however bring to bear its knowledge of the interactions between environmental practice and social and economic factors.
- 3.7 The Agency's sustainable development role can be reinforced by awareness-raising and education (for example in professions directly affected by its work, in further education, and through the National Curriculum) where this offers good value for money and adds value to the work of lead bodies in this area. While the Agency should have regard to sustainable development as a whole, its work should focus on its particular expertise in environmental matters, rather than particular social or economic aspects of sustainable development.

Economic and social considerations

- 3.8 The Agency's work can have major social and economic as well as environmental consequences. The Agency should develop approaches that deliver environmental requirements and goals without imposing excessive costs (in relation to benefits gained) on regulated organisations or on society more widely.
- 3.9 The requirement to take account of economic and social considerations (set out in Paragraphs 3.4 and 3.6) must be seen in the context of the specific activity the Agency is engaged in, and the degree of discretion it has under its statutory powers and duties.
- 3.10 The Agency's ability to take account of economic and social considerations will in practice be affected by the extent of its knowledge of how these interact with environmental practice. The Agency thus needs to develop, and maintain or have access to, adequate experience and understanding of the interactions between environmental practice and social and economic factors and to have access to appropriate levels of external expertise. The partnerships it forges with other organisations (including those described in paragraph 4) could be particularly germane to this and thus help the Agency meet its objectives.
- 3.11 The Agency should ensure that it has, or has access to, appropriate levels of

expertise for making sustainable development assessments. In some cases, the Agency will not be the major source of expertise. The Agency should not seek to duplicate the existing role of other expert bodies. For example, it will need to consult as appropriate with bodies with responsibilities for protection of public health, including the NHS Wales Department, the Health and Safety Executive and local authority Environmental Health Departments. The Agency may also need to look to the Assembly Government or central Government for advice on impacts on public health. The Agency should where possible enter into agreements with other expert bodies to enable it to have continuing and rapid access to the necessary advice, while developing 'in-house' capability to act as an intelligent client.

- 3.12 In considering how best to integrate environmental, economic and social considerations the Agency should bear in mind all relevant Assembly Government and, as applicable, UK Government policy and guidance.

4 THE ASSEMBLY'S OBJECTIVES FOR THE AGENCY

- 4.1 In discharging its functions in Wales and in developing its corporate strategy the Agency's objectives shall be to:
- a) Protect or enhance the environment taken as a whole in a way which takes account (so far as is consistent with the Agency's legal obligations) of economic and social considerations, so as to make the contribution towards achieving sustainable development which the Assembly considers appropriate, as set out in this guidance.
 - b) Adopt an integrated approach to environmental protection and enhancement, which considers impacts of substances and activities on all environmental media, on natural resources, and where appropriate on human health.
 - c) Discharge the Agency's functions in an economical, efficient and effective manner and to organise its activities in ways that reflect good management practice and provide value for money.
 - d) Meet high standards of professionalism (based on sound science, information and analysis of the environment and of processes which affect it) transparency, consistency and environmental performance.
 - e) Conduct its affairs in an open and transparent manner in full compliance with the requirements of all relevant statutory provisions applying the same presumption in favour of disclosure of information as that established by the Assembly's own Code of Practice on Public Access to Information relating to the freedom of, and public access to, environmental and other information.
 - f) Ensure that regulated individuals and organisations comply with relevant legislation.

- g) Develop in conjunction with the UK Government and the Assembly a risk-based, proportionate, consistent, efficient and cost-effective approach to the regulatory process; follow better regulation principles; and evaluate and where necessary improve the operation of regulation.
- h) Provide timely and high quality advice to the Assembly Government, grounded in the Agency's technical expertise and operational knowledge, and, in areas where the Agency has such expertise and knowledge, work with and support the Assembly Government in relation to the development and implementation of its policies and strategies and in its implementation of international and European legislation.
- i) Reflecting on and building upon the principles of public accountability develop a close and responsive partnership with, the public, local authorities, the voluntary sector and other representatives of local communities and, as may be requested from time to time by the Assembly Government, provide advice to and work with Assembly Sponsored Public Bodies, other public bodies and regulated organisations, and adopt effective procedures to manage these relationships.
- j) Collect data of appropriate quality and prepare and disseminate information in a timely fashion for monitoring and reporting on all areas of Agency responsibility in Wales.
- k) Monitor and produce periodic reports on the state of the environment, in collaboration with others as appropriate.
- l) Undertake research necessary to support the Agency's functions and the delivery of its objectives, in a manner which is consistent with and complementary to the Assembly Government's and central Government's research programme and takes account of research undertaken by others.

