



Environmental Governance Consultation
Environmental Regulations EU Exit Team
Department for Environment, Food and Rural Affairs
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Dear Sir / Madam,

This is the response from the undersigned members of the UK Network for Environmental Economists to the consultation on Environmental Principles and Governance Bill.

UKNEE brings together environmental economists from academia, consultancy and public and private sectors to foster closer relationships, follow recent developments and share experience.

There are two key questions we considered when assessing whether the Bill, in its current state, would serve its intended purpose. To answer both questions positively, the Bill needs to include the necessary principles and goals (such as those in the 25 YEP but defined more specifically, where appropriate). This is so that the new (watchdog) body can have a legal basis to enforce the Bill. In addition, there needs to be a clear distinction between the new body's advice, scrutiny and enforcement roles, avoiding duplication with the existing structures and focusing on filling the gap leaving the European Union will create.

(i) Is the Bill worded in such a way that it retains the strength of current environmental principles and enforcement mechanisms?

All the principles mentioned in the consultation document¹ should be set in legislation: covering economic, social and environmental pillars of sustainable development and setting out the roles, responsibilities and mechanisms through which the goals set for the UK can be implemented and enforced.

Without such content in the Bill, the new body would not have the same enforcement powers as the European Commission.

¹ Sustainable development, precautionary principle, prevention principle, polluter pays principle, rectification at source principle, integration principle. The following were added through the amendments to the EU Withdrawal Bill: public access to environmental information; public participation in environmental decision-making, and access to justice in relation to environmental matters.

Principles enshrined in law will also give all interested parties greater predictability in terms of how future legislation and policy will be developed and implemented (in the same way that the principles do now) after Brexit, whilst still keeping open the possibility for changes to be made in a transparent manner over time by democratically elected parliaments.

In addition, we would propose to include the following:

- **Public money for public goods** – this is one of the bases of environmental economics. Markets are inadequate in providing public goods and controlling public bads. Public policy (and money) is needed to correct such failures. This principle is also mentioned in the ‘Health and Harmony: The Future for Food, Farming and the Environment in a Green Brexit’ which aims to shift payments from output and lost income to provision of public goods.

In particular, we would stress the need for any proposed new body to be tasked with weighing benefits and costs in its deliberations. Our interpretation of much of recent policy experience in England is that formal discretion in regulations has been used sensibly especially in identifying those aspects of policy implementation, on the margins, where the cost-benefit case is exceptionally weak. Examples here include a range of regulations including the Water Framework Directive and local air quality management plans. This is not only consistent with HM Treasury Green Book requirements for public value for public money but also helps ensure social efficiency through taking distribution of costs and benefits into account.

We would also like to draw your attention to the following principles mentioned in their respective international agreements to which the UK is a party:

- **Make use of the best available scientific knowledge** (Paris Agreement)
- **Conservation of ecosystem structure and functioning, in order to maintain ecosystem services** (Convention on Biological Diversity)
- **Anticipate, prevent or minimise the causes of climate change and mitigate its adverse effects** (UN Framework Convention on Climate Change)

To be effective and cost-efficient, the principles should apply not only to Defra but to all central government departments and all other public bodies with direct or indirect impact on the environment.

(ii) Are the principles and mechanisms proposed for the Bill sufficient to go beyond the status quo and deliver the vision of the 25 Year Environment Plan?

The consultation does not suggest that the Bill will include objectives to ensure the vision of the 25 Environment Plan is delivered. Without such objectives included in the law, enforcement of the Bill cannot be effective.

It is possible to write the objectives in such a way that sets clear direction for environmental policy (and for all interested parties including business) and without limiting the sovereignty of governments to come. This is, in effect, what Framework Directives do in the EU. In a similar fashion, the principles and overall targets can be set at the UK level, implementation can be left to the devolved administrations and public bodies. If devolved administrations played a role in co-designing and owning the new body, it will stand a better chance of success in all its roles.

This Bill is a unique opportunity to put the principles of environmental economics into policy and practice. It will determine the success of 25 YEP and other plans and policies. The long awaited 25YEP was welcomed by most because it was based on research by many, including environmental economists, on where markets can deliver environmental goals; where public policy is needed and what the best value for money policy mechanisms are.

The plan also recognised the importance of strong regulatory and business bodies, appropriate incentives and continued research on understanding the trends and outcomes of putting the plan into practice.

The UK has prided itself for embedding economic advice into environmental policy making and basing policy on economic as well as other evidence. It has also shown international leadership on this.

But our research and advice are not effective unless implementation is supported by political commitment and strong legal basis. This is why it's important for this Bill to contain goals for cleaner air, water and soils, peatland restoration, improvements to wildlife habitats, resource efficiency, circular economy and others for the UK and internationally.

The Bill needs to:

- Represent our shared environment in the UK;
- Give long term direction as to the priorities for the UK;
- Require the government to set targets and milestones and publish plans that show roles and responsibilities for delivering these; and enable the new body to scrutinise government's progress against its targets and milestones. Such scrutiny can take place on an annual basis as the consultation suggests – however, monitoring of outcomes must be maintained over the long term;
- Enable the body to provide advice with clear links to other government policies such as the agricultural policy and clean growth and industrial strategies and legal power to enforce the Bill; and

- Do all this without duplicating effort with current advisory and scrutiny bodies and not replace them with a less well-equipped body. In particular, efforts to address climate change mitigation and adaptation and the rest of the environmental policy will need to be carefully coordinated. The Climate Change Committee's recommendations to keep mitigation and adaptation matters together and to ensure full integration of adaptation and environmental policy are useful in this regard.

We would be happy to discuss these proposals further. All our members remain committed to putting the work of our profession to the service of the environment in the UK and globally.

Yours faithfully

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