

# One year on: is the environmental principles duty working?

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Legislation and  
Governance Unit

## Introduction

The fourth and final part of the UK government's new national environmental governance system went live [one year ago](#) on 1 November 2023. It is a duty on all government ministers to take account of a [policy statement](#) on five environmental principles in their policy making.

This joined the other parts of the system set up by the Environment Act 2021: legally binding targets, the Environmental Improvement Plan and a new oversight body, the Office for Environmental Protection.

In this briefing we look at experience to date of how the duty is informing policy making in England, highlighting some examples of good practice and recommending where improvements should be considered.

## The Environmental Principles Policy Statement duty

Debate on environmental principles [began](#) in earnest on the first major piece of Brexit legislation, the EU (Withdrawal) Act 2018. It continued throughout the [consultation](#) on and [pre-legislative scrutiny](#) of the [draft Environment \(Principles and Governance\) Bill](#), the [passage](#) of the Environment Bill and [consultation](#) on the draft Environmental Principles Policy Statement (EPPS).

The government's [aim](#) for environmental principles is clear. In 2021 it sought "...a system that places environmental considerations at the heart of policy making", a pledge [reiterated](#) by the environment minister at the time, Rebecca Pow, when she published the final [EPPS](#) in January 2023. This was encapsulated in the [explanatory memorandum](#) to the EPPS, which aims "...to ensure that environmental protection forms an integral part of policy development in all government departments".

The government [strengthened](#) the EPPS duty in response to concerns from parliamentarians and stakeholders, from "have regard" to "have due regard".

Its explanation for this was that “Strengthening the duty in this way means that Ministers of the Crown will be required to give fuller consideration to the principles as the policy statement will be given greater weight”.

The EPPS duty applies to new policies, as well as the revision or repeal of existing policies, and the making of legislation. It also applies to strategies and frameworks prepared by public bodies that ministers are required to approve.

The EPPS is clear that, when developing new or revising existing policy, ministers must consider the policy statement “with substance, rigour and an open mind. It is not a tick box exercise”.

Most government policy making is within scope of the EPPS duty, but the Environment Act 2021 does provide some [limited exemptions](#) in respect of policy relating to the armed forces, defence, national security, taxation, spending and the allocation of resources within government.

## Guidance for policy makers

While the EPPS duty applies to ministers of the crown, in practice its operation, and ultimately its success, arguably falls largely to civil servants who conduct the detailed assessments required during the various stages of the policy making process.

The Department for Environment, Food and Rural Affairs (Defra) is the lead policy department for the EPPS. It has a dedicated team of officials working to [support colleagues](#) across the civil service to raise awareness of the duty and to promote good practice. The EPPS team has:

- created an environmental principles ‘toolkit’ of resources which includes training, advice notes, PowerPoint presentations, posters and model articles;
- established a cross government forum of champions giving civil servants the opportunity to share best practice and talk through challenges to delivery;
- launched an environmental principles training module on the civil service learning platform, aimed at policy makers from administrative officers to directors;
- delivered a series of environmental principles support sessions;
- produced a short introductory [video](#) explaining the principles.

The [explanatory memorandum](#), published alongside the EPPS, sets out further information for policy makers.

While none of the above, apart from the explanatory memorandum and introductory video, is in the public domain, it appears from our interactions

with government officials that the Defra EPPS team has championed the requirement on policy makers and the potential of the duty to prevent environmental damage and enhance the environment.

**It is important that this central co-ordinating resource and critical friend function on the EPPS is retained in Defra. The tools and resources developed to support the introduction of the duty should be updated in line with emerging good practice. The government's [policy profession](#) should consider how to promote the EPPS in its policy curriculums and events. Existing cross government governance mechanisms, such as the EPPS working group convened by Defra and attended by civil servants from other government departments, should continue.**

## **Embedding the EPPS across government**

There is no better way to ensure that a cross government commitment is implemented consistently than to include it in the collective systems and processes that all government departments use routinely.

The government has made several welcome commitments in this regard, although not all of them have been followed through, despite having ample time to do this since the EPPS duty was legislated for and came into force.

### **HMT Green Book**

In [June 2020](#), the government committed to parliament that it would embed environmental principles into HM Treasury's Green Book. It has repeated this commitment on numerous other occasions, including in the [EPPS explanatory memorandum](#).

In November 2023, following continued scrutiny by parliamentarians, Environment Minister Rebecca Pow [reported](#) that the Green Book [landing page](#) on GOV.UK had been updated to highlight the EPPS duty. She committed that the Green Book itself would be updated in 2024 to reflect the duty. That has not been done.