4.2 The Agency, having regard to the guidance in paragraph 4.1 above, should pursue the following objectives in discharging its main operational functions and in developing its corporate strategy:

a) Flood defence

To reduce the risks to people and to the developed and natural environment from flooding, and in particular:

- to provide adequate, economically, technically and environmentally sound and sustainable flood and coastal defences;
- to provide adequate and cost-effective flood warning systems which contribute to a seamless and integrated service of flood forecasting, warning and response; and
- to discourage inappropriate development in areas at risk from flooding.

b) Water quality and water resources

To protect, enhance and restore the environmental quality of water covering inland and coastal surface water and groundwater, and in particular:

- to address both point source and diffuse pollution and
- to provide support to the Assembly Government in the transposition and implementation of the EC Water Framework Directive; and
- to ensure that all relevant quality standards are met.

To plan to secure the proper use of water resources by using strategic planning and effective resource management which takes into account environmental social and economic considerations, and in particular:

- to ensure that the abstraction of water is sustainable, and provides the right amount of water for people, agriculture, commerce and industry and an improved water-related environment; and
- to develop and maintain a framework of integrated water resources planning for the Agency and water users; and
- to implement the actions assigned to the Agency in its Welsh water resources strategy

c) Waste management

To contribute to the successful implementation of “Wise about Waste”: the National Waste Strategy for Wales and in particular:

- to ensure that waste is recovered or disposed of in ways which protect the environment and human health, by regulating waste management operations (including collection, transport, treatment, storage and disposal) and enforcing waste management controls in a nationally consistent manner;
- to provide comprehensive monitoring data (in conjunction with local authorities as necessary) to enable the amount of waste arising and the final disposal method to be tracked and recorded for each significant waste stream; and
- to assist regional waste planning groups and Welsh local government in developing waste plans and strategies; and
- to support the re-use of materials, recycling and waste minimisation

d) Industry¹ regulation

To control pollution from industry by means of the Pollution Prevention and Control (England and Wales) Regulations 2000 (the PPC Regulations) and any subsequent amendments or additions, and in particular:

- to encourage and determine applications for new and existing installations within the timescales laid down in the PPC Regulations; and
- to set permit conditions in a consistent and proportionate fashion based on Best Available Techniques and taking into account all relevant matters including :
 - sectoral and site specific compliance costs; and
 - the resulting local, national and transboundary environmental benefits.

Insofar as the PPC system has not progressively replaced the integrated pollution control (IPC) system, to secure through the IPC provisions of the Environmental Protection Act 1990 the prevention or minimisation of pollution by industry.

- to control industry discharges to watercourses through the powers provided by the Water Resources Act 1991; and
- to work with local authorities towards delivering the objectives of the Air Quality Strategy for England, Scotland, Wales and Northern Ireland.

e) Fisheries

To maintain, improve and develop salmonid and freshwater fisheries, and in particular:

- to ensure the conservation and maintain the diversity of freshwater fish, salmon, sea trout and eels and to conserve their aquatic environment; and
- to enhance the contribution salmon and freshwater fisheries make to the economy, particularly in remote rural areas and in areas with low levels of income; and
- to enhance the social value of fishing as a widely available and healthy form of recreation; and
- to contribute to the Assembly's aims and objectives for freshwater fisheries management

¹ A wide interpretation of 'Industry' is meant here, embracing all industry covered by IPPC, including aspects of agriculture and land, water and waste management.

f) Radioactive substances

To regulate aerial and liquid radioactive discharges, and solid radioactive waste disposal, in accordance with statutory duties, statutory guidance and Assembly Government and UK government policies.

g) Land contamination and soil

To help identify and deal with unacceptable risks to human health and the environment from contaminated land, and in particular to develop technical material to support the new contaminated land regime in Wales; and to support Assembly Government and UK Government policies for the sustainable use of soil.

h) Navigation

To maximise the social, economic, environmental and heritage benefits of the waterways for which the Agency is the navigation authority and to work with other navigation authorities and others to create, an enhanced and integrated inland waterway system and in particular:

- to maintain its assets in a condition which ensures the safe use of its waterways
- to promote urban and rural regeneration;

i) Conservation

To help conserve and enhance the diversity of native wildlife and habitats, the landscape and historic environment and in particular:

- to contribute to the implementation of the UK Biodiversity Action Plan and to promote the conservation of the species and habitats included in the list published by the Assembly under section 74 of the Countryside and Rights of Way Act 2000, and especially the delivery of those actions for which the Agency has lead responsibility:
- to take reasonable steps, consistent with the proper exercise of the Agency's functions, to further the conservation and enhancement of the special features of Sites of Special Scientific Interest in accordance with its statutory obligations
- in managing its own land, to enhance its biodiversity, cultural and recreational potential; and
- to ensure that all Agency consents² likely to have a significant effect on the integrity of a Special Protection Area, Special Area of Conservation or

² 'Consents' is used in its widest meaning, including licenses, authorisations, permits and activities undertaken by the Agency itself.

