



Response to Review Panel Stage 2 Consultation on Designated Landscapes in Wales

UK Environmental Law Association's Wales Working Party

The UK Environmental Law Association (UKELA) aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of environmental law in the UK and the European Union. It attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.

UKELA prepares advice on proposals of governments and regulators covering a range of environmental law topics, with the help of its specialist working parties. This response has been prepared by its Wales Working Party.

1	<p>What are the most effective governance arrangements for designated landscapes that allow them to lead on and meet ambitious outcomes within and for Wales?</p> <p>[In order to answer this question you may want to consider and respond to these additional, related questions:]</p> <p>The proposed harmonisation of the purposes and duty of designated landscapes is welcomed, as both categories should be focused on the same outcomes. UKELA is, therefore, keen to see legislation in place which unifies the purposes and duties of designated landscapes in Wales, whilst ensuring that the legislation complements and enhances the purposes of other, recent environmentally related Welsh legislation, such as the Well-being of Future Generations Act, the Planning Bill, the Historic Environment Bill and the Environment Bill. In particular, the legislation should address cross border issues and support the area-based approach to sustainable resource management set out in the Environment Bill. UKELA is of the view</p>
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that the primary purpose of designated landscapes should be to conserve and enhance their natural features, including their natural beauty. It is vitally important the any governance arrangements are designed to ensure that this primary purpose is upheld. In this respect, governing bodies should comprise individuals selected for the variety of knowledge, skills and experience that they can bring to the role to enable the effective functioning of the organisations. It is essential to have a balanced mix of people who can present the wider viewpoint in terms of national and international policies and legislation; are knowledgeable about environmental and planning issues; have an understanding of landscape matters, including natural beauty; represent social and economic interests; and have some appreciation of local issues. There will also be need for specific functional skills such as strategic planning, financial management and communications.

Decisions in relation to the Williams Commission’s recommendations will, no doubt, influence the final governance arrangements. In terms of cost savings and in the light of the view of the need for national leadership, a two tier unified system may well be necessary. At a national level there is probably a need to ensure strategic leadership of all designated landscape areas and effective collaboration in relation to the National Development Framework and strategic development plans to be set up under the Planning Bill. At this level, there may also be scope for centralising of back office services, along with providing the strategic policy linkages with Welsh Government (in particular Visit Wales), Natural Resources Wales, the EU, international bodies, and other, relevant national organisations. The location of Wales’s national parks and national landscapes suggests that three designated landscape area boards could be set up covering North Wales (Snowdonia, Llyn, Angelsey and, Clwydian Range and Dee Valley); West Wales (Pembrokeshire and Gower); and South Wales (Brecon Beacons and Wye Valley). This would maintain local connections and accountability; minimise disruption; retain sound linkages with the preparation of local development plans or joint planning boards; and help ensure continuity by refining and building on the structures and processes of the current National Park Authorities.

The local perspective is very important and at this level, there should be locally integrated, management arrangements which provide for clear mechanisms for accountability. The development of working arrangements with the new public service boards to be set up under the Well-being of Future Generations Act; and mechanisms to engage effectively with NRW on local area management plans will also need to be considered. Finally, public participation in decision making at a local level will also be key. The exact arrangements will depend very much upon the extent to which the governing bodies retain a land use planning function at the local level. In our view, it is vital there is at least some oversight of land use planning within National Parks and National Landscapes by a separate governing body in order to ensure compliance with their statutory purposes.

2 **In light of the Review’s Stage One report and recommendations and the**

Minister for Natural Resources' written statement (dated the 4th March) what is your vision and ambition for the direction of Wales's designated landscapes in the medium to long term?

In his statement of 4 March, the Minister of Natural Resources stressed how important designated landscapes are to Wales and the fact that they are recognised internationally. He is keen to protect these areas whilst ensuring they are harnessed to tackle environmental and economic challenges in relation to green growth and the natural resource management agenda. The point is made that sustainability is the key issue.

UKELA supports the aim of protection and enhancement of designated landscapes and the development of vibrant and resilient communities within these areas. However, it needs to be recognised that intense economic development or community development that is incompatible with the existing environment could have a detrimental effect on the protection of such landscapes. So, there needs to be in place a number of governance safeguards to ensure that any development is appropriate and contributes to the development of communities in a way that is sensitive to the conservation and enhancement of the landscape. It is a challenge to balance economic considerations with those of protection of the environment, as illustrated by the fact that intense tourism can damage landscapes and the environment through pollution and erosion of pathways, as well as spoiling the enjoyment of these spectacular tracts of countryside that should be available for peaceful retreats to enable spiritual and mental well-being.

In summary UKELA would like to see protection and enhancement of the landscape and environment given the utmost priority for present and future generations, and the balanced use of the natural resources of our protected landscapes to support thriving and resilient communities within the areas.

