

The Environment Act 2016: Guidance note

Statutory Duty: Environment Act

Section 6 of the Environment (Wales) Act¹ replaces and strengthens the previous biodiversity duty under Section 40 of the Natural Environment and Rural Communities (NERC) Act 2006 so that:

All public authorities, when carrying out their functions in relation to Wales², **must seek to “maintain and enhance biodiversity”** wherever possible within the proper exercise of their functions³.

In so doing, public authorities must also seek to **“promote the resilience of ecosystems”**.

Section 6 also requires public authorities to consider the effect of decisions taken, or activities carried out, **within Wales, but also in relation to biodiversity outside of Wales**⁴

Under subsection (6), public authorities must prepare and publish a plan setting out what they propose to do to maintain and enhance biodiversity. Having regard to any guidance given by the Welsh Ministers, and the documents listed in the legislation.

What does it mean?

Biodiversity is the variety of life on earth. It is our wildlife, iconic species and habitats; Biodiversity underpins our lives and livelihoods and supports the functioning and resilience of ecosystems

Ecosystems are functioning units made up of our living organisms with their non-living environment (air, water, minerals and soil) and all the complex interactions that take place between them. Our oceans, wetlands, lakes, rivers, mountains, forests and agricultural landscapes.

A Resilient Ecosystem is diverse, connected, large scale, in healthy condition and adaptable. Our economy, health and well-being depends on healthy, resilient ecosystems, which provide us with our food, clean water and the air we breathe, the raw materials and energy for our industries and protect us against hazards, such as flooding and climate change.

Who is responsible?

The duty applies in the exercise of an organisation’s functions, so it applies to whoever is responsible for, and takes decisions with regard to, those functions.

¹ The full text of the Duty and the Explanatory Notes can be found at: <http://www.legislation.gov.uk/anaw/2016/3/contents>

² The duty also applies to UK Public Authorities where functions take place in Wales, or in relation to Wales. Two exceptions are set out in subsection (3): the functions of Her Majesty’s Revenue and Customs (HMRC) and the **judicial** functions of courts and tribunals are not subject to the duty. However, HMRC are still covered by the NERC Duty in relation to Wales.

³ There is not intended to be a conflict between the general functions of an authority and the biodiversity duty. The duty applies when public authorities are carrying out their functions.

⁴ This also maximises the contribution to the Globally Responsible Wales goal under the Well-being of Future Generations (Wales) Act 2015

However, the overarching responsibility for compliance lies with the head of the organisation, the CEO.

What we need to do⁵:

- **Embed biodiversity into decision making at all levels:** This should start at the corporate level, where early thinking and planning should seek to maintain and enhance biodiversity, preventing its loss in the first instance.
- **Prepare and publish a S6 Plan:** Flintshire's S6 plan is prepared and is available in the Plans, Policies and Legislation section.
- **Report on the S6 Plan:** Reporting is required every 3 years – the first reporting will be undertaken in 2019
- **Use an Environmentally sustainable and ethical procurement policy:** The biodiversity implications of purchasing decisions would need to be considered - Can it be purchased from a more sustainable source locally? Will it have an adverse effect on a protected area?

How we need to do it:

We need to lead the way in promoting a common sense and social norm approach to living and working more sustainably this will require new holistic approach to working.

We may need to think differently and challenge long term ways of working.

We need to consider nature based solutions, these often have multiple benefits for communities and provide benefits to biodiversity as well.

For example: Urban planting and wildflower areas to improve the local environment for active travel and recreation, help alleviate surface water flooding, improve air quality and encourage local investment.

Living sustainably often results in financial savings for example energy saving, wasting less and reducing some land management.

If you have any ideas about how Flintshire could improve council process for biodiversity and/or sustainability email biodiversity@flintshire.gov.uk. Put Greener Flintshire in the subject bar.

Connected Legislation and policy:

Flintshire County Council has a number of additional obligations through national legislation and local Council commitments to protect and enhance our biodiversity, improve our environmental performance and sustainability. These include:

⁵ Key compliance set out in the WG S6 FAQs

Statutory Duty: Wellbeing of Future Generations Act

Under the Wellbeing of future generations (Wales) Act (2015)⁶ all public bodies in Wales are required to;

- Carry out sustainable development by demonstrating the 5 ways of working
- Publish well-being objectives which maximise its contribution to the 7 well-being goals set out in the Act. These goals are; a prosperous Wales, a resilient Wales, a healthier Wales, a more equal Wales, a Wales of cohesive communities, a Wales of vibrant culture and Welsh language and a globally responsible Wales.

The Resilient Wales goal specifically refers to a nation which maintains and enhances a biodiverse natural environment with healthy functioning ecosystems that support social, economic and ecological resilience and the capacity to adapt to change (for example climate change)

Local commitment: 2017/2018 Council Plan

Under the latest Council Plan Flintshire County Council has the following Green Council Commitments:

- Manage our natural environment and accessible greenspace networks to deliver health, well-being and resilience goals.
- Maximise the potential of the Council's estate and assets for energy efficiency and renewable energy production, reducing the reliance on fossil fuels.
- Ensure the provision of effective infrastructure to deliver sustainable development.
- Maximise the recovery and recycling of waste with a view to reducing the reliance on landfill.
- Strengthen regional air quality collaboration to help promote better health and well-being outcomes.

Local commitment: 2017/2018 FCC Wellbeing objectives

- Reducing energy consumption and using and developing alternative/renewable energy production.
- Enhancing the natural environment and promoting access to open and green space.
- Maximising the recovery and recycling of waste.

⁶ For full text of legislation go to: <http://gov.wales/topics/people-and-communities/people/future-generations-act/?lang=en>