Ramsar site are reviewed and either confirmed, modified or revoked as appropriate, and any new sites are dealt with in accordance with the requirements of the Conservation (Natural Habitats etc) Regulations 1994 and the Assembly Government's policy statement on Ramsar Sites in Wales.'

j) Recreation

To promote the recreational use of inland and coastal waters and associated land in accordance with the Code of Practice on Conservation, Access and Recreation, and in particular;

- to promote greater recreational use of its waterways by all sectors of society and provide improved facilities for users; and
- to regularly review the Agency's recreation strategy for Wales.

5 INTERPRETATION OF OBJECTIVES

This section provides additional guidance on the interpretation of the regulatory objectives (4.1 (f) and (g)), and on how the Agency's objectives relate to climate change, land use planning and regeneration.

Better regulation

- 5.1 The Agency should have regard to the five principles of good regulation³: transparency, accountability, proportionality, consistency and targeting. Any enforcement action should be proportionate to the risk, and alternatives to formal enforcement action should be considered. Where the Agency has discretion as to the manner in which it implements regulatory regimes or requirements it should have due regard to the impact on competition in markets. It should provide adequate and timely guidance to regulated companies on any new duties contained in new legislation.
- 5.2 The Assembly Government will work in partnership with the Agency and the UK Government to improve the effectiveness of the regulatory system that the Agency operates. The implications of forthcoming regulatory responsibilities on the existing system should be considered, including the cumulative effects of new regulations. In some cases, replacing traditional regulatory with other approaches may be cheaper for business, the Agency and the taxpayer, and more effective in reducing environmental impacts and furthering the Agency's objectives. The Agency should seek (in particular through the corporate strategy and corporate planning processes) the optimum mix of approaches, having regard to the environmental impacts and risks involved, the requirements of the relevant European and domestic legislation and the economic and social costs and benefits of different approaches.

³ Better regulation Task Force: Principles of Good Regulation. Cabinet Office (October 2000)

- 5.3 The Agency should take account of robust environmental management systems, in particular the Eco-Management and Audit Scheme (EMAS) and ISO 14001. Account should also be taken of the 'Green Dragon' Environmental Standard as appropriate. Subject to and in accordance with the 1995 Act and any other enactments the Agency should support and promote good practice that benefits the environment by improving resource use and minimising waste and pollution and which also enhances competitiveness and helps business save money. The Agency should work closely with partner organisations such as the UK Government's Envirowise best practice programme and collaborate with them to avoid duplication or confusion of roles.
- 5.4 Wherever possible, the Agency should discharge its functions in ways which maximise the scope for regulated organisations to plan for cost-effective investment in improved technologies and management techniques. It should also follow the principles of "think small first", a framework for UK Government support for all the UK's small businesses, so that burdens of regulation can be reduced.
- 5.5 Environmental impacts arise from non-regulated as well as regulated bodies. The Agency should consider with the Assembly Government whether there are priority areas in which its resources could be effectively used to further its statutory objectives by helping non-regulated bodies improve their environmental performance.

The Agency's work in relation to climate change, and land use planning and regeneration

- 5.6 The Agency contributes to the reduction of greenhouse gas emissions through its industry and waste regulation objectives, provides information on the effects of climate change under its data collection and monitoring objective, and plans for the likely impacts of climate change especially through its flood defence and water resources objectives. It also participates in initiatives to reduce greenhouse gas emissions and adapt to the impacts of climate change.
- 5.7 In support of its objectives the Agency is involved with land use planning, including advising on Welsh planning policy and guidance, unitary development plans and planning applications. Its primary role is to advise on those aspects of draft plans, supplementary planning guidance, planning applications, environmental statements and hazardous substances consent applications which relate to its operational functions and particular expertise, using information it already has. The Agency also has a role in providing advice at an early stage in the planning process; to help shape development briefs and draft plans before they go out to consultation; and to advise prospective applicants on the potential implications of their proposals before an application is made to the local planning authority. If the Agency considers there are gaps in a planning authority's draft plan or appraisal of an application from the wider sustainability point of view; it should draw the authority's attention to this. Where the Agency provides advice it should do so in a timely, consistent, justifiable and understandable way.

5.8 The Agency is required to promote urban and rural regeneration under its objective for navigation, where this activity is especially relevant. In exercising its other functions it may also have opportunities to promote regeneration, especially in collaboration with other public bodies, in a manner which is consistent with its legal powers and proportionate.