3 From a governance perspective, what factors are preventing and/or likely to prevent designated landscapes from achieving the vision and ambition you set out in response to question 2?

UKELA is of the view that designated landscapes in Wales have a valuable, local, national and international role to play in protecting and enhancing the environment, whilst providing social and economic opportunities. The concern is primarily to ensure that social and economic considerations are not put before protection and enhancement of the environment. In this context the Review Panel has recommended a new set of statutory purposes, including a primary purpose of conserving and enhancing the "distinctive landscape qualities" of these areas.

UKELA believes that the protection of these landscapes will require a stronger primary purpose focused on then protection of the natural features of the landscape to achieve vision we set out above.

The “natural beauty” duty has been described as outdated and subjective, but the focus on the natural features of the landscape, including “natural beauty” has been successful in preserving these landscapes for over 50 years. We, therefore, propose that the primary purpose of landscapes should be amended as follows:

“To conserve and enhance the distinctive natural features of the landscape and seascape in the area, including its natural beauty.” (*the Conservation Purpose*)

This focus on the ‘natural’ aspects of landscape is necessary to serve the purposes under (i) and (ii), i.e., the Human Well-being Purpose cannot be achieved without conserving the natural features of the landscape including its scenic value and nor can we have sustainable economic and community development (which support its cultural heritage) without ensuring the protection of the natural environment.

The interpretation of the primary duty in the governance of the new protected areas will be left to the discretion of governing body as a matter of planning judgement. Whatever arrangements are put in place it is clear that many of the members will not be ‘landscape experts’ so it is vital that the primary purpose has a clear focus.

The fact that existing governance structures for National Parks and AONBs differ inevitably means that there have been and will be different outcomes for the areas. National Parks have governance structures with clear powers over development within their areas in comparison with AONBs, where landscape protection is primarily reliant on advisory functions. This is obviously a barrier to AONBs achieving the vision and ambition, as is the lack of specific funding to carry out necessary activity.

Furthermore, the current composition of NPAs and the appointment processes do not necessarily ensure that individuals with the right knowledge, skills and experience are selected for appointment. In addition, under the existing appointments process it is a challenge to establish boards reflective of Welsh society. The current system of a mix of publicly appointed individuals and two thirds locally elected representatives has some advantage in terms of local accountability for decision making, but the lack of control over appointment of local authority nominees can give rise to problems. For example, appointment of nominees not representing areas within the park or not having the necessary knowledge and skills. The proposal to ensure that locally elected representatives are from within or partly within a designated area goes part way to addressing these problems. However, it is vitally important that local interests do not dominate at the expense of the national interests, for which landscapes have been designated.

<p>4</p>	<p>From a governance perspective, what factors will allow designated landscapes to achieve the vision and ambition you set out in response to question 2?</p> <p>In order to achieve the necessary vision and ambition, it is essential that both forms of designation have similar governance structures. The proposed statutory duty under Recommendation 6 of the review, for example, will only make sense in this context. The governance structure to be put in place should be focused on vision and ambition, whilst providing national leadership and ensuring local accountability. Locally, the governance arrangements should have sufficient powers to control and influence economic and social developments to ensure compatibility and alignment with the statutory duty and purposes set out above, as well as the goals and principles contained within the Well-being of Future Generations Act and the purposes of other related legislation.</p> <p>Whilst UKELA believes in the importance of National Park governing bodies having close links with local authorities, it is of the view that any governing body should primarily be concerned to secure individual members with the right skills and experience along with achieving a balance of those representing constituencies interested in the work of designated landscape areas. It is, therefore, suggested that consideration could be given to providing the opportunity for greater representation from other, relevant public bodies, such as National Resources Wales, Visit Wales and other interested organisations alongside people with skills relevant to effective governance of such organisations. The make-up of governing bodies should be designed in the interests of collaboration, avoiding duplication, initiating joint innovations and maximising resources. Whatever the arrangements local accountability will remain a key objective.</p> <p>The Stage One report made it clear that it is intended to impose a stronger duty on the relevant authorities (s.62 Environment Act 1995) in ‘contributing to’ the statutory purposes of the Nationally Designated Landscapes of Wales. It is of the first importance that the criteria for assessing this contribution are carefully formulated and incorporated into legislation without ambiguity. In UKELA’s view this will foster greater accountability, legal certainty and transparency in governance.</p>
<p>5</p>	<p>Are there other designated landscape/protected area governance models/approaches you wish to bring to the attention of the Review?</p> <p>Although models and approached in other countries can be useful and, indeed, the categories used by the IUCN, it is important to recognise that the protected landscapes of Wales exist in a very small country, cover approximately 25 % of land and have a distinctive history. Therefore, their purposes and governance arrangements should reflect the particular importance of their natural and cultural heritage and the intense pressures on these aspects of landscape created by social and economic development.</p>

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