**HM Treasury must prioritise embedding the environmental principles into the next update of the Green Book.**

### **Guide to making legislation**

The EPPS duty applies to all types of policy making, including proposals for legislation.

**The Cabinet Office [guide to making legislation](#) should be updated to provide guidance on how to incorporate the principles into legislation.**

## Other cross government guidance, frameworks and templates

The [guidance](#) on enabling a natural capital approach briefly mentions the EPPS duty. Effective cross government implementation will be assisted by including the EPPS duty in other relevant frameworks and templates.

**The government should clarify whether the following documents reference the EPPS duty and, if not, confirm a timetable for making necessary updates, aiming for completion by 1 April 2025:**

- **better regulation framework [guidance](#)** (no current reference)
- **write round proforma and guidance**
- **ministerial submission templates**
- **post implementation review [templates](#)** (no current reference)
- **[business case guidance for projects and programmes](#)** (no current reference)

The departments responsible for cross government co-ordination – principally the Cabinet Office and HM Treasury – should consider how to fully embed the EPPS in these processes, to support the shift in culture needed for the duty to be applied more meaningfully over time.

## Assessing policy proposals against the EPPS

Some departments have adopted an environmental principles assessment guide for policy makers to steer their thinking and assessment of environmental considerations, in line with the EPPS duty.

All departments to which the duty applies should adopt a guide, if they have not yet done so. Guides should be considered in conjunction with the EPPS and “must take place at an early stage in the policy making process, and throughout as appropriate, not as an afterthought at the end”.

If changes are made to a policy at a later stage, the principles should be reconsidered. Policy makers should take an iterative approach by regularly reviewing opportunities to shape the policy and its effects as it develops. It is not clear if guides are currently being considered early in the policy making process or at later stages.

Given the large number of government policies which will have been subject to an environmental principles assessment since 1 November 2023, it is disappointing that only a handful of assessments have been published.

The Ministry of Housing, Communities and Local Government (MHCLG) minister Matthew Pennycook MP [stated](#) in August 2024 that environmental principles assessments are not published routinely although, to his credit, his department appears to be the only one that has published any assessments. For example, it has published assessments on a [policy](#) relating to statutory guidance for fire safety in new building work, a [policy](#) relating to the provision of a second staircase in buildings above 18m, a [policy](#) relating

to fire protection of care homes and the [amendment](#) of the Building Regulations to regulate the provision of toilets in new, non-domestic buildings. This approach is to be commended and should be replicated more consistently across government.

It is especially important that major government policy statements set out how the EPPS duty has been applied. In May 2024, the Department for Energy Security and Net Zero (DESNZ) published a [strategy and policy statement](#) for energy policy in Great Britain, which made no reference to the EPPS duty, despite the obvious environmental implications of the statement and the fact that the power to designate such a statement was being exercised under the Energy Act 2013 for the first time, creating an important precedent.

**Environmental Principles Assessments should be routinely adopted across departments and published to improve transparency and provide parliamentarians and stakeholders with information on how the EPPS duty has been factored into policy making. Departments should also maintain clear paper trails on the EPPS, publishing these where necessary.**

The duty should be a visible component of policy making, with departments encouraged to be more open about their approach to it to help strengthen accountability and transparency.

One of the first policy acts of the new government was to publish a [policy statement](#) on onshore wind. The general election took place on 4 July 2024 and Ed Miliband MP was appointed as secretary of state for energy and net zero on 5 July. He set out his priorities on 8 July, the same day that the policy statement on onshore wind was published.

While speedy policy decisions are not necessarily made without reference to the EPPS, the absence of any reference to the EPPS in this policy statement did not provide reassurance that “due regard” had been paid to it. There is a risk that the EPPS duty may either be overlooked or rushed in such circumstances.

**The government should clarify that policies made using urgent procedures or in expedited timescales must nevertheless take full account of the EPPS duty.**

## **The need for greater consistency in informing legislation**

### **Bills in the current legislative programme**

Government bills are subject to the EPPS duty. However, there is little evidence available on how the duty has been considered for the 19 government bills published to date in the current parliamentary session.

This is hampered by the fact that, in some cases, impact assessments on bills have been published [later than desired](#), including, on occasion, after substantive parliamentary debate. For example, the impact assessment for the Water (Special Measures) Bill was published after the bill had passed its second reading in the House of Lords.

Government departments are taking different approaches to how they are applying the EPPS duty in making legislation.

In some cases, the EPPS duty is explicitly referenced with evidence that assessment has taken place on specific principles. For example, the [impact assessment](#) for the Water (Special Measures) Bill states that it has been developed in line with the EPPS and notes that some measures have been assessed against the polluter pays principle and the rectification at source principle. The entries are short but nevertheless show that at least some consideration of the EPPS was undertaken in preparing the bill. This chimes with the approach taken to some impact assessments in the previous parliament. For example, the [impact assessment](#) on the Offshore Petroleum Licensing Bill contained a specific section on the EPPS (12.1 to 12.15) with assessments against each of the five principles.

In other cases, impact assessments on bills currently before parliament contain a section on the impact on natural capital and decarbonisation but do not make any explicit reference to the EPPS duty. For example, the [impact assessment](#) for the Employment Rights Bill, the [impact assessment](#) for the Passenger Railway Services (Public Ownership) Bill and the [impact assessment](#) for the Product Regulation and Metrology Bill.

Some other impact assessments do not reference the EPPS duty at all and only make general environmental remarks. For example, the [impact assessment](#) for the Football Governance Bill mentions the duties of environmental regulators but does not relate these to its policy proposals, and the [impact assessment](#) for the Great British Energy Bill mentions environmental studies as part of pre-development work undertaken on clean energy generation projects, and again does not reference the duty.

The final category is bills which either make no reference at all to the EPPS (for example, the [impact assessment](#) for the Terrorism (Protection of Premises) Bill) or which, having examined the EPPS, do not expect environmental impacts to arise due to the bill (for example, the [impact assessment](#) for the Property (Digital Assets etc) Bill).

This sporadic approach raises questions about the depth of the assessment process across departments. It also suggests that the better regulation framework [guidance](#), which advises that options assessments address a generalised question on natural capital (see the extract below), may itself be inadvertently directing departments away from considering the EPPS duty.

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|---|---|-----------------------|
| <p><b>Natural capital and Decarbonisation:</b><br/>Does the measure support commitments to improve the environment and decarbonise?</p> | <p>Provide a summary of whether the measure will help to improve the state of <a href="#">UK natural capital</a> and decarbonisation of the economy (noting these may differ). Where the measure is expected to significantly the environment or <a href="#">greenhouse gas emissions</a> provide quantitative estimates where possible</p> | <p><b>Neutral</b></p> |
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## Secondary legislation

The government has recognised that the EPPS duty must be taken into account when making secondary legislation (for example, see page 4 of its [response](#) to the Delegated Powers and Regulatory Reform Committee’s 6th Report of Session 2024–25). Despite this, impact assessments on regulations do not consistently refer to the EPPS duty. For example, the [impact assessment](#) for the 2024 Ministry of Justice Order merely states that the policies meet the environmental principles in accordance with the Environment Act 2021. The [impact assessment](#) on the Environmental Protection (Single-use Vapes) (England) Regulations 2024 references the EPPS duty and makes various specific assessments. The [impact assessment](#) for the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024 makes reference to the polluter pays principle but not to the EPPS more generally.

When departments can demonstrate that measures will have an Equivalent Annual Net Direct Cost to Business of less than  $\pm/\text{£}10$  million, measures are exempt from scrutiny under a de minimis exemption. The better regulation framework [guidance](#) advises that “a less detailed, but proportionate, assessment of the impacts” should still be produced.

As is the case for full impact assessments, de minimis assessments (DMAs) exhibit a varied approach to the EPPS duty. Some make no reference to the duty (for example, the DMA on [flyseine vessels](#)); others do (for example, the DMA on [updated guidance](#) on offshore wind development in marine protected areas); and others comment on specific principles and generalised environmental impacts (for example, the DMA on [amending regulations](#) on polychlorinated biphenyls).

**The government should, as a matter of urgency, introduce a standard question on the EPPS in the impact assessment, options assessment and de minimis assessment [templates](#) to improve consistency on how the EPPS is applied and reported on in the process of making new legislation.**

**The EPPS duty should be included in the next series of the Statutory Instrument Capability Programme (monthly seminars on secondary legislation for civil servants) and the new programme of e-learning being led by the Parliamentary Capability Team based in the Cabinet Office.**

The government [committed](#) that it would apply the EPPS when it uses its [powers](#) to revoke or revise assimilated law under the Retained EU Law Act 2023.

**The government should include a statement on the EPPS duty in its [six monthly reports](#) to parliament on the revocation and reform of assimilated law.**

## Clarifying the application of the EPPS duty by public bodies

The EPPS duty applies to ministers of the crown but not to public authorities, a point which was criticised during passage of the Environment Bill. For example, Baroness Parminter [commented](#) that “...public bodies, of which there are well over 350 in addition to all the local authorities in this country, do the lion’s share of pushing forward government policy throughout the country. It is therefore an omission of some magnitude that only Ministers of the Crown have to pay due regard to the policy statement on environmental principles”.

[Responding](#) for the government, Lord Goldsmith of Richmond Park explained that the application of the EPPS by ministers will mean that the environmental protection promoted by the principles will “filter down” into local policy and strategic decisions.

No guidance has been published on what such filtering down will entail, which public bodies will be affected or what information will be made available to aid public understanding of this process.

The EPPS states that documents, strategies and frameworks prepared by public bodies, that ministers are required by statute to approve, are within scope of the duty. However, it does not give any examples of what these might include, nor does it include any specific guidance to public bodies or clarity on the potential crossover with other regulatory processes.

### Case study: the Environment Agency

Policies such as the Environment Agency’s National Flood and Coastal Erosion Risk Management Strategy for England are expected to be within scope of the EPPS duty. The current [strategy](#) makes no mention of the EPPS duty because it pre-dates it coming into force.

In 2021, the then CEO of the Environment Agency, Sir James Bevan, [published](#) his thoughts on the draft EPPS, but provided no clarity on how the EPPS duty would apply to the agency.

**It would be helpful for the Environment Agency to confirm which of its contributions to policy making are within scope of the EPPS duty. This could be done by the inclusion of a simple statement in relevant consultations, press notices and other publications. The same principle should apply to all public bodies which have policy making roles likely to be within scope of the duty.**



## Case study: the Health and Safety Executive

The Health and Safety Executive (HSE) is Britain's national regulator for workplace health and safety. The HSE is developing policy proposals on a potential restriction of the metal lead in ammunition. This process is within scope of the EPPS duty as it constitutes policy which would ultimately be signed off by ministers from the UK and devolved governments.

Environmental principles are highly pertinent to the proposed restriction of lead in ammunition. However, an initial review of the available documentation (for example, the [2022 consultation](#) and [draft Agency Opinion](#)) supporting the HSE's approach to the potential restriction contained no information to indicate that an in depth assessment of environmental principles had been undertaken.

In the absence of this information, it is difficult to conclude that the HSE had fulfilled its legal requirement to have due regard to the EPPS or considered it with substance or rigour. Concerns were raised with the HSE and it was [confirmed](#) in September 2024, in a response to a parliamentary question, that the HSE is considering the EPPS in the finalisation of its opinion.

## Minimising the impact of defence, tax and spending loopholes

The government has excluded defence, spending and taxation policy from the EPPS duty. Parliamentarians called for these exemptions to be removed, which the government refused to do. But it did give a number of [reassurances](#), for example that the principles will apply to how funds are spent by departments once allocated by HM Treasury and that the EPPS must be considered at the level of individual policies that require spending.

Therefore, it is incumbent on the departments principally responsible for the excluded policies, HM Treasury and the Ministry of Defence, to make sure that these carve outs do not lead to perverse environmental outcomes, and that opportunities are not missed to embed environmental protection into their policy making.

**HM Treasury and the Ministry of Defence should publish annual statements on how they are incorporating environmental principles into their policy making, including on those policies exempted from the EPPS duty.**

## Conclusion

While it is relatively early days for the implementation of the EPPS duty, it is exactly the right time for review and reflection so that early lessons might be learned and course corrections made to increase the efficacy of the duty.

We note that the Office for Environmental Protection is evaluating the EPPS duty, and we look forward to the publication of its findings in 2025.

Defra has committed to undertake a high level review of the implementation of the duty within two years of it coming into force. **The department should publish the findings of that review.**

The EPPS could have a powerful impact on systemising and promoting greater consideration of environmental protections in policy making. But, for this to succeed over the long term, sustained commitment is needed across all departments, with repositioning of the environment as a top priority across government.

While we found evidence of the EPPS informing the policy making processes of some departments, it is impossible to judge whether it has had a substantive effect on final policy outcomes, not least because of the sparse nature of the information published.

Our assessment concludes that further work is needed to embed the principles more fully into the work of all departments and qualifying public bodies, including in impact assessments, policy consultations and the development and implementation of legislation. **The Cabinet Office has an especially important role to play in making this happen.**

The advent of a new government, committed to enhancing scrutiny, is a good opportunity to adopt a more consistent and transparent approach to the EPPS duty, which will increase its impact on the policy making process.

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